



April 23, 2019

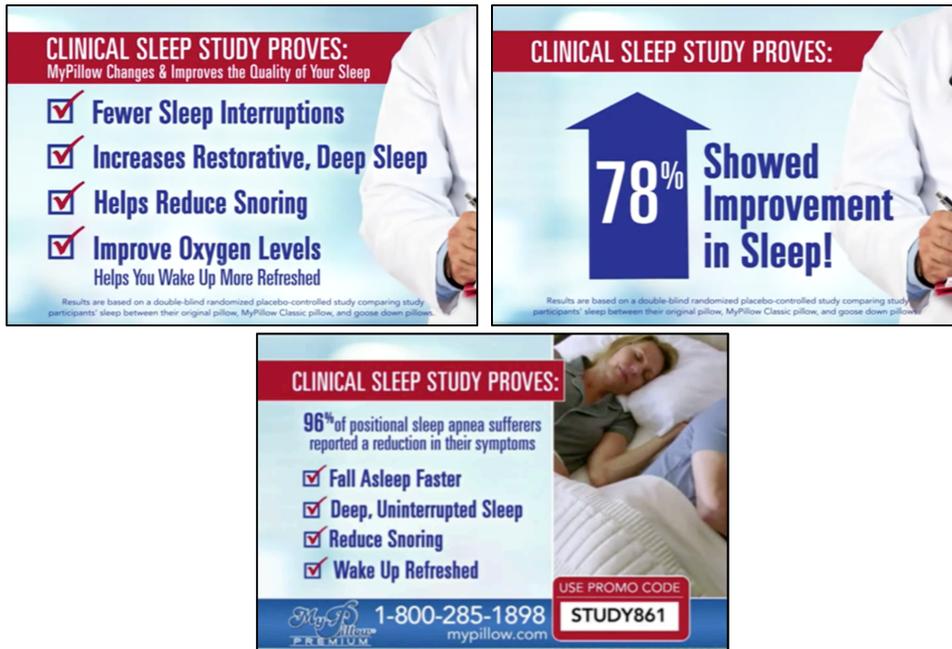
VIA OVERNIGHT MAIL AND EMAIL

Nancy E. O'Malley, District Attorney of Alameda County
Matthew L. Beltramo, Deputy District Attorney
7677 Oakport Street, Suite 650
Oakland, CA 94621

Re: MyPillow's Violation of 2016 Stipulated Judgment

Dear Attorneys O'Malley and Beltramo:

MyPillow is violating the 2016 Stipulated Judgment¹ that it entered into with the State of California by airing national ads that falsely represent the benefits of its pillows. Specifically, since November 2018, MyPillow has spent millions of dollars deceptively promoting a "clinical sleep study" in television commercials² claiming that the study proves the company's pillows provide the following benefits (among others): improves sleep, reduces sleep interruptions, increases restorative deep sleep, reduces snoring, improves oxygen levels, and reduces symptoms of positional sleep apnea sufferers.³



Screen shots from MyPillow television commercials

However, the study, which appeared on the MyPillow website for the month of March under the heading “Physicians ID Commercially-available Pillow that Objectively Improves Sleep Parameters in Randomized Controlled Trial,” has several material flaws and does not support the benefit claims promoted in the company’s marketing materials.⁴

First, despite representations in television commercials that the study results were “based on a double-blind randomized placebo-controlled study comparing study participants’ sleep between their original pillow, MyPillow Classic pillow, and goose down pillows,”⁵ a reading of the study shows that simply was not the case. Because of problems with the patient cohort, the study specifically indicates that “we are not including any comparative results between MyPillow and the placebo.”⁶ As such, the study was not double-blind, randomized, or placebo-controlled. This lack of a placebo control precludes one from drawing any conclusions about cause and effect.⁷

Second, the study did not prove MyPillow “Helps Reduce Snoring” or “Improve[s] Oxygen Levels.” With regard to snoring, the best the researchers could say about a reduction in snoring was that “[t]hese results showed a strong positive trend nearing statistical significance,” which means the study did not prove that MyPillow helps reduce snoring. As for changes in oxygenation, the probability that the findings were the result of chance could not be excluded (p value of 0.06), and therefore, these data did not support a finding that MyPillow improves oxygen levels.

Third, there were several other deficiencies with the study that call into question the other benefits that MyPillow is promoting in its advertising:

- **Bias.** The study was fully funded by MyPillow, the very entity that controls the marketing of its pillow and profits from its sale.
- **Sampling.** The study population was a homogenous group of 192 individuals of Russian ethnicity over the age of 50 living in Brooklyn, New York, which calls into question how these results can be extrapolated to a more diverse population. Further, numerous critical pieces of information about the participants are lacking from the study, including, for example, the participants’ body mass index (BMI); whether they had any comorbidities, such as insomnia, depression or obstructive sleep apnea; whether they were taking any medications for any conditions or ailments; and whether they typically used pillows and, if so, what type(s) of pillow, prior to participating in the MyPillow study.
- **Findings.** The study exaggerates the significance of the findings by highlighting just the change over time during the participants’ use of a MyPillow product without comparison to the participants’ use of a placebo. Such a comparison is scientifically meaningless. Further, some of the company’s television commercials report that “96% of positional sleep apnea sufferers reported a reduction in their symptoms.”⁸ The ads fail to indicate that the study also found that “33% of the participants showed an adverse effect: increased hypopnic episodes.”

- **Different product.** The MyPillow product examined in the study was the MyPillow Classic Pillow while television commercials touting the study promote different products – the MyPillow Premium Pillow and the MyPillow GoAnywhere Pillow.⁹
- **Publication.** The study was not published in a peer-reviewed scientific journal.

In short, it is clear that MyPillow is claiming its product has benefits that it does not actually have, and is using a flawed report as substantiation for its deceptive claims. Accordingly, the company’s marketing claims are not only deceptive, but in violation of the 2016 Stipulated Judgment.

For this reason, TINA.org urges your office to re-open its investigation into MyPillow’s marketing and take appropriate enforcement action.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.



Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Cc via email: Michael Lindell, CEO, MyPillow, Inc.

¹ State of California v. My Pillow, Inc. and My Pillow Direct, LLC, Oct. 31, 2016 Final Judgment Pursuant to Stipulation, <https://www.truthinadvertising.org/wp-content/uploads/2016/11/Stipulated-Final-Judgment-w-stamp.pdf>.

² TINA.org catalogued a sampling of MyPillow’s television commercials that promote the sleep study. This sampling is available at www.truthinadvertising.org/my-pillow-sleep-study-marketing-database.

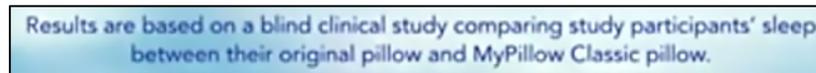
³ On its website, the company also claims “You will go into REM sleep faster and remain there longer for more productive sleep.” See MyPillow FAQ page, <https://www.mypillow.com/faq>.

⁴ Physicians ID Commercially-available Pillow that Objectively Improves Sleep Parameters in Randomized Controlled Trial, available at <https://www.truthinadvertising.org/wp-content/uploads/2019/04/MyPillow-study-webpage.pdf>. TINA.org’s investigation revealed that the company has removed the study from its website (<https://www.mypillow.com/study>) from time to time only to republish it at a later date. As of April 23, 2019, the study was not published on the company’s website.

⁵ See, e.g., <https://www.truthinadvertising.org/wp-content/uploads/2019/04/MyPillow-commercial1.mp4>, which contains the following language at the bottom of the screen:



See also <https://www.truthinadvertising.org/wp-content/uploads/2019/04/MyPillow-commercial5.mp4>, which contains the following language at the bottom of the screen:



⁶ Physicians ID Commercially-available Pillow that Objectively Improves Sleep Parameters in Randomized Controlled Trial, available at <https://www.truthinadvertising.org/wp-content/uploads/2019/04/MyPillow-study-webpage.pdf>.

⁷ Randomized double blind placebo control studies, the “Gold Standard” in intervention based studies, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3505292/>.

⁸ See, e.g., <https://www.truthinadvertising.org/wp-content/uploads/2019/04/MyPillow-commercial9.mp4.mp4>.

⁹ The study states, without any support, “Although the MyPillow used for this study was the ‘Classic’ model, we would not expect any differences in the results with other MyPillow pillows using the same patented fill.”