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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

KIM NEUSS and ANTONIO NEUSS,  
individually, and on behalf of all others similarly  
situated,

Plaintiffs,

v.

RUBI ROSE, L.L.C., d/b/a DAPPLE BABY,  
JOHN/JANE DOES 1-100 (represents a class of  
Defendants who are presently unknown or  
unknowable at present and responsible for the  
manufacture, design and/or marketing of the  
products in question; ABC CORPORATIONS  
1-100 (representing a class of Defendants who are  
presently unknown or unknowable at present and  
responsible for the manufacture, design and/or  
marketing of the products in question),

Defendants.

Civil Action No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiffs, KIM NEUSS and ANTONIO NEUSS, individually and on behalf of all others similarly situated, by their undersigned attorneys, bring this class action for monetary and other relief against Defendants, RUBI ROSE, L.L.C., d/b/a DAPPLE BABY ("Dapple" or the "Company"), JOHN/JANE DOES (1-100) and ABC CORPORATIONS 1-100, and make the following allegations based upon information and belief, except as to allegations specifically pertaining to Plaintiffs which are based on their personal knowledge.

### **NATURE OF THE ACTION**

1. This is a consumer fraud class action pursuant to Rule 23 of the Federal Rules of Civil Procedure against Dapple, which falsely represents that its specialty cleaning products intended for homes with infants and young children (the “Products,” as defined below) are “natural,” when, in fact, they contain synthetic, highly processed and/or non-natural ingredients.

2. In so doing, Dapple has committed, and continues to commit, consumer fraud and has unjustly enriched itself.

3. Plaintiffs therefore bring this action on behalf of a proposed class (“Class”) of similarly situated purchasers of the Products.

4. This lawsuit seeks to enjoin Defendant’s false and misleading practices and recover damages and restitution on behalf of the Class under the applicable state laws.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, codified in part at 28 U.S.C. §1332(d), because there are 100 or more class members and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

6. Venue is proper in this District pursuant to 28 U.S.C. §1391 because Dapple is authorized and does, in fact, transact business within this District, is subject to personal jurisdiction in this District, and therefore is deemed to be a citizen of this District. Additionally, Dapple has advertised in this District and has received substantial revenue and profits from selling the Products in this District; therefore, a substantial part of the events and omissions giving rise to the claims alleged herein occurred within this District.

7. This Court has personal jurisdiction over Dapple because it has conducted substantial business in this District and intentionally and purposefully placed the Products into the stream of commerce within New Jersey and throughout the United States.

### **PARTIES**

8. Plaintiffs KIM NEUSS and ANTONIO NEUSS are, and at all times relevant hereto were, individuals residing in Bedminster, New Jersey. During the class period, on or about August 24, 2015, Plaintiffs purchased a Refill Pack Baby Bottle and Dish Liquid, Fragrance-Free, 34 Fluid Ounce, manufactured by Defendant, from Amazon.com. Plaintiffs purchased the product because they believed it was a natural product and/or free of SLS, and care about what products they use for their infant son. Plaintiffs KIM NEUSS and ANTONIO NEUSS believe that natural products do not contain synthetic, highly processed and/or non-natural ingredients. Plaintiffs KIM NEUSS and ANTONIO NEUSS would not have purchased Defendant's product had they known that it was not natural and/or not SLS-free. Plaintiffs are members of the Class they seek to represent herein.

9. Defendant Dapple is a limited liability company organized under the laws of the State of New York. Dapple manufactures and markets specialty cleaning products for homes with infants and young children. Dapple is headquartered in Long Island City, New York, but does business throughout the United States, including the State of New Jersey.

10. Defendants, JOHN/JANE DOES (1-100) represent fictitiously-named individuals whose identities are currently unknown/unknowable who were responsible for the manufacture, design and/or marketing of the Products.

11. Defendants, ABC CORPORATIONS (1-100) represent fictitiously-named entities whose identities are currently unknown/unknowable who were responsible for the manufacture, design and/or marketing of the Products.

12. Whenever in this Complaint reference is made to any act or omission of Dapple, such allegations shall be deemed to mean that the directors, officers, agents, employees, distributors, partners, contractors, third-party sales agencies or representatives of Dapple did, authorized or commanded such act or omission while actively engaged in the management, operation, control or representation of the affairs of the Company and while acting within the course and scope of their agency, distributorship, contract, employment, representation and capacity.

### **FACTUAL BACKGROUND**

13. In recent years, increased public interest in health and avoiding toxic or otherwise harmful products has resulted in significant growth in sales of natural products in the United States. In 2010, according to the Nutrition Business Journal, sales of natural products grew six percent (6%) to \$117 billion.<sup>1</sup> Natural and/or organic personal care and household products accounted for approximately \$10.4 billion of this amount.<sup>2</sup>

14. In an effort to capture this growing market, Dapple developed a line of “natural” products.

15. Dapple manufactures, markets and sells, among other things, eleven (11) individual household cleaners and personal care products (the “Products” or individually, “Product”) that are marketed towards homes with infants and young children.

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<sup>1</sup> Natural Products Association, *About the Natural Products Association*, available at [http://www.npainfo.org/NPA/About\\_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb88](http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb88) (last accessed Apr. 26, 2016) (citing Nutrition Business Journal).

<sup>2</sup> *Id.*

16. The Products are deceptively labeled as “natural,” despite containing non-natural ingredients.

17. The following Products all contain multiple synthetic and/or highly processed ingredients:

- a. All Purpose Cleaner Spray;
- b. All Purpose Cleaner Wipes;
- c. Dish Liquid, Fragrance-Free;
- d. Dish Liquid, Lavender;
- e. Dishwasher Pods, Fragrance-Free;
- f. Fragrance-Free Baby Laundry Detergent;
- g. Nursery Cleaner Spray;
- h. Pacifier Wipes;
- i. Stain Remover Spray;
- j. Toy & High Chair Cleaner Spray;
- k. Tub & Tile Cleaner Spray;
- l. Baby Laundry Detergent Pods; and
- m. Baby Laundry Booster Pods.

18. Dapple sells its Products through brick and mortar and/or on-line retail stores. Dapple products that are placed in retail stores for sale are packaged so that consumers can see and read the packaging before making a purchase.

19. Dapple’s packaging of the Products is specifically geared toward consumers looking to purchase baby-safe cleaning products and making comparisons between products. Dapple’s intent is that consumers rely on the Products’ packaging when evaluating which Products

to purchase.

20. Each and every Product prominently professes that it is “natural” or “naturally clean” on the front label. In fact, these words and phrases are positioned in such a way that they appear to be part of each Product’s name. See Exhibit A.

21. Defendant’s marketing of the Products on its website, <http://www.dapplebaby.com>, highlights the Products’ alleged “natural” quality.

22. Defendant’s website makes numerous representations to bolster Defendant’s claims that the Products are “natural,” including, but not limited to, the following:

- “BY MOMS. FOR MOMS. PURE. CLEAN. SAFE.”
- “[W]e created a line of products that were plant-based and safe for our babies.”
- “Our cleaners are tailor-made for households with babies and kids. Each [D]apple product is created with naturally-based ingredients that are environmentally safe, biodegradable, and free of parabens, SLES, and phthalates, as well as synthetic dyes or fragrances.”
- “BABY SAFE. BABY EFFECTIVE.”
- “Bye-bye, baby toxins! Dapple products are both safe for baby and effective on baby’s messes.”
- “Made only with non-toxic, plant-based ingredients.”
- “Hypoallergenic for sensitive skin”

See Exhibit B.

23. Curiously, in the list of ingredients for each product, nearly every ingredient is accompanied by a parenthetical explanation intended to convince purchasers that the listed ingredients are “natural.”

24. The parenthetical explanations following sodium citrate on various Products' lists of ingredients read:

- a. "natural water softener derived from citric acid" (Fragrance-free Baby Laundry Detergent);
- b. "water softener derived from citric acid" (Stain Remover Spray, Dish Liquid, Lavender and Dish Liquid, Fragrance-Free);
- c. "natural ph adjuster made from citrus fruit" (All-Purpose Cleaner Spray);
- d. "pH adjuster derived from fruit" (Nursery Cleaner Spray and Toy & High Chair Cleaner Spray); and
- e. "water conditioner made from corn and grains" (Dishwasher Pods).

See Exhibit A.

25. The parenthetical explanations following glycerin on various Products' lists of ingredients read:

- a. "natural emollient" (Fragrance-Free Baby Laundry Detergent, Stain Remover Spray);
- b. "solvent derived from vegetables" (Pacifier Wipes); and
- c. "solvent derived from plants" (Toy & High Chair Cleaner Spray).

See Exhibit A.

26. On various Products' lists of ingredients, the parenthetical explanation following benzisothiazolinone reads simply "preservative" (Fragrance-Free Baby Laundry Detergent, Stain Remover Spray, Dish Liquid, Lavender, and Dish Liquid, Fragrance-Free). See Exhibit A.

27. On the list of ingredients for Pacifier Wipes, the parenthetical explanation following sodium benzoate reads "made from minerals." See Exhibit A.

28. The parenthetical explanations following “gluconolactone & sodium benzoate” on various Products’ lists of ingredients read:

- a. “natural food-grade preservative” (All-Purpose Cleaner Wipes); and
- b. “preservative derived from plants” (Toy & High Chair Cleaner Spray, Tub & Tile Cleaner Spray).

See Exhibit A.

29. On the list of ingredients for Pacifier Wipes, the parenthetical explanation following potassium sorbate reads “food-grade preservative.” See Exhibit A.

30. On the list of ingredients for Dishwasher Pods, the parenthetical explanation following lauramine oxide reads “cleaner made from coconut oil.” See Exhibit A.

31. On the list of ingredients for Stain Remover Spray, the parenthetical explanation following xanthan gum reads “thickening agent from vegetables.” See Exhibit A.

32. On the list of ingredients for Baby Laundry Detergent Pods, the parenthetical explanation following sodium coco sulfate reads “cleaning agent derived from coconut oil.” See Exhibit A.

33. On the list of ingredients for Baby Laundry Booster Pods, the parenthetical explanation following sodium polyitaconate reads “made from corn and grains to prevent re-deposition of soils on clothing.” See Exhibit A.

34. As guidance of what a reasonable consumer may think is “natural,” the U.S. Department of Agriculture (“USDA”) in the United States Code of Federal Regulations (“CFR”) specifically classifies sodium citrate, glycerin and xanthan gum as synthetic substances.<sup>3</sup>

35. Sodium citrate is manufactured by the neutralization of citric acid with either

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<sup>3</sup> 7 C.F.R. § 205.605(b).



synthetic potassium hydroxide or synthetic sodium hydroxide. Due to its production from synthetic ingredients, it is classified by the USDA as synthetic.<sup>4 5</sup>

36. On information and belief, the glycerin contained in the Products is manufactured through chemical processing. In the traditional alkali process, the natural fats and oils are hydrolyzed with a solution of sodium carbonate, sodium hydroxide, or potassium hydroxide.<sup>6</sup> This produces synthetic glycerin and fatty acids.<sup>7</sup> Due to this extensive processing, the CFR lists glycerin as a synthetic substance.<sup>8 9</sup>

37. Benzisothiazolinone ("BIT") is a synthetic preservative derived from either petroleum or natural gas, and is therefore synthetic by its very nature.<sup>10</sup> BIT is listed by the United States Environmental Protection Agency ("EPA") as a possible human sensitizer toxicant or allergen.<sup>11</sup> BIT is used as an antimicrobial.<sup>12</sup>

38. Sodium benzoate is a chemical 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, allowed to crystalize or evaporate to dryness, and granulated. It does not occur naturally.<sup>13</sup> Sodium benzoate has been

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<sup>4</sup> *Id.*

<sup>5</sup> The following products contain sodium citrate: Fragrance-free Baby Laundry Detergent, Stain Remover Spray, Dish Liquid, Lavender, Dish Liquid, Fragrance-Free, All-Purpose Cleaner Spray, Nursery Cleaner Spray, Toy & High Chair Cleaner Spray, and Dishwasher Pods.

<sup>6</sup> Draco Natural Prods. To USDA, *Glycerin Petition*, available at <https://www.ams.usda.gov/sites/default/files/media/Glycerin%20Petition%20to%20remove.pdf> (last accessed Apr. 26, 2016).

<sup>7</sup> *Id.*

<sup>8</sup> 7 C.F.R. § 205.605(b).

<sup>9</sup> The following products contain glycerin: Fragrance-Free Baby Laundry Detergent, Stain Remover Spray, Pacifier Wipes, and Toy & High Chair Cleaner Spray.

<sup>10</sup> Scientific Committee on Consumer Safety, *Opinion on Benzisothiazolinone* (2012), available at [http://ec.europa.eu/health/scientific\\_committees/consumer\\_safety/docs/sccs\\_o\\_099.pdf](http://ec.europa.eu/health/scientific_committees/consumer_safety/docs/sccs_o_099.pdf) (last accessed Apr. 26, 2016).

<sup>11</sup> Environmental Working Group, EWG's Skin Deep Cosmetics Database, *Benzisothiazolinone*, available at <http://www.ewg.org/skindeep/ingredient/716930/BENZISOTHIAZOLINONE/> (last accessed Apr. 26, 2016).

<sup>12</sup> The following products contain BIT: Fragrance-Free Baby Laundry Detergent, Stain Remover Spray, Dish Liquid, Lavender, and Dish Liquid, Fragrance-Free.

<sup>13</sup> 21 C.F.R. § 184.1733.

shown to cause DNA damage and chromosomal aberrations.<sup>14</sup> Sodium benzoate is used as a preservative.<sup>15 16</sup>

39. Potassium sorbate is manufactured by the reaction of sorbic acid with an equimolar portion of potassium hydroxide. The resulting potassium sorbate may be crystallized from aqueous ethanol.<sup>17</sup> Potassium sorbate is used as a fragrance ingredient and as a preservative.<sup>18 19</sup>

40. Lauramine oxide is synthesized by mixing the amine with hydrogen peroxide, then heating.<sup>20</sup> The chemical product is then mixed with either sodium sulfate or manganese dioxide and filtered.<sup>21</sup> The resulting product is the chemical composition lauramine oxide.<sup>22</sup> It is used in detergents as a surfactant.<sup>23</sup>

41. Xanthan gum is a polysaccharide derived from the fermentation of sugars by the *Xanthomonas campestris* bacterium and purification using isopropyl alcohol.<sup>24</sup> Xanthan gum is listed as a synthetic ingredient by federal regulation.<sup>25</sup> Xanthan gum is typically used as a thickening or stabilizing agent in beverages, salad dressing, shampoo and cosmetic products.<sup>26</sup> A 2012 article in the Journal of Pediatrics noted that the FDA issued warnings that products

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<sup>14</sup> 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).

<sup>15</sup> 21 C.F.R. § 184.1733.

<sup>16</sup> The following product contains sodium benzoate: Pacifier Wipes. The following products contain "Gluconolactone & Sodium Benzoate": All-Purpose Cleaner Wipes, Toy & High Chair Cleaner Spray, Tub & Tile Cleaner Spray.

<sup>17</sup> *Final Report on the Safety Assessment of Sorbic Acid and Potassium Sorbate*, 7 Int'l J. Toxicology 6, 837-880 (Nov./Dec. 1988), <http://ijt.sagepub.com/content/7/6/837.abstract>.

<sup>18</sup> Environmental Working Group, EWG's Skin Deep Cosmetics Database, *Potassium Sorbate*, available at [http://www.ewg.org/skindeep/ingredient/705225/POTASSIUM\\_SORBATE/](http://www.ewg.org/skindeep/ingredient/705225/POTASSIUM_SORBATE/) (last accessed Apr. 26, 2016).

<sup>19</sup> The following product contains potassium sorbate: Pacifier Wipes.

<sup>20</sup> *Final Report on the Safety Assessment of Lauramine Oxide and Stearamin Oxide*, 13 Int'l J. Toxicology 3, 231-245 (June 1994), available at <http://ijt.sagepub.com/content/13/3/231.abstract>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> The following product contains lauramine oxide: Dishwasher Pods.

<sup>24</sup> Becker, et al., *Xanthan Gum Biosynthesis and Application: A Biochemical/Genetic Perspective*, APPLIED MICROBIOLOGY BIOTECHNOLOGY 50(2), 145-52 (Aug. 1998).

<sup>25</sup> 7 C.F.R. § 205.605(b).

<sup>26</sup> *Id.*

containing xanthan gum have been linked to illness and death in infants.<sup>27 28</sup>

42. Sodium coco sulfate (SCS) is a mixture of various cleaning agents that includes a significant amount of sodium lauryl sulfate (SLS). Chemicals manufacturer Stepan Co., one of the United States' largest suppliers of SLS and SCS to the consumer products industry, has said that SCS contains SLS.<sup>29</sup> David Andrews, a senior scientist at the Environmental Working Group, was quoted by The Wall Street Journal as saying that "[t]he general process of making sodium coco sulfate would have sodium lauryl sulfate in it."<sup>30</sup>

43. Sodium lauryl sulfate (SLS) is a highly chemically-processed surfactant, detergent and emulsifier sourced from fatty acids extracted from coconut or palm oil, which are then chemically converted into esters and hydrogenated through the addition of chemicals to produce fatty alcohol. The fatty alcohol is then sulfated and neutralized through further chemical addition to yield the final ingredient.

44. Furthermore, SCS is manufactured in a multi-step, non-natural process that is nearly the same as making SLS.<sup>31</sup> Given that the USDA and FDA consider SLS to be a synthetic substance, and SCS is produced using the same process, SCS is not natural.<sup>32 33</sup>

45. Sodium polyitaconate is manufactured in a multi-step, non-natural process.<sup>34 35</sup>

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<sup>27</sup> Jennifer Beal, MPH et al., *Late Onset Necrotizing Enterocolitis in Infants Following Use of a Xanthan Gum-Containing Thickening Agent*, 161 THE JOURNAL OF PEDIATRICS 2, 354 (2012).

<sup>28</sup> The following product contains xanthan gum: Stain Remover Spray.

<sup>29</sup> Serena Ng, "Laundry Detergent from Jessica Alba's Honest Co. Contains Ingredient It Pledged to Avoid," THE WALL STREET JOURNAL (Mar. 10, 2016), available at <http://www.wsj.com/articles/laundry-detergent-from-jessica-albas-honest-co-contains-ingredient-it-pledged-to-avoid-1457647350> (last accessed Apr. 4, 2016).

<sup>30</sup> *Id.*

<sup>31</sup> ICF Consulting for the USDA Nat'l Organic Program, *Technical Evaluation Report: Sodium Lauryl Sulfate* (2006), available at <https://www.ams.usda.gov/sites/default/files/media/S%20Lauryl%20report.pdf> (last visited Apr. 4, 2016).

<sup>32</sup> *Id.*

<sup>33</sup> The following product contains SCS: Baby Laundry Detergent Pods.

<sup>34</sup> See ITACONIX DSP 2K Data Sheet (Oct. 20, 2014), available at <http://www.itaconix.com/downloads/Tech%20Data%20Sheet%20DSP2K-v1.0.8.pdf> (last visited Apr. 4, 2016).

<sup>35</sup> The following product contains SCS: Baby Laundry Booster Pods.

46. Accordingly, a reasonable consumer would not deem the Products to be “natural.”

47. Thus, by labeling the products as “natural,” Defendant deceives and misleads reasonable consumers.

48. Defendant’s labeling of the Products as “natural” unequivocally demonstrates its intent to persuade consumers that the Products are “natural” because they contain only natural ingredients. However, the Products do not contain only natural ingredients. As described above, some of the ingredients are produced via complex, multi-step processes involving the use of toxic chemicals. The end products are substances that do not exist in nature, and which could not exist without the complex chemical processes described above.

49. Despite the inclusion of synthetic and highly processed substances, Defendant labels and markets the Products as “natural.”

50. Reasonable consumers, including Plaintiffs, purchased the Products based on their belief that they were “natural.” However, a reasonable consumer would not deem the products “natural” if he or she knew that they contained synthetic, highly processed and/or non-natural ingredients.

51. Hence, Defendant’s claims that the Products are “natural” are false and misleading.

52. Defendant has profited enormously from its false and misleading marketing of the Products. Consumers either would not have purchased the Products had they known they were not “natural,” or would have purchased less expensive products. By way of example, Defendant currently sells a 16.9-ounce bottle of Dish Liquid, Fragrance-Free for \$4.99 (approximately \$0.30 per ounce).<sup>36</sup> Consumers can purchase a 24-ounce bottle of Up & Up™ Hand Wash Dish Soap,

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<sup>36</sup> Target, [http://www.target.com/p/dapple-16-9-floz-unscented-hand-wash-dish-soaps/-/A-16889627#prodSlot=medium\\_1\\_2&term=dapple](http://www.target.com/p/dapple-16-9-floz-unscented-hand-wash-dish-soaps/-/A-16889627#prodSlot=medium_1_2&term=dapple) (last accessed Apr. 26, 2016).

Unscented for \$2.02 (approximately \$0.08 per ounce)<sup>37</sup> or a 25-ounce bottle of Seventh Generation™ Natural Dish Liquid, Free and Clear for \$2.99 (approximately \$0.12 per ounce).<sup>38</sup>

### **CLASS ACTION ALLEGATIONS**

53. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and the proposed Class consisting of:

All persons who purchased the Products. Excluded from the Class are Defendant's officers, directors and employees.<sup>39</sup>

54. Class members are so numerous and geographically diverse that their individual joinder is impractical. Although the exact number of class members is presently unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe and therefore aver that there are thousands of class members – too many to practically join in a single suit.

55. Common questions of law and fact exist as to all Class members and predominate over questions affecting only individual Class members. Indeed, Plaintiffs' and Class members' claims derive from a common core of salient facts, and share many of the same legal claims. These common questions include but are not limited to the following:

- a. Whether Dapple's conduct constitutes an unlawful business act or practice within the meaning of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*;

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<sup>37</sup> Target, [http://www.target.com/p/up-up-hand-wash-dish-soap-unscented-24-oz/-/A-16600501#prodSlot=medium\\_1\\_1&term=up+%26+up+hand+wash+dish+soap](http://www.target.com/p/up-up-hand-wash-dish-soap-unscented-24-oz/-/A-16600501#prodSlot=medium_1_1&term=up+%26+up+hand+wash+dish+soap) (last accessed Apr. 26, 2016).

<sup>38</sup> Target, [http://www.target.com/p/seventh-generation-natural-dish-liquid-free-and-clear-25-oz/-/A-13218998#prodSlot=medium\\_1\\_1&term=seventh+generation+free+and+clear+dish+soap](http://www.target.com/p/seventh-generation-natural-dish-liquid-free-and-clear-25-oz/-/A-13218998#prodSlot=medium_1_1&term=seventh+generation+free+and+clear+dish+soap) (last accessed Apr. 26, 2016).

<sup>39</sup> Plaintiffs reserve the right to modify the Class description and the Class Period based on the results of discovery or otherwise prior to the certification of the Class.

- b. Whether Dapple's advertising is untrue or misleading within the meaning of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*;
- c. Whether Dapple made false and misleading representations in its advertising and labeling of the Products at issue herein;
- d. Whether Dapple knew or should have known that its representations and omissions were false as alleged herein;
- e. Whether Dapple was unjustly enriched at the expense of Plaintiffs and the Class members;
- f. How much Plaintiffs and the Class members suffered as an ascertainable loss of money as a result of Dapple's misrepresentation, concealment, suppression or omission of material fact; and
- g. Whether Plaintiffs and the Class members are entitled to recover damages, including refunds, treble damages, attorneys' fees, filing fees and reasonable costs of suit for Dapple's injury to them in violation of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*

56. A class certified for injunctive relief is appropriate because Defendant has acted or refused to act on grounds generally applicable to Class members, thereby making appropriate final injunctive relief with respect to the Class as a whole.

57. The common issues predominate over any individualized issues such that the putative class is sufficiently cohesive to warrant adjudication by representation.

58. Plaintiffs' claims are typical of those of the Class members because they, like Class members, purchased a Product manufactured by Defendant, relying on Dapple's packaging, labeling and advertising. Furthermore, Plaintiffs and all members of the class sustained economic

injuries arising out of Defendant's wrongful conduct. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all absent Class members.

59. Plaintiffs are adequate representatives because their interests coincide with, and are not antagonistic to, those of the Class members they seek to represent. Plaintiffs are represented by experienced and able counsel who have litigated numerous class actions, and Plaintiffs' counsel intend to prosecute this action vigorously for the benefit of Plaintiffs and all Class members. Plaintiffs and their counsel can fairly and adequately protect the interests of the Class members.

60. Class action is the best available method for the fair and efficient adjudication of this litigation because individual litigation of the Class members' claims would be impracticable and unduly burdensome to the courts. Further, individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

61. Class certification is also appropriate because there is an identifiable class on whose behalf this class action would be prosecuted. Class members are readily ascertainable. Because the Class members are so readily identifiable, this action is also readily manageable as a class action. Plaintiffs envision no unusual difficulty in the management of this action as a class action.

62. Alternatively, certification of a plaintiff class under Federal Rule of Civil Procedure 23(b)(1) is appropriate in that inconsistent or varying adjudications with respect to individual members of the Class would establish incompatible standards of conduct for the Defendant or adjudications with respect to individual members of the Class as a practical matter would be dispositive of the interests of the other members not parties to the adjudication or would substantially impair or impede their ability to protect their interests.

63. A notice of pendency and/or resolution of this class action can be provided to Class members by direct mail, public notice, or other means.

**FIRST CAUSE OF ACTION**

**Violation of the Magnuson-Moss Warranty Act,  
15 U.S.C. § 2301, *et seq.***

64. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

65. Plaintiffs bring this claim individually and on behalf of the other members of the Class.

66. The Magnuson-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, an implied warranty, or other various obligations established under the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*

67. The Products are “consumer products” within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1).

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

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

70. Defendant’s written statements that the Products are “natural,” as alleged herein, are statements made in connection with the sale of the Products that relate to the nature of the Products and affirm and promise that the Products are defect-free, *i.e.*, not incorporating unnatural ingredients and incorporating only natural ingredients, and as such are written warranties within the meaning of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(6)(A).



71. As alleged herein, Defendant has breached this written warranty by selling consumers the Products that, in fact, are not “natural” as warranted and thus do not confirm to Defendant’s written warranty, in violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*, and causing Plaintiffs and the other Class members injury and damages in an amount to be determined at trial.

## **SECOND CAUSE OF ACTION**

### **Violation of State Consumer Protection Statutes New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.***

72. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

73. Plaintiffs, other members of the Class, and Defendant are “persons” within the meaning of the New Jersey Consumer Fraud Act (“CFA”).

74. Plaintiffs and other members of the Class are “consumers” within the meaning of the CFA.

75. The Products are “merchandise” within the meaning of the CFA.

76. At all relevant times material hereto, Defendant conducted trade and commerce in New Jersey and elsewhere within the meaning of the CFA.

77. The CFA is, by its terms, a cumulative remedy, such that remedies under its provisions can be awarded in addition to those provided under separate statutory schemes.

78. Plaintiffs and Class members are consumers who purchased Defendant’s Products.

79. Defendant, in connection with the sale of the Products, has engaged in deceptive, unconscionable, unfair, fraudulent and misleading commercial practices, because Defendant knew that it had purposely marketed and sold the Products in a manner that made Plaintiff and other reasonable consumers believe that the Products were natural.

80. Defendant has engaged in deceptive practices in the sale of the Products because Defendant knew, or should have known, that the Products contained synthetic ingredients and were not natural.

81. Similarly, Defendant also failed to disclose material facts regarding the Products to Plaintiffs and members of the Class—namely, that the Products are not natural and contain numerous artificial and synthetic ingredients.

82. Defendant mislead Plaintiffs and the Class by failing to disclose that the Products contain SLS and instead prominently displaying on the front of the packaging that the Products are “free of SLS”.

83. Defendant intended that Plaintiffs and the other Class members rely on these acts of concealment and omissions so that Plaintiffs and other Class members would purchase the Products.

84. The false and misleading representations were intended to, and likely to, deceive a reasonable consumer.

85. The facts not disclosed would be material to the reasonable consumer, and are facts that a reasonable consumer would consider important in deciding whether to purchase the Products and how much to pay for same.

86. Defendants’ representations and omissions were and are material to reasonable consumers, including Plaintiffs, in connection with their respective decisions to purchase the Products.

87. Had Defendant not engaged in false and misleading advertising regarding the Products, Plaintiffs and other Class members would not have purchased the Products.

88. Had Defendant disclosed all material information regarding the Products to

Plaintiffs and other Class members, they would not have purchased the Products.

89. The foregoing acts, omissions and practices directly, foreseeably and proximately caused Plaintiffs and other Class members to suffer an ascertainable loss in the form of, *inter alia*, monies spent to purchase the Products at a premium price, and they are entitled to recover such damages, including, but not limited to, actual and punitive damages, restitution of all monies wrongfully acquired by Dapple as a result of its misconduct, injunctive and declaratory relief, attorneys' fees and costs of suit, treble damages and other non-monetary relief as the Court may deem appropriate.

### **THIRD CAUSE OF ACTION**

#### **Breach of Express Warranty**

90. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

91. Plaintiffs and the Class members formed a contract with Defendant at the time they purchased the Products. As part of that contract, Defendant represented that the Products were "natural," as described above. These representations constitute express warranties and became part of the basis of the bargain between Plaintiffs and the Class members, on the one hand, and Defendant, on the other.

92. Defendant made the above-described representations to induce Plaintiffs and the Class members to purchase the Products, and Plaintiffs and the Class members relied on the representations in purchasing the Products.

93. All conditions precedent to Defendant's liability under the above-referenced contract have been performed by Plaintiffs and the other Class members.

94. Defendant breached its express warranties about the Products because, as alleged

above, the Products are not “natural.” Defendant breached the following state warranty laws:

- A. Ala. Code § 7-2-313;
- B. Alaska Stat. § 45.02.313;
- C. Ariz. Rev. Stat. § 47-2313;
- D. Ark. Code. Ann. § 4-2-313;
- E. Cal. Com. Code § 2313;
- F. Colo. Rev. Stat. § 4-2-313;
- G. Conn. Gen. Stat. § 42a-2-313;
- H. Del. Code tit. 6, § 2-313;
- I. D.C. Code § 28:2-313;
- J. Fla. Stat. § 672.313;
- K. Ga. Code Ann. § 11-2-313;
- L. Haw. Rev. Stat. § 490:2-313;
- M. Idaho Code Ann. § 28-2-313;
- N. 810 Ill. Comp. Stat. Ann. 5/2-313;
- O. Ind. Code § 26-1-2-313;
- P. Iowa Code § 554.2313;
- Q. Kan. Stat. Ann. § 84-2-313;
- R. Ky. Rev. Stat. Ann. § 355.2-313;
- S. Me. Rev. Stat. Ann. tit. 11, § 2-313;
- T. Md. Code, Com. Law § 2-313;
- U. Mass. Gen. Laws Ann. ch. 106, § 2-313;
- V. Mich. Comp. Laws § 440.2313;

W. Minn. Stat. § 336.2-313;  
X. Miss. Code § 75-2-313;  
Y. Mo. Rev. Stat. § 400.2-313;  
Z. Mont. Code Ann. § 30-2-313;  
AA. Neb. Rev. Stat. § 2-313;  
BB. Nev. Rev. Stat. § 104.2313;  
CC. N.H. Rev. Stat. § 382-A:2-313;  
DD. N.J.S.A. § 12A:2-313;  
EE. N.M. Stat. § 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. Ohio Rev. Code § 1302.26;  
JJ. Okla. Stat. tit. 12A, § 2-313;  
KK. Or. Rev. Stat. § 72-3130;  
LL. 13 Pa. Cons. Stat. § 2313;  
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. Vt. Stat. Ann., tit. 9A, § 2-313;

TT. Va. Code Ann. § 59.1-504.2;

UU. Wash. Rev. Code Ann. § 62A.2-313;

VV. W. Va. Code § 46-2-313;

WW. Wis. Stat. § 402.313; and

XX. Wyo. Stat. Ann. § 34.1-2-313.

95. As a result of Defendants' breaches of express warranty, Plaintiffs and the other Class members were damaged in the amount of the purchase price they paid for the Products, in amounts to be proven at trial.

96. Within a reasonable time after they knew or should have known of such breach, Plaintiffs, on behalf of themselves and the other members of the Class, placed Defendant on notice thereof.

97. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

#### **FOURTH CAUSE OF ACTION**

##### **Breach of Implied Warranty**

98. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

99. Defendant provided Plaintiffs and Class members with an implied warranty that the Products were natural and were thus fit for the ordinary purposes for which they were sold. Defendant did so with the intent to induce Plaintiffs and members of the Class to purchase the Products.

100. The Products are not fit for the ordinary purpose for which they were advertised, in that they are not "natural" cleaning products, and parents seeking natural and non-toxic cleaning

products actually purchased products that were non-natural and potentially toxic. (See ¶¶ 22, 35–45, 48).

101. Defendant knew, or should have known, that the Products were not fit for their ordinary and intended purpose.

102. Defendant has thus breached its implied warranties of merchantability.

103. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

### **FIFTH CAUSE OF ACTION**

#### **Unjust Enrichment**

104. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

105. Plaintiffs and Class members purchased Products manufactured by Dapple during the Class Period in justifiable reliance on Dapple's packaging and labeling of the products at issue herein.

106. Dapple knew but failed to disclose to Plaintiffs and the Class members when they purchased the Products that the products contained synthetic, highly processed and/or non-natural ingredients.

107. Plaintiffs and the Class members purchased the Products without Dapple disclosing to them the true quality of the Products.

108. By purchasing the Products, Plaintiffs and the Class members conferred a benefit upon Dapple, without knowledge of the true qualities of the Products.

109. Dapple knowingly received and retained this non-gratuitous benefit conferred on it by Plaintiffs and the Class members despite its knowledge that the Products were not of the quality

as stated on the packaging and labeling.

110. Dapple has been unjustly enriched in retaining payments made by Plaintiffs and Class members in connection with their purchase of the Products.

111. Dapple's retention of the non-gratuitous benefit conferred by Plaintiffs and the Class members under these circumstances is unjust and inequitable.

112. No other remedy at law can adequately compensate Plaintiffs and the Class members for the economic damages resulting to them from Dapple's wrongful actions as alleged herein.

113. Because Dapple's retention of the non-gratuitous benefit conferred on it by Plaintiffs and the Class members is unjust and inequitable, Dapple must pay restitution to Plaintiffs and the Class members for its unjust enrichment.

114. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

#### **SIXTH CAUSE OF ACTION**

##### **Common Law Fraud**

115. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

116. Dapple represented to Plaintiffs and each Class member by means of its packaging, advertising, marketing and other promotional materials that its Products were of a particular quality, when the Products were not of that quality.

117. Dapple's representations were untrue as set forth above.

118. Dapple made the representations alleged herein with the intention of inducing Plaintiffs and the Class members to purchase the Products.



119. Plaintiffs and the Class members relied upon Dapple's representations and, in reliance on them, purchased the Products.

120. Said reliance was reasonable. Plaintiffs and the Class members were without the ability to determine the truth of Dapple's statements on their own and could only rely on Dapple's statements in its packaging, advertising, marketing and/or other promotional materials.

121. At the time Dapple made the representations herein alleged, Dapple knew or should have known the representations were false. Even so, Dapple continued to make the unsubstantiated, false claims.

122. Dapple made these misrepresentations with the intention of depriving Plaintiffs and the Class members of property or otherwise causing injury.

123. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

#### **SEVENTH CAUSE OF ACTION**

##### **Negligent Misrepresentation**

124. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

125. Dapple represented to Plaintiffs and each Class member by means of its packaging, advertising, marketing and other promotional materials that Dapple's Products were "natural" and "free of SLS", when in fact, the Products were not natural and not free of SLS because they contained SLS and other synthetic and highly-processed ingredients.

126. Dapple's representations were untrue as set forth above.

127. Dapple knew or should have known that these representations would materially affect Plaintiffs' and the Class members' decisions to purchase the Products.

128. Plaintiffs and other reasonable consumers, including the Class members,

reasonably relied on Dapple's representations and, in reliance thereon, purchased the Products.

129. The reliance by Plaintiffs and the Class members was reasonable. Plaintiffs and the Class members were without the ability to determine the truth of these statements on their own and could only rely on Dapple's statements on its packaging, advertising, marketing and other promotional materials.

130. Plaintiffs and the Class members would not have been willing to pay for Dapple's Products if they knew that they contained SLS, artificial, synthetic and/or highly processed ingredients such as SCS, SLS, sodium citrate, glycerin, benzisothiazolinone, sodium benzoate, potassium sorbate, lauramine oxide, xanthan gum and sodium polyitaconate.

131. As a direct and proximate result of the foregoing negligent misrepresentations, Plaintiffs and the Class members were induced to purchase and consume Defendant's Products, and have suffered damages to be determined at trial. Had Plaintiffs and the Class members known the true facts about the quality of the Products, they would not have purchased the products.

132. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

### **EIGHTH CAUSE OF ACTION**

#### **For Injunctive Relief**

133. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

134. Given Dapple's improper practices described above, which are ongoing and continuing to deceive and harm purchasers and users of Dapple's Products, the Court should (a) enjoin Dapple from continuing to market, advertise, promote, distribute or sell its Products through use of any misrepresentations that the Products are "natural" and/or "free of SLS", and (b) order

Dapple to take all steps necessary to remove the offending Products from retailer shelves.

135. Dapple's practices described herein are unlawful and against public policy, and therefore, Dapple should be prohibited and enjoined from engaging in such practices in the future.

136. Unless Dapple's conduct is enjoined, consumers will continue to be deceived into believing that they are buying natural baby products, when in fact they are buying products containing synthetic and non-natural ingredients.

137. Such harm will continue unless and until injunctive relief is granted.

138. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

### **NINTH CAUSE OF ACTION**

#### **For Declaratory Relief**

139. Plaintiffs and the Class incorporate the preceding paragraphs as if fully set forth herein.

140. As set forth above, through the improper practices described above, Dapple intentionally misrepresented the quality of its Products.

141. Dapple continues its deceptive practices of marketing its Products.

142. Dapple's practices described herein are unlawful and against public policy, and therefore, Dapple should be prohibited and enjoined from engaging in such practices in the future.

143. Plaintiffs and the Class members seek a declaratory judgment pursuant to the Federal Declaratory Judgments Law, 28 U.S.C. §§ 2201, *et seq.*, and Rule 57 of the Federal Rule of Civil Procedure, requiring Defendant to stop representing its products are natural and/or free of SLS when they are not.

144. Such interpretation is appropriate under the provisions of the Federal Declaratory

Judgments Law, 28 U.S.C. §§ 2201, *et seq.* and Rule 57 of the Federal Rule of Civil Procedure.

145. Plaintiffs, on behalf of themselves and all others similarly situated, seek all damages and injunctive relief recoverable as a result of Defendant's conduct set forth above.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, KIM NEUSS and ANTONIO NEUSS, on behalf of themselves and all Class members they seek to represent, demand judgment against Dapple as follows:

A. For an order certifying the proposed Class pursuant to Rule 23 of the Federal Rules of Civil Procedure, appointing Plaintiffs as Class Representative, and naming their attorneys as Class Counsel to represent the Class members;

B. For an order declaring that Dapple's conduct violates the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.* alleged herein;

C. For an order declaring that Dapple's conduct violates the New Jersey State Consumer Protection Statute alleged herein;

D. For an order entering judgment in favor of Plaintiffs and the Class members against Dapple;

E. For an order awarding damages, including punitive damages, against Dapple in favor of Plaintiffs and the Class members in an amount to be determined by the Court as fair and just for Dapple's wrongful conduct;

F. For an order awarding Plaintiffs and the Class members pre-judgment interest on any damages awarded by the Court;

G. For an order of restitution and all other forms of equitable money relief;

H. For injunctive relief as pleaded or as the Court may deem proper;

I. For declaratory relief as pleaded or as the Court may deem proper;

- J. For an order awarding Plaintiffs and the Class members their reasonable attorneys' fees, expenses, and costs of suit; and
- K. Granting such other and further relief as the Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury.

Dated: April 27, 2016

**EICHEN CRUTCHLOW ZASLOW &  
McELROY, LLP**

By: /s/ Barry R. Eichen

Barry R. Eichen, Esq.  
Evan J. Rosenberg, Esq.  
40 Ethel Road  
Edison, NJ 08817  
Tel.: (732) 777-0100

*Attorneys for Plaintiffs Kim Neuss and  
Antonio Neuss and the Putative Class*

JS 44 (Rev. 1/16)

**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**

Kim Neuss and Antonio Neuss

**DEFENDANTS**

Rubi Rose, LLC

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

County of Residence of First Listed Defendant

(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, Email and Telephone Number)

Barry Eichen - Eichen Crutchlow Zaslow & McElroy, LLP  
40 Ethel Rd., Edison, NJ 08817  
(732) 777-0100; beichen@njadvocates.com

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

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

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

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

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

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

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

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

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:  
consumer fraud, deceptive advertising, misrepresentation

**VII. REQUESTED IN COMPLAINT:**

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

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions).

JUDGE

DOCKET NUMBER

DATE  
04/26/2016

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

# **EXHIBIT A**

**Exhibit A**



## 50oz FRAGRANCE-FREE BABY LAUNDRY DETERGENT

---

**Safe, natural detergent that really hits the spot.**

- Made with ultra-mild ingredients
- An effective & safer alternative to conventional baby laundry detergent
- Perfect for newborns, toddlers, and kids with eczema
- Enhanced formula specifically for use on cloth diapers
- Works wonders on spit-up stains, too!

**BUY NOW**

SHARE    

---

### **Ingredients**

Water, citric acid, tetrasodium aminodisuccinate (natural complexing agent), sodium citrate (natural water softener derived from citric acid), glycerin (natural emollient), coconut fatty acid (natural cleaner derived from coconut), sodium lauroamphoacetate (natural cleaner derived from tree oils and glucose), lauryl glucoside (natural cleaner derived from glucose), protease & amylase (natural enzymes to enhance cleaning power), cellulose (natural derived thickening agent), benzisothiazolanone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).





## 100oz FRAGRANCE-FREE BABY LAUNDRY DETERGENT

---

**Safe, natural detergent that really hits the spot.**

- Made with ultra-mild ingredients
- An effective & safer alternative to conventional baby laundry detergent
- Perfect for newborns, toddlers and kids with eczema
- Enhanced formula specifically for use on cloth diapers
- Works wonders on spit-up stains, too!

**BUY NOW**

SHARE    

---

### Ingredients

Water, citric acid, tetrasodium iminodisuccinate (natural complexing agent), sodium citrate (natural water softener derived from citric acid), glycerin (natural emollient), coconut fatty acid (natural cleaner derived from coconut), sodium lauroamphosuccinate (natural cleaner derived from tree oils and glucose), lauryl glucoside (natural cleaner derived from glucose), protease & amylase (natural enzymes to enhance cleaning power), cellulose (natural derived thickening agent), benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 16 OZ STAIN REMOVER SPRAY

---

**Sometimes, cleaning the potty can make a big mess of clothes.**

- An effective & safer alternative to conventional pre-treatment formulas
- Perfect for newborns, toddlers and kids with eczema
- Enhanced formula specifically for use on cloth diapers
- Works wonders on spit-up stains, poop and mashed in food, too!

**BUY NOW**

**SHARE**    

---

### Ingredients

Water, glycerin (natural emollient), disodium lauryl sulfosuccinate (cleaning agent from coconut and palm oil), lauroth-7 (cleaning agent from coconut), xanthan gum (thickening agent from vegetables), calcium chloride (natural enzyme stabilizer from minerals), sodium citrate (water softener derived from citric acid), lauryl glucoside (cleaner made from tree oils and glucose), protease (natural enzyme to break down protein soils), amylase (natural enzyme to break down starch soil), cellulose (natural enzyme to enhance cleaning power), tetrasodium iminodisuccinate (natural complexing agent), benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 16.9 oz Dish Liquid, Lavender

---

**Safe, pure, and extremely effective...it's got everything but the kitchen sink.**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Lavender scent

**BUY NOW**

SHARE    

---

### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauroamphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), lavender essential oil and benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 34 oz Refill, Dish Liquid, Lavender

---

**Safe, pure, and extremely effective...it's got everything but the kitchen sink.**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Lavender scent

**BUY NOW**

SHARE    

---

### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauroamphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), lavender essential oil and benzisothiazolinone (preservative)

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## Dish Liquid Travel, Lavender

---

**Safe, pure, and extremely effective...it's got everything but the kitchen sink.**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Lavender scent
- Travel size makes it easy to take safe, natural formula anywhere you go

**BUY NOW**

SHARE    

---

### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauroamphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), lavender essential oil and benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 16.9 oz Dish Liquid, Fragrance-Free

---

**Safe, pure, and extremely effective...it's got everything but the kitchen sink.**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Fragrance-free formula

**BUY NOW**

SHARE    

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### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauroamphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 34 oz Refill, Dish Liquid, Fragrance-Free

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**Safe, pure, and extremely effective...it's got everything but the kitchen sink**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Fragrance-free formula

**BUY NOW**

SHARE    

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### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauroamphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), benzisothiazolinone (preservative)

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## Dish Liquid Travel, Fragrance-Free

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**Safe, pure, and extremely effective...it's got everything but the kitchen sink.**

- Safely cleans baby bottles, sippy cups, pacifiers and breast pump components
- Award-winning green technology targets milk residue and uses baking soda to combat odor
- Made with plant-based ingredients—free of phthalates, parabens, SLS, SLES and dyes
- Fragrance-free formula
- Travel size makes it easy to take safe, natural formula anywhere you go

**BUY NOW**

**SHARE**    

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### Ingredients

Purified water, alkyl polyglucoside (cleaner made from tree oils and glucose), sodium lauramphoacetate (cleaner derived from tree oils and amino acid), sodium citrate (water softener derived from citric acid), baking soda, tetrasodium iminodisuccinate (natural complexing agent), benzisothiazolinone (preservative).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).





## 30 oz All Purpose Cleaner Spray

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**Give yourself a break—and give the toys a bath instead.**

- Perfect for toys, high chairs, swings, even countertops.
- Green technology and plant-based ingredients
- Free of parabens, phthalates, SLS, SLES 1, 4, -dioxane & dyes
- Non-antibacterial formula allows baby to build up a strong immune system
- Available as spray or wipes

**BUY NOW**

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### Ingredients

Purified water, coco lipid c (coconut derived non-irritating cleaner), sodium citrate (natural ph adjuster made from citrus fruit), baking soda, lavender essential oil, polysorbate 20 (natural gentle dispersant and emulsifier).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## All Purpose Cleaner Wipes (75 ct)

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**Give yourself a break—and give the toys a bath instead.**

- Perfect for toys, high chairs, swings...even countertops
- Green technology and plant-based ingredients
- Free of parabens, phthalates, SLS, SLES, 1,4 -dioxane & dyes
- Non-antibacterial formula allows baby to build up a strong immune system
- Available as spray or wipes

**BUY NOW**

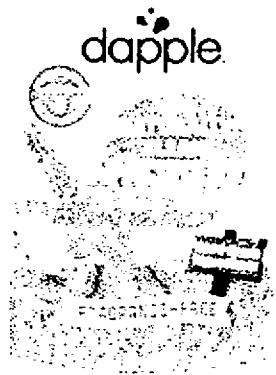
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### Ingredients

Purified water, lauryl glucoside (natural cleaner derived from glucose), sodium lauroamphacetate (natural cleaner derived from tree oils and amine acid), gluconolactone & sodium benzoate (natural food-grade preservative), maleic acid (natural ph adjuster made from apples).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## Pacifier Wipes (25 ct)

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**Drool: nature's own glue.**

- Safely cleans pacifiers, teethingers, bottle nipples, little thumbs and more
- Food-grade formula
- Fragrance-free
- Wipes are biodegradable and free of phthalates, parabens, SLS, SLES and dyes
- Individually wrapped towelettes for a convenient, pure clean on the go
- Contains 25 wipes

**BUY NOW**

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### Ingredients

Water, glycerin (solvent derived from vegetables), decyl glucoside (mild cleanser derived from sugar), malic acid (pH adjuster derived from apples), potassium sorbate (food-grade preservative), sodium benzoate (food-grade preservative)

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 16.9 oz Nursery Cleaner Spray

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**When playtime's over, spraytime begins.**

- Contains sweet lemon and grapefruit essential oil to purify and freshen
- Ideal for quickly cleaning changing tables
- Naturally fresh scent
- Safe and effective

**BUY NOW**

SHARE    

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### Ingredients

Water, CeteLipid C (cleaning agent derived from coconut oil), maleic acid (fruit acid) sodium citrate (pH adjuster derived from fruit), sodium bicarbonate (baking soda), lemon & grapefruit essential oil blend

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 16.9 oz Toy & High Chair Cleaner Spray

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**Dinnertime, playtime, naptime...no time left to clean? No problem.**

- Incredibly gentle and pure formula
- Quickly wipe things down (so they can be put right back into little mouths)
- Safely and effectively gets rid of stubborn "leftovers"
- Fragrance-free

**BUY NOW**

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### Ingredients

Water, CoraLipid C (cleaning agent derived from coconut oil), glycerin (solvent derived from plants), gluconolactone & sodium benzoate (preservative derived from plants), sodium citrate (pH adjuster derived from fruit), sodium bicarbonate (baking soda)

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## 30 oz Tub & Tile Cleaner Spray

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**Rub a dub dub, it's time to clean the tub.**

- Safely and effectively remove soap scum
- Hypoallergenic and fragrance-free
- Works for plastic baby tubs as well as ceramic baths
- Keeps tubs residue free
- After-bath water will not trigger baby breakouts

**BUY NOW**

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### Ingredients

Water, sodium gluconate (cleaning agent derived from dextrose), glycerin (solvent derived from plants), gluconolactone & sodium benzoate (preservative derived from plants), citric acid (pH adjuster derived from fruit).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).



## DISHWASHER PODS

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**Unique formula keeps bottles & plastics clear**

- Fragrance free
- Blasts away milk odor & residue
- Pediatrician recommended
- Free of ethoxylates, SLS, SLES, artificial fragrances, dyes, parabens, phosphates, phthalates, 1,4-dioxane, chlorine, and formaldehyde
- Contains 25 pods

**BUY NOW**

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### Ingredients

Sodium Carbonate (made from minerals), lauramine oxide (cleaner made from coconut oil), sodium citrate (water conditioner made from corn and grains), sodium polytaconate (water conditioner made from corn and grains), protease (enzyme to break down protein soils), Amylase (enzyme to break down starch soil), sodium sulfate (processing aid from mineral source), sodium percarbonate (made from minerals), sodium disilicate (corrosion inhibitor from a mineral source), sodium acrylate copolymer (to prevent spotting).

Available at <http://www.dapplebaby.com/#products> (last accessed Feb. 11, 2016).

# **EXHIBIT B**



## Exhibit B



### BY MOMS. FOR MOMS. PURE. CLEAN. SAFE.

That's what we're all about.

When we first became moms, we found a market full of "baby-friendly" products. But there was nothing specific for cleaning all those baby bottles, cups, and dishes. Regular dish soaps left behind some lingering smells—a less-than-pleasant bouquet of synthetics, fragrances and persistent odor (plus a film that never seemed to come off).

Yuck.

So we created a line of products that were plant-based and safe for our babies, specifically targeted to clean their "ohem" unique messes.

And that's how Dapple was born.

Our cleaners are tailor-made for households with babies and kids. Each Dapple product is created with naturally-based ingredients that are environmentally safe, biodegradable, and free of parabens, SLS, and phthalates, as well as synthetic dyes or fragrances.

We're so proud to be able to bring Dapple to parents everywhere, and to say "Go ahead and make those messy babies!"

TAMAR & DANA

What do you think? Follow us and join the chatter. [@dapplebaby](#) [#dapplebaby](#)

Available at <http://www.dapplebaby.com/#by-moms-for-moms> (last accessed Feb. 11, 2016).



### BABY SAFE. BABY EFFECTIVE.

Bye-bye, baby toxins! Dapple products are both safe for baby and effective on baby's messes.

#### Pure

- No SLS
- No SLES
- No Parabens
- No 1-4, Dioxane
- No Dyes
- No Artificial Fragrances
- No Phthalates
- Bottles are BPA-free

#### Safe

- Made with only non-toxic, plant-based ingredients
- Pediatrician recommended
- Hypoallergenic for sensitive skin

#### Effective

- Specifically formulated to tackle the toughest baby messes
- Makes baby toys, clothes and bottles sparkle

Available at <http://www.dapplebaby.com/#by-moms-for-moms> (last accessed Feb. 11, 2016).