

Jonathan Shub  
Kevin Laukaitis\*  
**SHUB LAW FIRM LLC**  
134 Kings Highway E, 2nd Floor  
Haddonfield, NJ 08033  
T: 856-772-7200  
F: 856-210-9088  
[jshub@shublawyers.com](mailto:jshub@shublawyers.com)  
[klaukaitis@shublawyers.com](mailto:klaukaitis@shublawyers.com)

*Attorneys for Plaintiff and the Proposed Class*

[Additional counsel listed on signature page]

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

LA WANDA RENEE KEY, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

v.

JOHNSON & JOHNSON CONSUMER  
INC.

Defendant.

Case No.:

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

1  
2 Plaintiff, La Wanda Renee Key (“**Plaintiff**”), on behalf of herself and all  
3 others similarly situated, brings this class action against Defendant Johnson &  
4 Johnson Consumer Inc. (“**Johnson & Johnson**”) and alleges on personal  
5 knowledge, investigation of her counsel, and on information and belief as follows:  
6

7  
8 **INTRODUCTION**

9 1. This is a nationwide class action brought by Plaintiff on behalf of  
10 herself and other similarly situated consumers who purchased various OGX  
11 branded Shampoo and Conditioner Products (collectively, the “**Products**” or  
12 “**OGX Products**”) for personal or household use and not for resale (“**Class**” or  
13 “**Class Members**”).  
14

15  
16 2. Plaintiff purchased the Products because of Johnson & Johnson’s  
17 uniform false representation that the Products would smooth, nourish, soften,  
18 repair, and/or revive her hair. Undisclosed by Defendant to Plaintiff and Class  
19 Members and therefore unknown to Plaintiff and Class Members, the Products  
20 contain an ingredient or combination of ingredients that causes significant hair  
21 loss and/or scalp irritation upon proper application. At least one ingredient in the  
22 Products, DMDM hydantoin, is a formaldehyde donor known to slowly leach  
23 formaldehyde when coming into contact with water.  
24  
25  
26  
27  
28

1           3.     Formaldehyde is a well-known human carcinogen that can cause  
2 cancer and other harmful reactions when absorbed into skin. DMDM hydantoin  
3 has been used as a preservative in Johnson & Johnson products for well over a  
4 decade; however, the use of DMDM hydantoin as a preservative creates an  
5 entirely unnecessary risk because various safer natural alternatives exist. As such,  
6 the Products are rendered dangerous and unsafe for sale as over-the-counter hair  
7 smoothing shampoo products.  
8  
9

10           4.     Defendant failed to properly warn consumers of the risks and dangers  
11 attendant to the use of such a strong ingredient on their hair and scalp – even well  
12 after Defendant knew or should have known of the Products’ hazards. Defendant  
13 continued to conceal the dangers of the Products by failing to appropriately and  
14 fully recall the Products, by continuing to claim the Products were safe when  
15 properly applied, and by failing to warn consumers of the dangers attendant to the  
16 Products’ use.  
17  
18  
19

20           5.     Defendant’s uniform acts and omissions in connection with the  
21 development, marketing, sale and delivery of the Products violate California’s  
22 consumer protection laws, constitute common law fraud, and unjustly enrich  
23 Defendant.  
24

25           6.     Johnson & Johnson labeled, advertised, promoted and sold the  
26 Products targeting both men and women who wanted smooth, shiny, soft,  
27  
28

1 nourished, and healthy hair.

2 7. The Products contain uniform misrepresentations in large bold font  
3 on the Products' front labels about nourishing, reviving, enhancing natural  
4 softness, and repairing damaged hair and leaving hair thicker, fully, and healthier.  
5

6 8. Through its labeling and an extensive marketing campaign, including  
7 through its website and online advertisements, Johnson & Johnson made a number  
8 of affirmative misrepresentations: that the Products contain special formulas (e.g.  
9 "Argan Oil, Biotin and Collagen, Coconut Oil, Pomegranate") intended to nourish  
10 and revive damage or dry hair, add softness and shine, and prevent frizzing and  
11 tangling; and that the Products "deeply nourish," "gently cleanse," and "repair  
12 hair."  
13  
14

15  
16 9. However, the Products' formula contains an ingredient, or  
17 combination of ingredients, that has caused Plaintiff and thousands of consumers  
18 to experience hair loss and/or scalp irritation.  
19

20 10. DMDM hydantoin is found, *inter alia*, in the following Products as  
21 stated on the Products' back labels:  
22  
23  
24  
25  
26  
27  
28

- Below is the ingredient list located on the back label of the OGX Biotin + Collagen Shampoo:



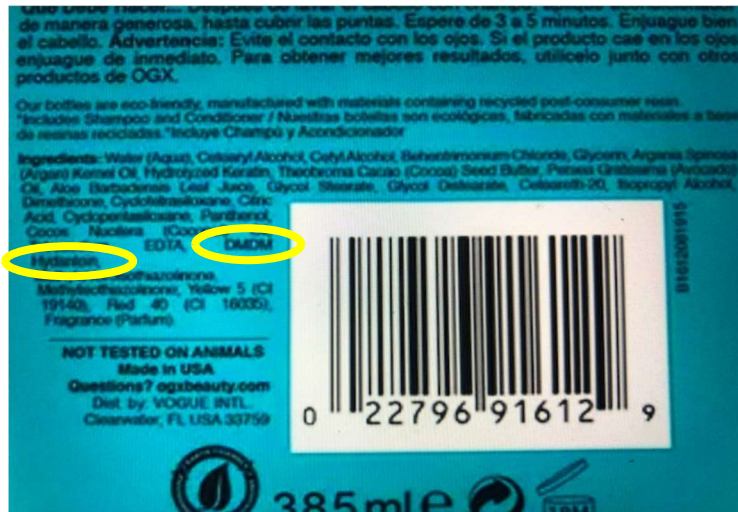
- Below is the ingredient list located on the back label of the OGX Biotin + Collagen Conditioner:



- Below is the ingredient list located on the back label of the OGX Renewing Argan Oil of Morocco Shampoo:



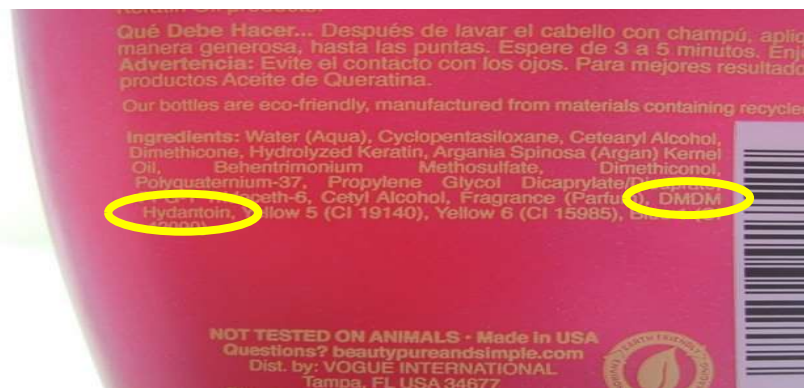
- Below is the ingredient list located on the back label of the OGX Renewing Argan Oil of Morocco Conditioner:



- Below is the ingredient list located on the back label of the OGX Anti-Breakage and Keratin Oil Shampoo:



- Below is the ingredient list located on the back label of the OGX Anti-Breakage and Keratin Oil Conditioner:



- Below is the ingredient list located on the back label of the OGX Detox + Pomegranate & Ginger Shampoo:



- Below is the ingredient list located on the back label of the OGX Detox + Pomegranate & Ginger Conditioner:



- Below is the ingredient list located on the back label of the OGX Marula Oil Conditioner:



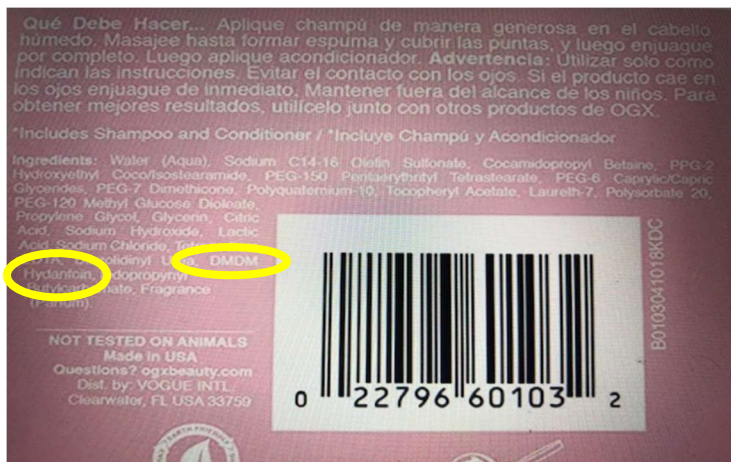
- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Midnight Kisses Shampoo:



- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Midnight Kisses Conditioner:



- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Mistletoe Wishes Shampoo:





- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Mistletoe Wishes Conditioner:



- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Ice Berry Queen Shampoo:



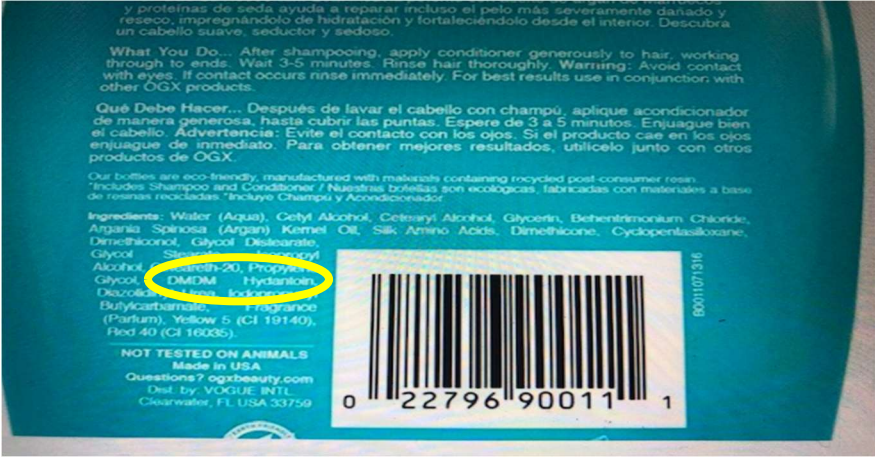
- Below is the ingredient list located on the back label of the OGX Nicole Guerriero Ice Berry Queen Conditioner:



- Below is the ingredient list located on the back label of the OGX Extra Strength Hydrate & Repair and Argan Oil of Morocco Shampoo:

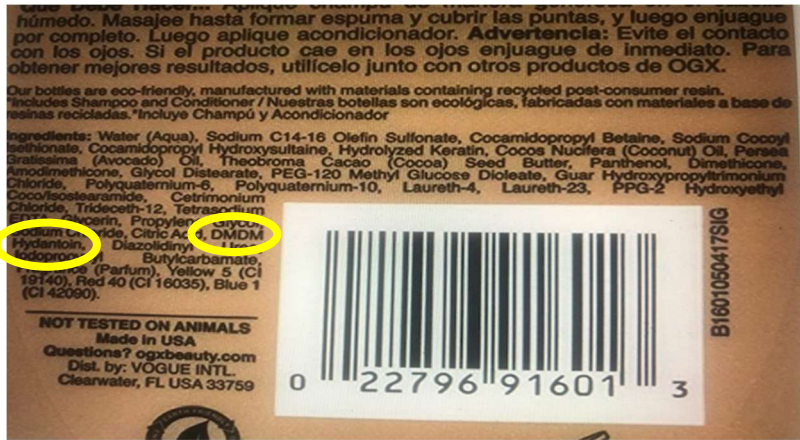


- Below is the ingredient list located on the back label of the OGX Extra Strength Hydrate & Repair and Argan Oil of Morocco Conditioner:

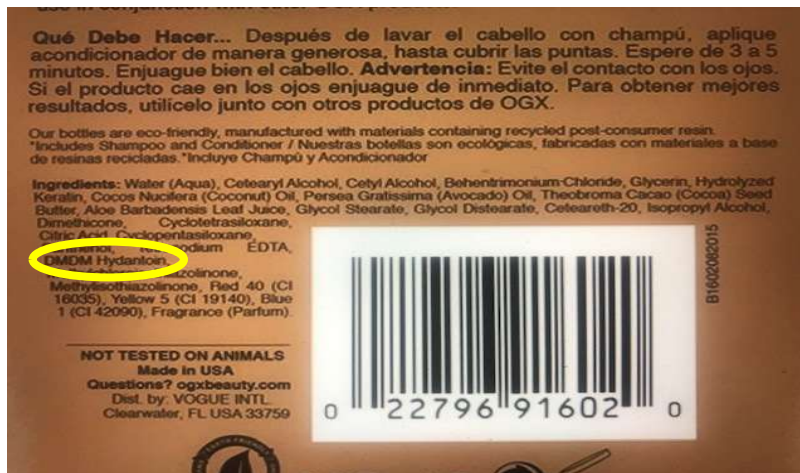


- Below is the ingredient list located on the back label of the OGX Ever Straightening and Brazilian Keratin Therapy Shampoo:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



- Below is the ingredient list located on the back label of the OGX Ever Straightening and Brazilian Keratin Therapy Conditioner:



- Below is the ingredient list located on the back label of the OGX Kandee Johnson Candy Gumdrop Shampoo:



- Below is the ingredient list located on the back label of the OGX Kandee Johnson Candy Gumdrops Conditioner:



- Below is the ingredient list located on the back label of the OGX Kandee Johnson Frosted Sugar Cookie Shampoo:



- Below is the ingredient list located on the back label of the OGX Kandee Johnson Frosted Sugar Cookie Conditioner:



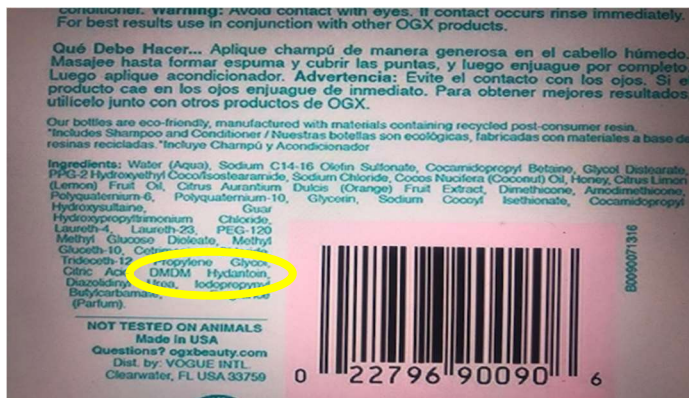
- Below is the ingredient list located on the back label of the OGX Kandee Johnson Sparkling Cider Shampoo:



- Below is the ingredient list located on the back label of the OGX Kandee Johnson Sparkling Cider Conditioner:



- Below is the ingredient list located on the back label of the OGX Quenching + Coconut Curls Shampoo:



- Below is the ingredient list located on the back label of the OGX Quenching + Coconut Curls Conditioner:



- Below is the ingredient list located on the back label of the OGX Hydrate + Defrizz and Kukui Oil Conditioner:



- Below is the ingredient list located on the back label of the OGX Youth Enhancing + Sake Essence Conditioner:



1           11. In fact, for approximately a decade, Johnson & Johnson has known  
 2 that DMDM hydantoin can cause or contribute to hair loss and scalp irritation  
 3 when used as a preservative in hair products, including shampoo and conditioner  
 4 products. In August 2012, Johnson & Johnson announced plans to remove  
 5 DMDM hydantoin, and other similar ingredients, from all consumer products by  
 6 the end of 2015.<sup>1</sup>  
 7

8  
 9           12. Upon information and belief, Johnson & Johnson did in fact remove  
 10 DMDM hydantoin from existing consumer products at that time. However, when  
 11 Johnson & Johnson acquired Vogue International, including their line of OGX  
 12 products, Johnson & Johnson failed to change the ingredient profile of the  
 13 products that did not maintain the same standards for consumer safety. Since  
 14 2016, Johnson & Johnson has continued to market, sell and profit off of the  
 15 Products that contain ingredients knew could harm consumers.  
 16  
 17

18           13. Johnson & Johnson’s own website about consumer safety says the  
 19 following about preservatives used in consumer products:  
 20

21           “Many preservatives do not meet our safety and care standards. Examples  
 22 of preservatives that we will not use in any skin care product include  
 23 bromochlorophen, formaldehyde, paraformaldehyde, formic acid,  
 24 bronopol, dichlorobenzyl alcohol, triclocarban, p-chloro-m-cresol,  
 25 chloroacetamide, 5-bromo-5-nitro-1,3-dioxane, butylparaben,

---

26 <sup>1</sup> See NY Times Article, “*Johnson & Johnson to Remove Formaldehyde From Products*”, dated  
 27 August 15, 2012 found at [https://www.nytimes.com/2012/08/16/business/johnson-johnson-to-  
 28 remove-formaldehyde-from-products.html](https://www.nytimes.com/2012/08/16/business/johnson-johnson-to-remove-formaldehyde-from-products.html) (last accessed on March 4, 2021).

1 isobutylparaben, and benzylparaben. In addition, examples of preservatives  
2 that don't meet our standards for baby products also include methylparaben,  
3 ethylparaben, propylparaben, iodopropynyl butylcarbamate, quaternium-  
15, DMDM hydantoin, imidazolidinyl urea, and diazolidinyl urea.”<sup>2</sup>

4 14. Despite having public knowledge since at least 2012 that DMDM  
5 hydantoin, as a formaldehyde donor, can cause or contribute to hair loss and scalp  
6 irritation, Johnson & Johnson has inexplicably continued to include this ingredient  
7 as a preservative in some of its OGX products *while simultaneously* (1) not using  
8 DMDM hydantoin as a preservative in many of its other OGX products, (2) not  
9 using DMDM hydantoin in other Johnson & Johnson brands of shampoo and  
10 conditioner, and (3) not using DMDM hydantoin in identical OGX products sold  
11 in other countries.  
12  
13  
14

15 15. Upon information and belief, despite Johnson & Johnson's past  
16 acknowledgment that use of DMDM hydantoin was not good for consumers  
17 including babies, it has not made any attempt to reformulate the OGX Products  
18 containing DMDM hydantoin in the United States since acquiring the brand in  
19 2016. Defendant has, in fact, reformulated the OGX Products in other countries.  
20  
21

22 16. Although Johnson & Johnson was, or should have been, aware of the  
23 high potential for toxicity or allergic reaction caused by one or more of the  
24 ingredients in the OGX Products, it has failed and continues to fail to warn  
25  
26

---

27 <sup>2</sup> <https://safetyandcarecommitment.com/ingredients/preservatives>, last accessed Mar. 4, 2021



1 consumers about possible reactions, including hair loss and scalp irritation on any  
2 of the OGX Products' labeling.

3  
4 17. Nowhere on the package labeling or on Johnson & Johnson's  
5 websites or other marketing materials did Johnson & Johnson warn Plaintiff and  
6 members of the Class that they were at risk of significant hair loss and/or scalp  
7 irritation upon proper application of the products. Accordingly, Johnson &  
8 Johnson misled and deceived the public, and placed its customers in harm's way,  
9 all for the sake of increased profits.  
10

11  
12 18. U.S. consumers reasonably expect that their hair care products will  
13 not cause significant hair loss and/or scalp irritation because of defective design  
14 and manufacturing or because of inadequate research of due diligence. In addition,  
15 U.S. consumers had no expectation that the OGX Products would or could cause  
16 scalp irritation and/or cause their hair to fall out.  
17

18  
19 19. Further, consumers reasonably expect that if Johnson & Johnson, the  
20 company primarily responsible for developing, manufacturing, marketing and  
21 distributing the OGX Products, knew that the OGX Products would or could cause  
22 irritation and/or hair loss (whether by proper application or by misapplication),  
23 Johnson & Johnson would make a disclosure to consumers as soon as it  
24 determined there was a widespread problem, rather than attempting to conceal the  
25 problem. By downplaying, concealing and misrepresenting the Products and the  
26  
27  
28

1 safety and risks of their use, Johnson & Johnson failed in its duty to provide  
2 consumers with adequate information. Johnson & Johnson continued to create and  
3 perpetuate a false public perception that there was little or no risk of harm from  
4 the use of its OGX Products even knowing of the Products' dangers and despite  
5 previously stating their commitment to removing such ingredients from their  
6 products. Moreover, Johnson & Johnson's efforts to conceal and downplay the  
7 hundreds if not thousands of complaints of Class Members who have lost their  
8 hair or endured scalp irritation, as a result of using the Products as intended,  
9 comprised a pointed attack on consumers.  
10  
11

12  
13 20. Defendant manufactures, advertises, markets, distributes, and sells  
14 the OGX Products throughout the United States, and in California. As alleged with  
15 specificity herein, Defendant did so through an extensive, uniform, nationwide  
16 advertising and marketing campaign, specifically marketing the Products as  
17 shampoos and conditioners that make hair "fuller, smoother, straighter, curlier, or  
18 bouncier and smell irresistible."  
19

20  
21 21. Johnson & Johnson labeled, advertised, promoted and sold the OGX  
22 Products targeting men and women who wanted to safely nourish, cleanse, and  
23 repair hair in order to obtain smooth, shiny, and healthy hair. Through an extensive  
24 marketing campaign and via its OGX website and packaging, Johnson & Johnson  
25 made a number of affirmative misrepresentations, including that the Products were  
26  
27

1 formulated to safely nourish, cleanse, revive, and repair hair in order to obtain the  
2 desired results.

3           22. However, Johnson & Johnson knew but failed to disclose to Plaintiff  
4 and the putative Class the danger of hair loss and/or scalp irritation caused by one  
5 or more ingredients in the Products, including the formaldehyde donor ingredient  
6 DMDM hydantoin.  
7

8           23. Defendant failed to properly warn consumers of the risks and dangers  
9 attendant to the use of such a strong preservative and human toxicants on their hair  
10 and scalp – even well after Defendant knew or should have known of its hazards.  
11 Defendant continued to conceal the dangers of the Products by failing to recall the  
12 Products and failing to reformulate the Products like Defendant has in other  
13 countries.  
14

15           24. As a result of Defendant’s misconduct and misrepresentations,  
16 Plaintiff and putative Class Members have suffered injury in fact, including  
17 economic damages.  
18

19           25. Plaintiff brings this suit to halt the unlawful sales and marketing of  
20 the Products by Defendant and for economic damages she sustained as a result.  
21 Given the massive quantities of the Products sold all over the country, this class  
22 action is the proper vehicle for addressing Defendant’s misconduct and for  
23 attaining needed relief for those affected.  
24  
25  
26  
27

**PARTIES**

1           26. Plaintiff La Wanda Renee Key is and was at all times relevant to this  
2 matter a resident of the state of California residing in Daly City, California, which  
3 is in San Mateo County.

4  
5           27. Defendant Johnson & Johnson is a corporation organized, existing,  
6 and doing business under and virtue of the laws of the state of New Jersey, with  
7 its office and principal place of business located at One Johnson & Johnson Plaza,  
8 New Brunswick, New Jersey 08933. At all times Johnson & Johnson  
9 manufactured, marketed, designed, promoted and/or distributed the Products  
10 nationwide, including in California.

**JURISDICTION AND VENUE**

11           28. This Court has personal jurisdiction over Defendant in this matter.  
12 The acts and omissions giving rise to this action occurred in the state of California.  
13 Defendant has been afforded due process because it has, at all times relevant to  
14 this matter, individually or through its agents, subsidiaries, officers and/or  
15 representatives, operated, conducted, engaged in and carried on a business venture  
16 in this state and/or maintained an office or agency in this state, and/or marketed,  
17 advertised, distributed and/or sold products, committed a statutory violation within  
18 this state related to the allegations made herein, and caused injuries to Plaintiff and  
19 putative Class Members, which arose out of the acts and omissions that occurred  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 in the state of California, during the relevant time period, at which time Defendant  
2 was engaged in business activities in the state of California.

3  
4 29. This Court has subject matter jurisdiction over this matter pursuant to  
5 28 U.S.C. § 1332 of the Class Action Fairness Act of 2005 because: (i) there are  
6 100 or more putative Class Members, (ii) the aggregate amount in controversy  
7 exceeds \$5,000,000, exclusive of interest and costs, and (iii) there is minimal  
8 diversity because at least one Plaintiff and Defendant are citizens of different  
9 states. This Court has supplemental jurisdiction over Plaintiff's state law claims  
10 pursuant to 28 U.S.C. § 1367.  
11  
12

13 30. Pursuant to 28 U.S.C. § 1391(a), venue is proper because a substantial  
14 part of the events giving rise to the claims asserted occurred in this District. Venue  
15 is also proper pursuant to 28 U.S.C. § 1391(c) because Defendant conducts  
16 substantial business in this District, has sufficient minimum contacts with this  
17 District, and otherwise purposely avails itself of the markets in this District,  
18 through the promotion, sale, and marketing of the Products in this District.  
19  
20

21 **INTRADISTRICT ASSIGNMENT**

22 31. Pursuant to Civil Local Rule 3-2(c-d), a substantial part of the events  
23 giving rise to the claims herein arose in San Mateo County, California and this  
24 action should be assigned to the San Francisco Division.  
25  
26  
27  
28

**FACTS COMMON TO ALL CLASS MEMBERS**

**A. Johnson & Johnson’s Business.**

32. In 1886, Johnson & Johnson was founded to develop medical devices, pharmaceuticals, and consumer products.

33. Johnson & Johnson boasts that its corporation includes over 250 subsidiary companies with operations in 60 countries and worldwide sales over 70 billion dollars across 175 countries.

34. Johnson & Johnson’s brands include numerous well-known pharmaceutical, medical device, and consumer product companies. In addition to OGX, Johnson & Johnson’s consumer brands include Neutrogena, Aveeno, Listerine, Band-Aid, Tylenol, and Johnson’s.

35. In 2016, Johnson & Johnson acquired Vogue International for US \$3.3 billion in cash. The acquisition included many large beauty products, including the OGX line of products. At the time of the announcement, Johnson & Johnson claimed that the “acquisition of Vogue International's full line of leading advanced hair care products sold in the U.S. and in 38 countries will strengthen our global presence in this important category. Vogue International's commitment to quality, innovation, and consumer preference complement our Consumer portfolio, while also presenting attractive hair care category growth opportunities

1 for Johnson & Johnson.”<sup>3</sup>

2 36. Johnson & Johnson represents itself and its OGX brand to be a global  
3 “leader in the hair industry with its award-winning shampoos, conditioners and  
4 hair stylers” and “designed for consumers who want to make better choices about  
5 the products they use and lifestyle they live.”<sup>4</sup>

6 37. As part of its OGX brand, Johnson & Johnson sells the Products at  
7  
8 issue here.  
9

10 **B. DMDM Hydantoin and Johnson & Johnson’s Broken Promise to Remove**  
11 **it from Personal Care Products.**

12 38. There are numerous preservatives that are used in cosmetics and hair  
13 products, including formaldehyde donors; many of which have been linked to the  
14 development of allergies, dermatitis, hair loss, and even cancer.  
15

16 39. Specifically, formaldehyde donors are preservatives that are “added  
17 to water-containing cosmetics (which includes personal care products/toiletries) to  
18 prevent the growth of micro-organisms that may enter during manufacture or  
19  
20  
21

---

22  
23 <sup>3</sup> See Press Release, “Johnson & Johnson Announces Agreement to Acquire Vogue  
International”, dated June 2, 2016, found at  
24 [https://www.prnewswire.com/news-releases/johnson--johnson-announces-agreement-to-acquire-](https://www.prnewswire.com/news-releases/johnson--johnson-announces-agreement-to-acquire-vogue-international-300278443.html)  
25 [vogue-international-300278443.html](https://www.prnewswire.com/news-releases/johnson--johnson-announces-agreement-to-acquire-vogue-international-300278443.html) (last accessed on Mar. 4, 2021).

26 <sup>4</sup> See Press Release, “OGX Beauty Launches New Global Campaign, Inspiring Everyone to  
Rock What You Got”, dated April 10, 2017, found at [https://www.prnewswire.com/news-](https://www.prnewswire.com/news-releases/ogx-beauty-launches-new-global-campaign-inspiring-everyone-to-rock-what-you-got-300437544.html)  
27 [releases/ogx-beauty-launches-new-global-campaign-inspiring-everyone-to-rock-what-you-got-](https://www.prnewswire.com/news-releases/ogx-beauty-launches-new-global-campaign-inspiring-everyone-to-rock-what-you-got-300437544.html)  
300437544.html (last accessed March 4, 2021)

1 during their usage.”<sup>5</sup>

2 40. Despite having intimate knowledge of the risks of using  
3 formaldehyde donor preservatives since at least 2012, Johnson & Johnson  
4 continues to use formaldehyde donors, DMDM hydantoin (also known as DMDM-  
5 h) and sodium hydroxyl, in its OGX products despite removing the preservative  
6 from nearly all other consumer products in 2015.  
7

8 41. “DMDM hydantoin (dimethyldimethyl hydantoin) is a  
9 formaldehyde donor used as a preservative in cosmetic products at concentrations  
10 up to 1%.”<sup>6</sup> In other words, it is a formaldehyde-releasing preservative (“FRP”)  
11 used to lengthen the shelf life of personal care products, including hair products.  
12

13 42. “An important source of human skin contact with formaldehyde is the  
14 use of cosmetics containing formaldehyde-releasers as preservatives.”<sup>7</sup>  
15

16 43. In personal care products, such as shampoo, “formaldehyde can be  
17 added directly, or more often, it can be released from preservatives such as...  
18 DMDM hydantoin.” Specifically, the formaldehyde donor will “release small  
19  
20  
21  
22

---

23 <sup>5</sup> de Groot AC, White IR, Flyvholm MA, Lensen G, Coenraads PJ. Formaldehyde-releasers in cosmetics:  
24 relationship to formaldehyde contact allergy. Part 1. Characterization, frequency and relevance of  
25 sensitization, and frequency of use in cosmetics. *Contact Dermatitis*. 2010 Jan;62(1):2-17. doi:  
10.1111/j.1600-0536.2009.01615.x. PMID: 20136875.

26 <sup>6</sup> “Patch test reactivity to DMDM hydantoin, Relationship to formaldehyde allergy.” By Anton C.  
DeGroot, Theodoor Van Joost, Jan D. Bos, Harrie L.M. Van Der Meeren, and J. Willem Weyland  
(*Contact Dermatitis*, 1988, 18:197-201).

27 <sup>7</sup> De Groot AC, *supra* note 15.



1 amounts of formaldehyde over time.”<sup>8</sup>

2 44. “In 1984, DMDM hydantoin ranked 9<sup>th</sup> in the list of the most  
3 frequently used cosmetic preservatives in the USA.”<sup>9</sup> By 1987, DMDM hydantoin  
4 (or “DMDMH” for short) was included in approximately 115 product formulas  
5 filed with the FDA, most frequently in shampoos.<sup>10</sup>

6 45. “DMDMH was the 21<sup>st</sup> most common allergen in the 2005-2006  
7 NACDG standard series. DMDMH is a preservative that contains 0.5% to 2% free  
8 formaldehyde and over 17% combined formaldehyde.”<sup>11</sup>

9 46. For many decades, since the 1970’s, if not earlier, studies and patch  
10 tests were being performed to determine human reactivity to DMDM hydantoin,<sup>12</sup>  
11 including specifically the “relationship between contact allergy to formaldehyde,”  
12 including “test reactions to DMDM hydantoin.”<sup>13</sup>

13 47. One study performed in 1987 specifically examined “whether the  
14 presence of DMDM hydantoin in cosmetics may cause adverse effects in patients  
15  
16  
17  
18  
19

---

20 <sup>8</sup> <http://www.safecosmetics.org/get-the-facts/chemicals-of-concern/formaldehyde/> (Last Accessed Mar. 4,  
21 2021).

22 <sup>9</sup> “Patch test reactivity to DMDM hydantoin, Relationship to formaldehyde allergy.” By Anton C.  
23 DeGroot, Theodoor Van Joost, Jan D. Bos, Harrie L.M. Van Der Meeren, and J. Willem Weyland  
(Contact Dermatitis, 1988, 18:197-201).

24 <sup>10</sup> *Id.*

25 <sup>11</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2958195/> (citing Rietschel RL, Fowler JF., Jr . Fisher's  
26 Contact Dermatitis. 5th ed. Philadelphia: Lippincott Williams & Wilkins; 2001).

27 <sup>12</sup> Tudela E, MacPherson C, Maibach HI. Long-term trend in patch test reactions: a 32-year statistical  
28 overview (1970-2002), part II. Cutan Ocul Toxicol. 2008;27(3):187-202. doi:  
10.1080/15569520802143436. PMID: 18988088.

<sup>13</sup> “Patch test reactivity to DMDM hydantoin, Relationship to formaldehyde allergy.” By Anton C.  
DeGroot, Theodoor Van Joost, Jan D. Bos, Harrie L.M. Van Der Meeren, and J. Willem Weyland  
(Contact Dermatitis, 1988, 18:197-201).

1 pre-sensitized to formaldehyde.”<sup>14</sup> The conclusion even more than twenty years  
2 ago was that “aqueous solutions of DMDM hydantoin, in concentrations  
3 comparable to those used in cosmetic products, contain enough free formaldehyde  
4 to cause dermatitis...,” and that despite earlier conclusions that DMDM hydantoin  
5 is a safe cosmetic ingredient, “data suggest that an increase in the use of this  
6 preservative may also increase the risk of cosmetic dermatitis in patients allergic  
7 to formaldehyde.”<sup>15</sup> The authors further suggest that cosmetic products with FRPs  
8 should have warnings that the products “‘contain formaldehyde’... whether  
9 present as free formaldehyde or bound by a donor.”<sup>16</sup>

10  
11  
12  
13 48. Several more recent studies, including a 2015 study “determined that  
14 longer storage time and higher temperature increase the amount of formaldehyde  
15 released from FRPs and could ultimately lead to more severe health concerns.”<sup>17</sup>

16  
17 49. In other words, “reactions that generated formaldehyde occur silently  
18 as the products sit on shelves in stores or bathroom cabinets.”<sup>18</sup>

19  
20 50. Formaldehyde is a known human carcinogen and is recognized as  
21 such by the United States National Toxicology Program and the International  
22

---

23 <sup>14</sup> *Id.*

24 <sup>15</sup> *Id.*

25 <sup>16</sup> *Id.*

26 <sup>17</sup> <http://www.safecosmetics.org/get-the-facts/chemicals-of-concern/formaldehyde/> (Last Accessed  
27 October 21, 2020)(citing Lv, C., Hou, J., Xie, W., & Cheng, H. (2015). Investigation on formaldehyde  
release from preservatives in cosmetics. International journal of cosmetic science.).

28 <sup>18</sup> <https://www.ewg.org/research/exposing-cosmetics-cover-up#formaldehyde> (Last Accessed October 21,  
2020).

1 Agency for Research on Cancer.<sup>19</sup>

2 51. In 2009, prior to the sale of the Products, “a review of the literature  
3 on occupational exposures and formaldehyde shows a link between formaldehyde  
4 and leukemia.”<sup>20</sup>

6 52. In June 2011, the National Toxicology Program, an interagency  
7 program of the Department of Health and Human Services, named formaldehyde  
8 as a known human carcinogen in its *12<sup>th</sup> Report on Carcinogens*.<sup>21</sup>

10 53. With specific regard to FRPs, like DMDM hydantoin, “the  
11 formaldehyde released from FRPs has been linked to cancer, but there is little  
12 evidence that FRPs directly cause cancer. However, a mixture of the FRP  
13 bromopol and amines, which form nitrosamines, has been found to penetrate skin  
14 and cause cancer.”<sup>22</sup>

17 54. Further, a study in 2010 concluded that although “[i]t has been long  
18 accepted that formaldehyde-releaser sensitization is attributable to released  
19 formaldehyde. However, clinical studies show the existence of patients allergic to  
20

21  
22 <sup>19</sup> <http://www.safecosmetics.org/get-the-facts/chemicals-of-concern/formaldehyde/> (Last Accessed  
23 October 21, 2020)(citing International Agency for Research on Cancer. “IARC classifies formaldehyde as  
24 carcinogenic to humans.” Press release. June 15, 2004. Accessed January 9, 2009.).

25 <sup>20</sup> <http://www.safecosmetics.org/get-the-facts/chemicals-of-concern/formaldehyde/> (Last Accessed  
26 October 21, 2020)( Zhang et al 2009. Meta-analysis of formaldehyde and hematologic cancers in humans.  
27 *Mutation Research* 681: 150-168).

28 <sup>21</sup> National Toxicology Program (June 2011). *Report on Carcinogens, Twelfth Edition*. Department of  
Health and Human Services, Public Health Service, National Toxicology Program. (Last Accessed on  
March 3, 2021 from: <http://ntp.niehs.nih.gov/go/roc12>.)

<sup>22</sup> <http://www.safecosmetics.org/get-the-facts/chemicals-of-concern/formaldehyde/> (Last Accessed  
October 21, 2020)(citing to <http://www.cosmeticsinfo.org/nitrosamines>. Accessed September 23, 2015).

1 formaldehyde-releasers but not to formaldehyde itself.”<sup>23</sup> That same study found  
2 DMDM hydantoin to be “reactive per se.”

3 55. Consequently, it is unsurprising that DMDM hydantoin is considered  
4 by the U.S. Food & Drug Administration as one of the top allergens “that cause  
5 the most allergic reactions from the use of cosmetic products.”<sup>24</sup>  
6

7 56. Specifically, DMDM hydantoin can “trigger the immune system to  
8 release chemical substances such as antibodies,” resulting in reactions such as  
9 itchiness, red rashes on the skin, or more extreme reactions.<sup>25</sup>  
10

11 57. Further, as a person becomes more exposed to an irritant over time,  
12 including DMDM hydantoin, the likelihood and severity of the reaction increase.  
13 This is called irritant contact dermatitis (“ICD”), which “can occur in any person  
14 if the amount and duration of irritant exposure are sufficient to cause direct  
15 epidermal keratinocyte damage.”<sup>26</sup>  
16  
17

18 58. Likewise, the irritation of the scalp, including dermatitis, has been  
19 linked to hair brittleness and hair loss. Specifically,  
20

21 [A number of observations have found that premature hair loss may be  
22 caused by the poor scalp health associated with either dandruff and  
23 seborrheic dermatitis, or psoriasis, indicating that the effect on the

---

24 <sup>23</sup> Kireche M, Gimenez-Arnau E, Lepoittevin JP. Preservatives in cosmetics: reactivity of allergenic  
25 formaldehyde-releasers towards amino acids through breakdown products other than formaldehyde.  
26 Contact Dermatitis. 2010 Oct;63(4):192-202. doi: 10.1111/j.1600-0536.2010.01770.x. Epub 2010 Aug  
27 20. PMID: 20731691.

<sup>24</sup> <https://www.fda.gov/cosmetics-ingredients/allergens-cosmetics> (Last Accessed October 21, 2020).

<sup>25</sup> <https://www.fda.gov/cosmetics-ingredients/allergens-cosmetics> (Last Accessed October 21, 2020).

<sup>26</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2958195/>

1 preemergent hair fiber may alter the anchoring force of the fiber with  
2 the follicle, as evidenced by an increased proportion both of catagen  
3 and telogen, and of dysplastic anagen hairs (anagen hairs devoid of  
hair root sheaths) in the trichogram (hair pluck).<sup>27</sup>

4 59. In 2012, following formaldehyde being identified as a carcinogen by  
5 the National Toxicology Program, Johnson & Johnson announced that it would  
6 “remove a host of potentially harmful chemicals, *like formaldehyde*, from its line  
7 of consumer products by the end of 2015.”<sup>28</sup> [Emphasis Added].  
8

9 60. Like many other beauty manufacturers, Johnson & Johnson has been  
10 using DMDM hydantoin as a preservative in its products since before 2011; and  
11 like many manufacturers moved away from toxic ingredients, including DMDM  
12 hydantoin, starting in 2012. However, Johnson & Johnson continues to use this  
13 formaldehyde donor today in various OGX branded products.  
14

15 61. Notably, despite continuing to use FRPs in its some adult products,  
16 Johnson & Johnson proudly announced to the public that FRPs, like DMDM  
17 hydantoin, were not used in baby care products.<sup>29</sup>  
18

19 62. As Johnson & Johnson is aware, there is a litany of alternative  
20 preservatives that can be used in shampoos and cosmetics that do not release  
21  
22

---

23  
24 <sup>27</sup> Trueb, Ralph M., Henry, Jim P., Davis, Mike G., and Schwartz, Jim R., Scalp Condition Impacts Hair  
25 Growth and Retention via Oxidative Stress, *Int J Trichology*. 2018 Nov-Dec; 10(6): 262–270,  
doi: 10.4103/ijtr.ijtr\_57\_18.

26 <sup>28</sup> <https://www.nytimes.com/2012/08/16/business/johnson-johnson-to-remove-formaldehyde-from-products.html>

27 <sup>29</sup> <https://www.businesstoday.in/current/corporate/our-baby-shampoo-does-not-contain-formaldehyde-johnson--johnson/story/354855.html> (Last Accessed February 26, 2021).

1 known human carcinogens and are non-synthetic, including:

- 2 a. Glyoxylic acid (or derivatives thereof);
- 3 b. Potassium sorbate and sorbic acid;
- 4 c. Citric acid and its salts;
- 5 d. Rosemary oil extract;
- 6 e. Neem oil extract;
- 7 f. Lavender oil;
- 8 g. Grapefruit seed extract;
- 9 h. Vinegars; and
- 10 i. Others.

11  
 12  
 13  
 14 63. In addition to these alternatives, Johnson & Johnson also could have  
 15 used lower levels of DMDM hydantoin; however, the risk of development and  
 16 exacerbation of sensitivity or allergic reaction would still exist through repeated  
 17 and prolonged use.

18  
 19 64. Upon information and belief, Johnson & Johnson uses alternative  
 20 preservatives in other OGX products and, in fact, uses alternative preservatives in  
 21 these exact OGX Products that are sold in other countries.

22  
 23 **C. Johnson & Johnson’s Misrepresentations Regarding the OGX Products.**

24  
 25 65. Johnson & Johnson took over production and manufacturing of the  
 26 OGX Products in 2016. The Products were sold by Johnson & Johnson directly  
 27

1 and through retail shops to consumers nationwide, including in California.

2 66. The OGX Products state, on the front of the bottles' labels, that the  
3 Products are formulated with various oils, fruits, and botanicals that are intended  
4 to nourish and revive damage or dry hair, add softness and shine, and prevent  
5 frizzing and tangling; and that the OGX Products "deeply nourish," "gently  
6 cleanse," and "repair hair."  
7

8  
9 67. Plaintiff and the Class did not and would not expect that application  
10 of the Products would or could cause hair loss and scalp irritation upon proper  
11 application.  
12

13 68. Plaintiff and the Class reasonably expected a warning regarding any  
14 potential hazard to consumers, especially because the Food, Drug and Cosmetic  
15 Act regulations provide that cosmetics that may be hazardous to consumers must  
16 bear appropriate warnings.<sup>30</sup>  
17

18 69. Johnson & Johnson continues to this day to advise consumers that  
19 these Products are safe to use as directed, without providing any disclosure  
20 concerning the complaints of hair loss and with no warnings regarding the hair  
21 loss that may result from their continued use. Indeed, despite Johnson & Johnson's  
22 knowledge and awareness of hundreds if not thousands of online complaints of  
23 significant hair loss and breakage caused by the Products, Johnson & Johnson  
24  
25  
26

---

27 <sup>30</sup> See <http://www.fda.gov/Cosmetics/CosmeticLabelingLabelClaims>.

1 continues to sell the Products without providing consumers with *any* revised  
2 warnings or disclosures.

3 70. The Products are marketed and sold at retail stores such as CVS,  
4 Target, Walgreens, Ulta, and Walmart, and through e-commerce websites such as  
5 Amazon.com, CVS.com, Target.com, Walgreens.com, Ulta.com, and  
6 Walmart.com.  
7

8  
9 71. Defendant manufactures, advertises, markets, distributes and sells  
10 the Products in several sizes throughout the United States, including in  
11 California.  
12

13 **D. Defendant's False and Deceptive Advertising and Labeling of the**  
14 **Products.**

15 72. In violation of 21 U.S.C. § 362(a) and 21 C.F.R. § 701.1(b),  
16 Defendant has consistently, falsely and deceptively advertised and labeled the  
17 Products in an effort to make consumers believe that the Products' ingredients,  
18 including DMDM hydantoin, were safe for use.  
19

20 73. Since launching the Products, Defendant has consistently conveyed  
21 its uniform, deceptive message to consumers throughout the United States,  
22 including the state of California, that the Products formulated with formaldehyde  
23 donors, including DMDM hydantoin, are safe for use.  
24

25  
26 74. These uniform deceptive claims have been made and repeated across  
27  
28



1 a variety of media including Defendant’s Products’ labels, websites and online  
2 promotional materials, and at the point-of-purchase, where they cannot be missed  
3 by consumers. In truth, Defendant’s claims that DMDM hydantoin is a safe  
4 ingredient are false, misleading, and deceptive because the Products’ ingredients,  
5 including DMDM hydantoin, were not safe, caused serious scalp irritation and hair  
6 loss, and do not safely smooth, nourish, cleanse, and/or repair hair.  
7

8  
9 75. Upon information and belief, Johnson & Johnson knowingly  
10 permitted the manufacture and sale of the Products that were dangerous and unfit  
11 for sale as temporary hair “smoothing” products.  
12

13 76. Prior to placing the Products into the stream of commerce for sale to  
14 Plaintiff and the putative Class, Defendant was aware or should have been aware  
15 that the Products contained one or more unsafe ingredients, including DMDM  
16 hydantoin, that could cause significant hair loss and scalp irritation upon proper  
17 application and that any instructions and warnings provided with the Products  
18 directly to consumers were materially insufficient.  
19

20  
21 77. Defendant knew, or but for its reckless indifference would have  
22 known, prior to Plaintiff and the putative Class’s purchases of the Products that it  
23 would continue to receive complaints of irritation, allergic reaction, and/or hair  
24 loss attributed to the Products.  
25

26 78. Defendant knew, or but for its reckless indifference would have  
27

1 known, that: (a) the risk of scalp irritation and hair loss was substantial, if not a  
2 certainty, (b) Johnson & Johnson’s customers were unaware of that substantial  
3 risk, and (c) those customers had a reasonable expectation that Johnson & Johnson  
4 would not sell the Products under those conditions.  
5

6 79. Despite such knowledge, Defendant did not disclose to prospective  
7 purchasers, that there was a substantial risk of scalp irritation and hair loss  
8 associated with use of the Products. Defendant instead continued to claim that the  
9 Products’ ingredients, including DMDM hydantoin, were safe.  
10

11 80. However, despite the representation that the Products “gently”  
12 cleanse, they contain one or more ingredients, including DMDM hydantoin, that  
13 is a known formaldehyde donor that can cause scalp irritation and hair loss.  
14

15 81. Defendant reinforces the false and deceptive claims that the Products  
16 “nourish”, “smooth”, “revive”, “soften” and leave hair in great condition through  
17 the websites of various authorized retailers and on its own product websites.  
18

19 **E. The Impact of Defendant’s False, Misleading and Deceptive Advertising.**  
20

21 82. Defendant intended for consumers to rely upon the representations on  
22 the Products’ labels, and reasonable consumers, including Plaintiff and the Class,  
23 did, in fact, so rely. These representations are often the only source of information  
24 consumers can use to make decisions concerning whether to buy and use such  
25 products.  
26  
27  
28

1 83. Consumers lack the ability to test or independently ascertain the  
2 genuineness of product claims of normal everyday consumer products, especially  
3 at the point-of-sale. Reasonable customers must therefore rely on consumer  
4 product companies, such as Defendant, to honestly represent their Products and  
5 the Products' attributes on the Products' labels.  
6

7 84. At all relevant times, Defendant directed the above-referenced  
8 Products' labels, statements, claims and innuendo – including that the Products  
9 gently smooth, clean, nourish, strengthen, revive, and repair the hair, that the  
10 ingredients were safe – to consumers in general and Plaintiff and all Class  
11 Members in particular, as evidenced by their eventual purchases of the Products.  
12

13 85. Plaintiff and Class Members did reasonably rely on Defendant's  
14 Product labels, statements, advertisements, claims and innuendo in deciding to  
15 purchase the Products and were thereby deceived.  
16  
17

18 86. As a result of Defendant's deceptive labeling and/or marketing  
19 campaign, Defendant has caused Plaintiff and putative Class Members to purchase  
20 the Products, which contained one or more unsafe ingredients, including DMDM  
21 hydantoin, and do not safely smooth, nourish, cleanse, and/or repair hair. Plaintiff  
22 and putative Class Members have been harmed, as they would not have purchased  
23 the Products had they known the Products were not safe and would or could cause  
24 scalp irritation and hair loss.  
25  
26  
27  
28

1 87. As a result of Defendant’s misconduct, Defendant was able to sell the  
2 Products to at least thousands of consumers throughout the United States—  
3 including Plaintiff and putative Class Members—and realized sizeable profits.  
4

5 88. Plaintiff and putative Class Members were harmed and suffered actual  
6 damages in that Plaintiff and putative Class Members did not receive the benefit  
7 of their bargain as purchasers of the Products, which were represented as safe and  
8 can safely smooth, nourish, cleanse, and/or repair hair. Indeed, Plaintiff and  
9 putative Class Members did not receive the benefit of their bargain after  
10 purchasing the Products, as Plaintiff and putative Class Members paid for  
11 Products that were unsafe, could cause scalp irritation and hair loss, and do not  
12 safely smooth, nourish, cleanse, and/or repair hair.  
13  
14

15 89. Defendant developed and knowingly employed a labeling, advertising  
16 and/or marketing strategy designed to deceive consumers into believing that the  
17 Products contain safe ingredients and can safely smooth, nourish, cleanse, revive,  
18 and/or repair hair.  
19  
20

21 90. The purpose of Defendant’s scheme was to stimulate sales, engender  
22 public trust, and enhance Defendant’s profits.  
23

24 91. As the manufacturers, marketers, advertisers, distributors and/or  
25 sellers of the OGX Products, Defendant possess specialized knowledge regarding  
26 the Products and the content of the ingredients contained therein. In other words,  
27  
28

1 Defendant knew exactly what is – and is not – contained in the OGX Products, at  
2 what levels, and are safe or unsafe.

3 92. Defendant knew or should have known, but failed to disclose, that the  
4 Products contain one or more unsafe ingredients, including DMDM hydantoin,  
5 and do not safely smooth, nourish, cleanse, revive, and/or repair hair, as labeled  
6 and/or marketed by Defendant.  
7

8 93. Plaintiff and putative Class Members were, in fact, misled by  
9 Defendant’s labeling, representations and marketing of the Products.  
10

11 94. The unsafe ingredient(s) and the inability of the Products to safely  
12 smooth, nourish, cleanse, revive, and/or repair hair, leave consumers, such as  
13 Plaintiff and the putative Class with no reason to purchase these Products at all,  
14 since other proven and safer comparably priced products exist.  
15

16 95. The Products are defined as “cosmetics” under 21 U.S.C.S. § 321(i)  
17 of the Federal Food Drug & Cosmetic Act (“FDCA”).  
18

19 96. Defendant’s deceptive statements violate 21 U.S.C.S. § 362(a), which  
20 deems a cosmetic product misbranded when the label contains a statement that is  
21 “false or misleading in any particular.”  
22

23 97. Defendant’s conduct is also deceptive, unfair, and unlawful in that it  
24 violates the prohibition against the sale of adulterated and misbranded products  
25 under California’s Sherman Laws, which adopt the federal labeling regulations as  
26  
27

1 the food labeling requirements of the state. Cal. Health & Safety Code § 110100.

2 98. The FDA promulgated regulations for compliance with the FDCA at  
3 21 C.F.R. §§ 701 *et seq.* (for cosmetics).  
4

5 99. The introduction of misbranded cosmetics into interstate commerce is  
6 prohibited under the FDCA and all parallel state statutes cited in this Complaint.  
7

8 100. Plaintiff and putative Class Members would not have purchased the  
9 Products had they known the Products contained one or more unsafe ingredients  
10 and are incapable of safely smoothing, nourishing, cleansing, and/or repairing  
11 hair.  
12

13 **PLAINTIFF'S FACTUAL ALLEGATIONS**  
14

15 101. Plaintiff, La Wanda Renee Key, purchased the Products during the  
16 class period in Daly City, California. Before purchasing the Products, Plaintiff  
17 reviewed information about the Products on the Products' labels and the fact that  
18 the Products were being sold for personal use, and not resale. At the time of  
19 purchasing her Products, Plaintiff also reviewed the accompanying disclosures  
20 and marketing materials, and understood them as representations made by  
21 Defendant that the Products were safe to smooth, nourish, cleanse, and/or repair  
22 hair. Plaintiff relied on these representations and in deciding to purchase  
23 Defendant's Products. Accordingly, these representations were part of the basis of  
24 the bargain, in that she would not have purchased the Products had she known  
25  
26  
27  
28

1 these representations were not true. Here, Plaintiff did not receive the benefit of  
2 her bargain because Defendant's Products are not safe to smooth, nourish, cleanse,  
3 and/or repair hair.  
4

5 102. Plaintiff purchased the Products because she wanted smooth,  
6 nourished, and healthy hair.  
7

8 103. Before using the Products, Plaintiff followed the instructions on the  
9 Products' labels, as directed by Defendant.  
10

11 104. Shortly after using the Products as intended by Defendant, Plaintiff  
12 noticed her hair falling out.  
13

14 105. Once Plaintiff stopped using the Products, she no longer experienced  
15 hair loss.  
16

17 106. Plaintiff reasonably expected that the Products she purchased would  
18 and could not cause scalp irritation or hair loss. Further, Plaintiff reasonably  
19 expected that if Johnson & Johnson, the company primarily responsible for  
20 developing, manufacturing, marketing and distributing the OGX Products, knew  
21 that the Products would or could cause hair loss, Johnson & Johnson would make  
22 a disclosure to consumers as soon as it determined there was a widespread  
23 problem, rather than attempting to conceal the problem.  
24  
25

26  
27 107. As a result of Johnson & Johnson's concealment, misrepresentations  
28

1 and omissions, Plaintiff purchased the Products. Had Plaintiff known the true  
2 nature of the Products, she would not have purchased the Products.

3  
4 **ESTOPPEL FROM PLEADING AND**  
5 **TOLLING OF APPLICABLE STATUTES OF LIMITATIONS**

6 108. Plaintiff and members of the putative Classes are within the applicable  
7 statute of limitation for the claims presented here. Defendant had knowledge and  
8 information detailing the Products' propensity to cause or contribute to hair loss  
9 and/or scalp irritation, but failed to disclose this information to consumers.  
10 Plaintiff and members of the putative Classes, therefore, could not reasonably  
11 have known that the Products would cause or contribute to hair loss and scalp  
12 irritation. Rather, consumers relied upon Defendant's misrepresentations and  
13 omissions, including the statements on the Products' labeling as set forth above.  
14  
15

16  
17 109. Once Plaintiff incurred damages, she promptly acted to preserve her  
18 rights, filing this action. Defendant is estopped from asserting any statute of  
19 limitation defense that might otherwise be applicable to the claims asserted herein.  
20

21 **CLASS ACTION ALLEGATIONS**

22 110. Plaintiff brings this action on behalf of herself and the following  
23 Classes pursuant to Federal Rule of Civil Procedure 23(a), (b)(2) and/or (b)(3).  
24 Specifically, the Classes are defined as:  
25  
26  
27  
28



1                   **National Class:** All persons in the United States who  
2                   purchased the Products.

3                   In the alternative, Plaintiff brings this action on behalf of the  
4 following State Sub-Class:

5                   **California Sub-Class:** All persons in the State of  
6                   California who purchased the Products.

7  
8                   111. Excluded from the Classes are (a) any person who purchased the  
9 Products for resale and not for personal or household use, (b) any person who  
10 signed a release of any Defendant in exchange for consideration, (c) any officers,  
11 directors or employees, or immediate family members of the officers, directors or  
12 employees, of any Defendant or any entity in which a Defendant has a controlling  
13 interest, (d) any legal counsel or employee of legal counsel for any Defendant, and  
14 (e) the presiding Judge in this lawsuit, as well as the Judge's staff and their  
15 immediate family members.  
16  
17

18                   112. Plaintiff reserves the right to amend the definition of the Classes if  
19 discovery or further investigation reveals that the Classes should be expanded or  
20 otherwise modified.  
21

22                   113. **Numerosity – Federal Rule of Civil Procedure 23(a)(1).** Class  
23 Members are so numerous and geographically dispersed that joinder of all Class  
24 Members is impracticable. While the exact number of Class Members remains  
25 unknown at this time, upon information and belief, there are thousands, if not  
26  
27

1 hundreds of thousands, of putative Class Members. Moreover, the number of  
2 members of the Classes may be ascertained from Defendant's books and records.  
3 Class Members may be notified of the pendency of this action by mail and/or  
4 electronic mail, which can be supplemented if deemed necessary or appropriate by  
5 the Court with published notice.  
6

7           **114. Predominance of Common Questions of Law and Fact – Federal**  
8 **Rule of Civil Procedure 23(a)(2) and 23(b)(3).** Common questions of law and  
9 fact exist as to all Class Members and predominate over any questions affecting  
10 only individual Class Members. These common legal and factual questions  
11 include, but are limited to, the following:  
12  
13

- 14           a. Whether the Products contain the defect alleged herein;
- 15           b. Whether Defendant failed to appropriately warn Class Members  
16           of the damage that could result from use of the Products;
- 17           c. Whether Defendant had actual or imputed knowledge of the  
18           defect but did not disclose it to Plaintiff and the Classes;
- 19           d. Whether Defendant promoted the Products with false and  
20           misleading statements of fact and material omissions;
- 21           e. Whether Defendant's marketing, advertising, packaging,  
22           labeling, and/or other promotional materials for the Products are  
23           deceptive, unfair or misleading;
- 24           f. Whether Defendant's actions and omissions violate California  
25           law;
- 26           g. Whether Defendant's conduct violates public policy;
- 27

- 1 h. Whether Defendant's acts, omissions or misrepresentations of
- 2 material facts constitute fraud;
- 3 i. Whether Plaintiff and putative members of the Classes have
- 4 suffered an ascertainable loss of monies or property or other value
- 5 as a result of Defendant's acts, omissions or misrepresentations of
- 6 material facts;
- 7 j. Whether Defendant was unjustly enriched at the expense of
- 8 Plaintiff and members of the putative Classes in connection with
- 9 the Products;
- 10 k. Whether Plaintiff and members of the putative Classes are entitled
- 11 to monetary damages and, if so, the nature of such relief; and
- 12 l. Whether Plaintiff and members of the putative Classes are entitled
- 13 to equitable, declaratory or injunctive relief and, if so, the nature
- 14 of such relief.

15 115. Pursuant to Rule 23(b)(2), Defendant has acted or refused to act on  
16 grounds generally applicable to the putative Classes, thereby making final  
17 injunctive or corresponding declaratory relief appropriate with respect to the  
18 putative Classes as a whole. In particular, Defendant has manufactured, marketed,  
19 advertised, distributed and sold Products that are deceptively misrepresented as  
20 being able to safely smooth, nourish, cleanse, and/or repair hair.

21 116. **Typicality – Federal Rule of Civil Procedure 23(a)(3).** Plaintiff's  
22 claims are typical of those of the absent Class Members in that Plaintiff and the  
23 Class Members each purchased and used the Products and each sustained damages  
24 arising from Defendant's wrongful conduct, as alleged more fully herein. Plaintiff  
25  
26  
27  
28

1 shares the aforementioned facts and legal claims or questions with putative  
2 members of the Classes, and Plaintiff and all members of the putative Classes have  
3 been similarly affected by Defendant's common course of conduct alleged herein.  
4 Plaintiff and all members of the putative Classes sustained monetary and economic  
5 injuries including, but not limited to, ascertainable loss arising out of Defendant's  
6 deceptive misrepresentations regarding the ability of the Products to safely  
7 smooth, nourish, cleanse, and/or repair hair, as alleged herein.  
8  
9

10       117. **Adequacy – Federal Rule of Civil Procedure 23(a)(4).** Plaintiff  
11 will fairly and adequately represent and protect the interests of the members of  
12 the putative Classes. Plaintiff has retained counsel with substantial experience in  
13 handling complex class action litigation, including complex questions that arise in  
14 this type of consumer protection litigation. Further, Plaintiff and her counsel are  
15 committed to the vigorous prosecution of this action. Plaintiff does not have any  
16 conflicts of interest or interests adverse to those of putative Classes.  
17  
18

19       20       118. **Insufficiency of Separate Actions – Federal Rule of Civil**  
21 **Procedure 23(b)(1).** Absent a class action, Plaintiff and members of the Classes  
22 will continue to suffer the harm described herein, for which they would have no  
23 remedy. Even if separate actions could be brought by individual consumers, the  
24 resulting multiplicity of lawsuits would cause undue burden and expense for both  
25 the Court and the litigants, as well as create a risk of inconsistent rulings and  
26  
27  
28

1 adjudications that might be dispositive of the interests of similarly situated  
2 consumers, substantially impeding their ability to protect their interests, while  
3 establishing incompatible standards of conduct for Defendant. Accordingly, the  
4 proposed Classes satisfy the requirements of Fed. R. Civ. P. 23(b)(1).  
5

6 **119. Declaratory and Injunctive Relief – Federal Rule of Civil**  
7 **Procedure 23(b)(2).** Defendant has acted or refused to act on grounds generally  
8 applicable to Plaintiff and all Members of the Classes, thereby making appropriate  
9 final injunctive relief and declaratory relief, as described below, with respect to  
10 the members of the Classes as a whole.  
11

12 **120. Superiority – Federal Rule of Civil Procedure 23(b)(3).** A class  
13 action is superior to any other available methods for the fair and efficient  
14 adjudication of the present controversy for at least the following reasons:  
15

- 16
- 17 a. The damages suffered by each individual members of the putative  
18 Classes do not justify the burden and expense of individual  
19 prosecution of the complex and extensive litigation necessitated  
20 by Defendant’s conduct;
  - 21 b. Even if individual members of the Classes had the resources to  
22 pursue individual litigation, it would be unduly burdensome to the  
23 courts in which the individual litigation would proceed;
  - 24 c. The claims presented in this case predominate over any questions  
25 of law or fact affecting individual members of the Classes;
  - 26 d. Individual joinder of all members of the Classes is impracticable;
  - 27 e. Absent a Class, Plaintiff and members of the putative Classes will  
28 continue to suffer harm as a result of Defendant’s unlawful

conduct; and

f. This action presents no difficulty that would impede its management by the Court as a class action, which is the best available means by which Plaintiff and members of the putative Classes can seek redress for the harm caused by Defendant.

121. In the alternative, the Classes may be certified for the following reasons:

a. The prosecution of separate actions by individual members of the Classes would create a risk of inconsistent or varying adjudication with respect to individual members of the Classes, which would establish incompatible standards of conduct for Defendant;

b. Adjudications of claims of the individual members of the Classes against Defendant would, as a practical matter, be dispositive of the interests of other members of the putative Classes who are not parties to the adjudication and may substantially impair or impede the ability of other putative Class Members to protect their interests; and

c. Defendant has acted or refused to act on grounds generally applicable to the members of the putative Classes, thereby making appropriate final and injunctive relief with respect to the putative Classes as a whole.

**CLAIMS FOR RELIEF**

**COUNT I**

**Violation of California’s Unfair Competition Law  
Cal. Bus. & Prof. Code § 17200 et seq. (“UCL”)  
(On Behalf of the California Sub-Class)**

122. Plaintiff re-alleges and incorporates by reference the allegations contained in Paragraphs 1 through 121, as though set forth fully herein.

123. The UCL prohibits any “unlawful, unfair or fraudulent business act

1 or practice.” Cal. Bus. & Prof. Code § 17200.

2 124. The acts, omissions, misrepresentations, practices, and non-  
3 disclosures of Defendant as alleged herein constitute business acts and practices.  
4

5 125. Unlawful: The acts alleged herein are “unlawful” under the UCL in  
6 that they violate at least the following laws:

7 a. The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 et  
8 seq.;

9 b. The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 et  
10 seq.;

11 c. The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 et  
12 seq.; and  
13

14 d. The California Sherman Food, Drug, and Cosmetic Law, Cal.  
15 Health & Safety Code §§ 110100 et seq.  
16

17 126. Unfair: Defendant’s conduct with respect to the labeling, advertising,  
18 and sale of the Products was “unfair” because Defendant’s conduct was immoral,  
19 unethical, unscrupulous, or substantially injurious to consumers and the utility of  
20 their conduct, if any, does not outweigh the gravity of the harm to their victims.  
21

22 127. Defendant’s conduct with respect to the labeling, advertising, and  
23 sale of the Products was and is also unfair because it violates public policy as  
24 declared by specific constitutional, statutory or regulatory provisions, including  
25  
26  
27

1 but not limited to the applicable sections of: the Consumers Legal Remedies Act,  
2 the False Advertising Law, the Federal Food, Drug, and Cosmetic Act, and the  
3 California Sherman Food, Drug, and Cosmetic Law.  
4

5 128. Defendant's conduct with respect to the labeling, advertising, and  
6 sale of the Products was and is unfair because the consumer injury was substantial,  
7 not outweighed by benefits to consumers or competition, and not one consumer  
8 themselves could reasonably have avoided.  
9

10 129. Fraudulent: A statement or practice is "fraudulent" under the UCL if  
11 it is likely to mislead or deceive the public, applying an objective reasonable  
12 consumer test.  
13

14 130. As set forth herein, Defendant's claims relating the representations  
15 stated on the Products' labeling and moreover that the Products are labeled as safe  
16 and can safely smooth, nourish, cleanse, and/or repair hair is likely to mislead  
17 reasonable consumers to believe the Products are safe and effective for purchase  
18 to use on their hair.  
19

20 131. Defendant profited from its sale of the falsely, deceptively, and  
21 unlawfully advertised Products to unwary consumers.  
22

23 132. Plaintiff and Class Members are likely to continue to be damaged by  
24 Defendant's deceptive trade practices, because Defendant continues to  
25 disseminate misleading information on the Products' packaging. Thus, injunctive  
26  
27



1 relief enjoining Defendant’s deceptive practices is proper.

2 133. Defendant’s conduct caused and continues to cause substantial injury  
3 to Plaintiff and the other Class Members. Plaintiff has suffered injury in fact as a  
4 result of Defendant’s unlawful conduct.  
5

6 134. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an  
7 order enjoining Defendant from continuing to conduct business through unlawful,  
8 unfair, and/or fraudulent acts and practices, and to commence a corrective  
9 advertising campaign.  
10

11 135. Plaintiff and the Class also seek an order for and restitution of all  
12 monies from the sale of the Products, which were unjustly acquired through acts  
13 of unlawful competition.  
14

15  
16 **COUNT II**  
17 **Violation California’s False Advertising Law**  
18 **Cal. Bus. & Prof. Code § 17500 (“FAL”)**  
19 **(On Behalf of the California Sub-Class)**

20 136. Plaintiff repeats and realleges the allegations in paragraphs 1 through  
21 121 as if fully set forth herein.

22 137. The FAL provides that “[i]t is unlawful for any person, firm,  
23 corporation or association, or any employee thereof with intent directly or  
24 indirectly to dispose of real or personal property or to perform services” to  
25 disseminate any statement “which is untrue or misleading, and which is known, or  
26 which by the exercise of reasonable care should be known, to be untrue or  
27  
28

1 misleading.” Cal. Bus. & Prof. Code § 17500.

2 138. It is also unlawful under the FAL to disseminate statements  
3 concerning property or services that are “untrue or misleading, and which is  
4 known, or which by the exercise of reasonable care should be known, to be untrue  
5 or misleading.” *Id.*

7 139. As alleged herein, the advertisements, labeling, policies, acts, and  
8 practices of Defendant relating to the Products misled consumers acting  
9 reasonably as to the safety of the ingredients and the Products’ ability to safely  
10 smooth, nourish, cleanse, and/or repair hair  
11

12 140. Plaintiff suffered injury in fact as a result of Defendant’s actions as  
13 set forth herein because she purchased the Products in reliance on Defendant’s  
14 false and misleading labeling claims that the Products, among other things, are  
15 safe and can safely smooth, nourish, cleanse, and/or repair hair.  
16

17 141. Defendant’s business practices as alleged herein constitute deceptive,  
18 untrue, and misleading advertising pursuant to the FAL because Defendant have  
19 advertised the Products in a manner that is untrue and misleading, which  
20 Defendant knew or reasonably should have known, and omitted material  
21 information from its advertising.  
22

23 142. Defendant profited from its sale of the falsely and deceptively  
24 advertised Products to unwary consumers.  
25  
26  
27

1 143. As a result, Plaintiff, the California Sub-Class members, and the  
2 general public are entitled to injunctive and equitable relief, restitution, and an  
3 order for the disgorgement of the funds by which Defendant was unjustly enriched.  
4

5 144. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of  
6 herself and the California Sub-Class, seeks an order enjoining Defendant from  
7 continuing to engage in deceptive business practices, false advertising, and any  
8 other act prohibited by law, including those set forth in this Complaint.  
9

10 **COUNT III**  
11 **Violation of California’s Consumer Legal Remedies Act**  
12 **Cal. Civ. Code § 1750 et seq. (“CLRA”)**  
13 **(On Behalf of the California Sub-Class)**

14 145. Plaintiff repeats and realleges the allegations in paragraphs 1 through  
15 121 as if fully set forth herein.

16 146. The CLRA prohibits deceptive practices in connection with the  
17 conduct of a business that provides goods, property, or services primarily for  
18 personal, family, or household purposes.  
19

20 147. Defendant’s false and misleading labeling and other policies, acts,  
21 and practices were designed to, and did, induce the purchase and use of the  
22 Products for personal, family, or household purposes by Plaintiff and Class  
23 Members, and violated and continue to violate the following sections of the  
24 CLRA:  
25

26  
27 a. § 1770(a)(5): representing that goods have characteristics, uses, or  
28

1 benefits which they do not have;

2 b. § 1770(a)(7): representing that goods are of a particular standard,  
3 quality, or grade if they are of another;

4 c. § 1770(a)(9): advertising goods with intent not to sell them as  
5 advertised; and  
6

7 d. § 1770(a)(16): representing the subject of a transaction has been  
8 supplied in accordance with a previous representation when it has not.  
9

10 148. Defendant profited from the sale of the falsely, deceptively, and  
11 unlawfully advertised Products to unwary consumers.  
12

13 149. Defendant's wrongful business practices constituted, and constitute,  
14 a continuing course of conduct in violation of the CLRA.  
15

16 150. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff will  
17 provide a letter to Defendant concurrently with the filing of this Class Action  
18 Complaint or shortly thereafter with notice of its alleged violations of the CLRA,  
19 demanding that Defendant correct such violations, and providing it with the  
20 opportunity to correct its business practices. If Defendant does not thereafter  
21 correct its business practices, Plaintiff will amend (or seek leave to amend) the  
22 complaint to add claims for monetary relief, including restitution and actual  
23 damages under the Consumers Legal Remedies Act.  
24  
25

26 151. Pursuant to California Civil Code § 1780, Plaintiff seeks injunctive  
27  
28

1 relief, her reasonable attorney fees and costs, and any other relief that the Court  
2 deems proper.

3  
4 **COUNT IV**  
5 **Fraud**  
6 **(On Behalf of the Nationwide and/or**  
7 **California Sub-Class)**

8 152. Plaintiff repeats and realleges the allegations in paragraphs 1 through  
9 121 as if fully set forth herein.

10 153. Plaintiff brings this cause of action on behalf of herself, the  
11 Nationwide Class and/or the California Class against Defendant.

12 154. As alleged herein, Defendant, Johnson & Johnson, knowingly made  
13 material misrepresentations and omissions regarding the Products on the  
14 Products’ labeling and packaging in the Products’ advertisements, and/or on its  
15 website.  
16

17 155. Defendant made these material misrepresentations and omissions in  
18 order to induce Plaintiff and putative Class Members to purchase the Products.  
19

20 156. Rather than inform consumers that the Products contained a defect  
21 that caused hair loss upon proper application and did not otherwise perform as  
22 represented and for the particular purpose for which it was intended, Defendant  
23 claims in marketing materials and its marketing campaign for the Products that the  
24  
25  
26  
27  
28

1 Products will “smooth,” “deeply nourish,” “gently cleanse,” and “repair hair,”<sup>31</sup>  
2 in order to mislead consumers that the Products have the ability to safely smooth,  
3 nourish, cleanse, and/or repair hair.  
4

5 157. The inclusion of the defect that causes hair loss and/or scalp irritation  
6 upon proper application renders the Products unable to safely smooth, nourish,  
7 cleanse, and repair hair.  
8

9 158. Defendant knew the Products were incapable of safely smoothing,  
10 nourishing, cleansing, and/or repairing hair, but nevertheless made such  
11 representations through the marketing, advertising and on the Products’ labeling.  
12 In reliance on these and other similar misrepresentations, Plaintiff and putative  
13 Class Members were induced to, and did, pay monies to purchase the Products.  
14

15 159. Had Plaintiff and the Class known the truth about the Products, they  
16 would not have purchased the Products.  
17

18 160. As a proximate result of the fraudulent conduct of Defendant,  
19 Plaintiff and the putative Class paid monies to Defendant, through their regular  
20 retail sales channels, to which Defendant are not entitled, and have been damaged  
21 in an amount to be proven at trial.  
22  
23  
24  
25  
26

---

27 <sup>31</sup> <https://www.OGX.com/us/en/collections/keratin-smooth.html> (“How it Works”)  
28

**COUNT V**  
**Unjust Enrichment**  
**(On Behalf of the Nationwide and/or**  
**California Sub-Class)**

1  
2  
3  
4       161. Plaintiff repeats and realleges the allegations in paragraphs 1 through  
5 121 as if fully set forth herein.

6  
7       162. Plaintiff brings this cause of action on behalf of herself, and the  
8 putative Classes against Defendant.

9       163. Plaintiff and putative Class Members conferred a benefit on  
10 Defendant when they purchased the Products, of which Defendant had knowledge.  
11 By its wrongful acts and omissions described herein, including selling the  
12 Products, which contain a defect that caused hair loss upon proper application and  
13 did not otherwise perform as represented and for the particular purpose for which  
14 they were intended, Defendant was unjustly enriched at the expense of Plaintiff  
15 and putative Class Members.  
16  
17  
18

19       164. Plaintiff's detriment and Defendant's enrichment were related to and  
20 flowed from the wrongful conduct challenged in this Complaint.

21       165. Defendant has profited from its unlawful, unfair, misleading, and  
22 deceptive practices at the expense of Plaintiff and putative Class Members under  
23 circumstances in which it would be unjust for Defendant to be permitted to retain  
24 the benefit. It would be inequitable for Defendant to retain the profits, benefits,  
25 and other compensation obtained from its wrongful conduct as described herein in  
26  
27  
28

1 connection with selling the Products.

2 166. Defendant has been unjustly enriched in retaining the revenues  
3 derived from Class Members' purchases of the Products, which retention of such  
4 revenues under these circumstances is unjust and inequitable because Defendant  
5 manufactured defective Products, and Johnson & Johnson misrepresented the  
6 nature of the Products, misrepresented their ingredients, and knowingly marketed  
7 and promoted dangerous and defective Products, which caused injuries to Plaintiff  
8 and the Class because they would not have purchased the Products based on the  
9 same representations if the true facts concerning the Products had been known.  
10  
11

12 167. Plaintiff and putative Class Members have been damaged as a direct  
13 and proximate result of Defendant's unjust enrichment because they would not  
14 have purchased the Products on the same terms or for the same price had they  
15 known the true nature of the Products and the mis-statements regarding what the  
16 Products were and what they contained.  
17  
18

19 168. Defendant either knew or should have known that payments rendered  
20 by Plaintiff and putative Class Members were given and received with the  
21 expectation that the Products were able to safely nourish, cleanse, and repair hair  
22 as represented by Defendant in advertising, on Defendant's websites, and on the  
23 Products' labels and packaging. It is inequitable for Defendant to retain the benefit  
24 of payments under these circumstances.  
25  
26  
27  
28



1 169. Plaintiff and putative Class Members are entitled to recover from  
2 Defendant all amounts wrongfully collected and improperly retained by  
3 Defendant.  
4

5 170. When required, Plaintiff and Class Members are in privity with  
6 Defendant because Defendant's sale of the Products was either direct or through  
7 authorized sellers. Purchase through authorized sellers is sufficient to create such  
8 privity because such authorized sellers are Defendant's agents for the purpose of  
9 the sale of the Products.  
10

11 171. As a direct and proximate result of Defendant's wrongful conduct and  
12 unjust enrichment, Plaintiff and putative Class Members are entitled to restitution  
13 of, disgorgement of, and/or imposition of a constructive trust upon all profits,  
14 benefits, and other compensation obtained by Defendant for their inequitable and  
15 unlawful conduct.  
16  
17

18 **PRAYER FOR RELIEF**  
19

20 WHEREFORE, Plaintiff, individually and on behalf of all others similarly  
21 situated members of the Classes, prays for relief and judgment, including entry of  
22 an order:  
23

24 A. Declaring that this action is properly maintained as a class action, certifying  
25 the proposed Class(es), appointing Plaintiff as Class Representative and  
26 appointing Plaintiff's counsel as Class Counsel;

27 B. Directing that Defendant bear the costs of any notice sent to the Class(es);  
28

- 1 C. Declaring that Defendant must disgorge, for the benefit of the Class(es), all  
2 or part of the ill-gotten profits they received from the sale of the Products, or  
3 order Defendant to make full restitution to Plaintiff and the members of the  
4 Class(es) except that no monetary relief is presently sought for violations of  
5 the Consumers Legal Remedies Act;
- 6 D. Awarding restitution and other appropriate equitable relief;
- 7 E. Granting an injunction against Johnson & Johnson to enjoin it from  
8 conducting its business through the unlawful, unfair and fraudulent acts or  
9 practices set forth herein;
- 10 F. Granting an Order requiring Johnson & Johnson to fully and appropriately  
11 recall the Products, to remove the claims on its website and elsewhere that  
12 the Products are safe to use, and to fully and properly disclose the safety risks  
13 associated with the Products to anyone who may still be at risk of buying and  
14 using the Products;
- 15 G. Ordering a jury trial and damages according to proof;
- 16 H. Awarding Plaintiff and members of the Class(es) statutory damages, as  
17 provided by the applicable state consumer protection statutes invoked above,  
18 except that no monetary relief is presently sought for violations of the  
19 Consumers Legal Remedies Act;
- 20 I. Enjoining Defendant from continuing to engage in the unlawful and unfair  
21 business acts and practices as alleged herein;
- 22 J. Awarding attorneys' fees and litigation costs to Plaintiff and members of the  
23 Class(es);
- 24 K. Awarding civil penalties, prejudgment interest and punitive damages as  
25 permitted by law; and
- 26 L. Ordering such other and further relief as the Court deems just and proper.
- 27
- 28

**JURY DEMAND**

Plaintiff demands a trial by jury of all claims in this Complaint so triable.

Dated: March 5, 2021

Respectfully submitted,

**SHUB LAW FIRM LLC**

/s/ Jonathan Shub  
Jonathan Shub  
Kevin Laukaitis\*  
134 Kings Highway E, 2nd Floor  
Haddonfield, NJ 08033  
T: 856-772-7200  
F: 856-210-9088  
[jshub@shublawyers.com](mailto:jshub@shublawyers.com)  
[klaukaitis@shublawyers.com](mailto:klaukaitis@shublawyers.com)

Andrew J. Sciolla\*  
**SCIOLLA LAW FIRM LLC**  
Land Title Building 1910  
100 S. Broad Street  
Philadelphia, PA 19110  
T: 267-328-5245  
F: 215-972-1545  
[andrew@sciollalawfirm.com](mailto:andrew@sciollalawfirm.com)

Daniel K. Bryson\*  
Harper T. Segui\*  
Caroline Ramsey Taylor\*  
**WHITFIELD BRYSON, LLP**  
900 W. Morgan Street  
Raleigh, NC 27603  
T: 919-600-5000  
[dan@whitfieldbryson.com](mailto:dan@whitfieldbryson.com)  
[harper@whitfieldbryson.com](mailto:harper@whitfieldbryson.com)  
[caroline@whitfieldbryson.com](mailto:caroline@whitfieldbryson.com)

*\*Pro Hac Vice* Application Forthcoming

*Attorneys for Plaintiff and Putative Class  
Members*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CLRA Venue Declaration**  
**Pursuant to California Civil Code Section 1780(d)**

I, Jonathan Shub, declare as follows:

1. I am an attorney at law licensed to practice in the State of California and a member of the bar of this Court. I am an attorney at Shub Law Firm LLC, counsel of record for Plaintiff in this action. I have personal knowledge of the facts set forth in this declaration and, if call as a witness, I could and would competently testify thereto under oath.

2. The Complaint filed in this action is filed in the proper place for trial under Civil Code Section 1780(d) in that a substantial portion of the events alleged in the Complaint occurred in the Northern District of California.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed at Haddonfield, New Jersey this 5th day of March, 2021.

/s/ Jonathan Shub  
Jonathan Shub