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15 UNITED STATES DISTRICT COURT  
16 EASTERN DISTRICT OF CALIFORNIA  
17 SACRAMENTO DIVISION

19 Annemarie Lott, individually, and on  
20 behalf of those similarly situated,

21 Plaintiff,

22 v.

23 S.C. Johnson & Son, Inc. and  
24 Oars + Alps, LLC,

25 Defendants.

CASE NO.

**CLASS ACTION COMPLAINT**

**Demand for Jury Trial**

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1 Plaintiff Annemarie Lott brings this action on behalf of herself and all others  
2 similarly situated against Defendants S.C. Johnson & Son, Inc. (“SCJ”) and Oars +  
3 Alps LLC (“Oars,” and collectively “Defendants”). Plaintiff makes the following  
4 allegations pursuant to the investigation of counsel and based upon information and  
5 belief, except as to the allegations specifically pertaining to herself, which are based  
6 on personal knowledge.  
7

8 **NATURE OF THE ACTION**

9 “I think ‘fake it ‘til you make it’ is just an injection of confidence...  
10 [t]hat initial mentality really did help Oars + Alps at the onset.”

11 *Mia Duchnowski*  
12 *Co-Founder of Oars + Alps<sup>1</sup>*

13 1. This case arises from Defendants’ deceptive and misleading practices  
14 with respect to their marketing and sale of Oars + Alps® brand cosmetic and beauty  
15 products (collectively, the “Product” or “Products”).<sup>2</sup>

16 2. Defendants manufacture, market, and sell their Products throughout  
17 the United States including the State of California.  
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23 \_\_\_\_\_  
24 <sup>1</sup> Reid, Pauleanna. *Built And Bought In 3 Years: How The Women Behind Oars + Alps*  
25 *Brought Big Beauty To Masculine Hands*, FORBES (Mar. 31, 2020),  
[https://www.forbes.com/sites/pauleannareid/2020/03/31/built-and-bought-in-3-years-](https://www.forbes.com/sites/pauleannareid/2020/03/31/built-and-bought-in-3-years-how-the-women-behind-oars--alps-brought-big-beauty-to-masculine-hands/)  
26 [how-the-women-behind-oars--alps-brought-big-beauty-to-masculine-hands/](https://www.forbes.com/sites/pauleannareid/2020/03/31/built-and-bought-in-3-years-how-the-women-behind-oars--alps-brought-big-beauty-to-masculine-hands/).

27 <sup>2</sup> At the time of this filing, the following Oars + Alps products are included in this  
28 definition: Natural Deodorant, Natural Face Moisturizer + Eye Cream, Natural Wake  
Up Eye Stick with Caffeine, Natural Charcoal Solid Face Wash, Natural Wake Up Face  
Serum, and Natural Body + Face Wash. This definition is not exhaustive, and shall  
include all of Defendants’ products that are similarly deceptively marketed.

1 3. Oars + Alps was launched in 2015 by Laura Lisowski Cox and Mia  
2 Duchnowski with the purpose of creating “a men’s skincare line that offers affordable,  
3 all natural products.”<sup>3</sup>

4 4. Despite the representations made on the Products’ labels, marketing,  
5 and advertising which lead reasonable consumers to believe that the Products are  
6 “natural,” they are not.  
7

8 5. In fact, this was admitted by Co-Founder Mia Duchnowski in a March  
9 2019 interview where she stated:<sup>4</sup>

10 We quickly found out that men actually don’t know the difference between  
11 natural and organic. Nine times out of ten, if you ask somebody, they don’t  
12 know. And so as such, there was no willingness to pay for organic  
13 products. And therefore, **our products are actually not made with**  
14 **natural ingredients**, and not necessarily made with organic  
15 ingredients, although we do have some products that have organic  
16 ingredients. The goal of this was to really understand the mindset of the  
17 consumer, to understand what they were willing to pay for these  
18 products....

19 6. From their focus on the “natural” market, Founders Laura Lisowski Cox  
20 and Mia Duchnowski grew the Oars + Alps brand into a *financially* successful health,  
21 beauty, and cosmetic company.  
22

23 <sup>3</sup> Elkins, Kathleen, *Why two women left high-profile corporate jobs to launch a*  
24 *skincare line for men*, CNBC (Jan. 18, 2017), [https://www.cnbc.com/2017/01/18/two-](https://www.cnbc.com/2017/01/18/two-women-left-jobs-at-facebook-and-bloomberg-to-sell-skincare-for-men.html)  
25 [women-left-jobs-at-facebook-and-bloomberg-to-sell-skincare-for-men.html](https://www.cnbc.com/2017/01/18/two-women-left-jobs-at-facebook-and-bloomberg-to-sell-skincare-for-men.html).

26 <sup>4</sup> Richie Siegel, *Role Reversal — with Mia Duchnowski of Oars + Alps Loose Threads*  
27 (2022), [https://www.stitcher.com/show/loose-threads-inside-the-fashion-](https://www.stitcher.com/show/loose-threads-inside-the-fashion-business/episode/role-reversal-with-mia-duchnowski-of-oars-alps-59678558)  
28 [business/episode/role-reversal-with-mia-duchnowski-of-oars-alps-59678558](https://www.stitcher.com/show/loose-threads-inside-the-fashion-business/episode/role-reversal-with-mia-duchnowski-of-oars-alps-59678558) (last  
visited May 27, 2022) at approximately 4:05 timestamp (emphasis added).

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1           7.       With this rapid growth in mind, Defendant SCJ acquired Defendant  
2 Oars in 2019 for \$20MM.<sup>5</sup>

3           8.       The brand’s growth was not by accident, and instead developed from  
4 specifically targeting the “natural” market with intense focus.

5           9.       As Co-Founder Laura Lisowski Cox describes, “We are very data-centric  
6 from the product development piece to the marketing piece. We’re looking at where  
7 are our guys are living and breathing. How do we reach them? Then, with messaging,  
8 we’re constantly testing. We look at Google keywords, Amazon keywords, industry  
9 reports.”<sup>6</sup>

10          10.       Defendants marketing efforts stress the purported “natural” nature of  
11 their Products.  
12

13          11.       Notably, the principal display panel of all of the Products states  
14 “Natural.”  
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24 <sup>5</sup> This amount is currently in dispute in an action against Defendant Oars and its co-  
25 founders where early investors allege that the co-founders misrepresented the true  
26 sales price. *See Levy Fam. Invs., LLC v. Oars + Alps LLC*, 2022 WL 245543 (Del. Ch.  
27 Jan. 27, 2022) (early investors allege that they learned from “a news article reporting  
28 that the Company was sold for \$20 million, not \$8.85 million as represented”).

<sup>6</sup> McCormack, Claire. *Full Disclosure: How Oars + Alps Went From Launch To Exit In Less Than 36 Months*, BEAUTYINDEPENDENT (Oct. 28, 2019), <https://www.beautyindependent.com/how-oars-alps-went-from-launch-exit-36-months-s-c-johnson/>.

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12. The word “Natural” is a representation to a reasonable consumer that the Products contain only natural ingredients.

13. This represents that the Product is “natural” to consumers.

14. Reasonable consumers, including Plaintiff, interpret “natural” to mean that the product does not include synthetic ingredients.

15. Despite this representation, the Products are not natural because they include multiple synthetic ingredients.

16. Specifically, the Products contain the following synthetic ingredients: Phenoxyethanol, Dimethicone, Caprylyl Glycol, Potassium Sorbate, Sodium Benzoate, Propanediol, Ethylhexylglycerin, and Citric Acid.

17. Plaintiff and those similarly situated (“Class Members”) relied on Defendants’ misrepresentations that the Products are “natural” when purchasing the Products.

1 18. This deception is not limited to the Products' labels, and rather, it is  
2 omnipresent throughout Defendants' marketing efforts.

3 19. Reasonable consumers purchased the Products believing, among other  
4 things, that they were accurately represented. Specifically, reasonable consumers  
5 believed that the Products contained accurate label information and representations.  
6 Reasonable consumers would not have purchased the Products if they had known  
7 about the misrepresentations or would have purchased them on different terms.  
8

9 20. Plaintiff brings this action individually and on behalf of those similarly  
10 situated and seeks to represent a Nationwide Class and a California Class. Plaintiff  
11 seeks damages, interest thereon, reasonable attorneys' fees and costs, restitution,  
12 other equitable relief, and disgorgement of all benefits Defendants have enjoyed from  
13 its unlawful and/or deceptive business practices, as detailed herein. In addition,  
14 Plaintiff seeks injunctive relief to stop Defendants' unlawful conduct in the labeling  
15 and marketing of the Products.  
16

17 21. Defendants' conduct violated and continues to violate, *inter alia*, the  
18 consumer protection statutes of California. Defendants have been and continue to be  
19 unjustly enriched. Accordingly, Plaintiff brings this action against Defendants on  
20 behalf of herself and Class Members who purchased the Products during the  
21 applicable statute of limitations period (the "Class Period").  
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### 25 JURISDICTION AND VENUE

26 22. This Court has personal jurisdiction over Defendants. Defendants  
27 purposefully avail themselves of the California consumer market and distributes the  
28

1 Products to many locations within the state, where the Products are purchased by  
2 hundreds of consumers every day.

3 23. This Court has original subject-matter jurisdiction over this proposed  
4 class action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class  
5 Action Fairness Act (“CAFA”), explicitly provides for the original jurisdiction of the  
6 federal courts in any class action in which at least 100 members are in the proposed  
7 Plaintiff’s class and the matter in controversy exceeds the sum of \$5,000,000.00,  
8 exclusive of interest and costs. Plaintiff alleges that the total claims of individual  
9 members of the proposed Classes (as defined herein) are well in excess of  
10 \$5,000,000.00 in the aggregate, exclusive of interest and costs.  
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12  
13 24. Venue is proper in this District under 28 U.S.C. § 1391. Plaintiff’s  
14 purchases of Defendants’ Products, substantial acts in furtherance of the alleged  
15 improper conduct, including the dissemination of false and misleading information  
16 regarding the nature, quality, and/or ingredients of the Products, occurred within this  
17 District and the Defendants conduct business in this District.  
18

19  
20 **PARTIES**

21 25. Plaintiff Annemarie Lott is a citizen of California who purchased the  
22 Products during the class period, as described herein. Plaintiff’s purchases took place  
23 in California. In addition, the advertising and labeling on the package of the Products  
24 purchased by Plaintiff, including the “natural” representations, is typical of the  
25 advertising and labeling of the Products purchased by members of the Class. Plaintiff  
26 relied on the representation on the packaging that the Products were “natural.”  
27  
28

1 a. Within the past three years, Plaintiff purchased multiple Products.

2 These purchases were made at retailers throughout California. Most  
3 recently in March 2021, Plaintiff purchased Defendants' Natural  
4 Deodorant from the Target store in Roseville, CA at a price of  
5 approximately \$14.00.  
6

7 26. Defendant S.C. Johnson & Son, Inc. is a Delaware corporation with its  
8 principal place of business in Racine, Wisconsin.

9 27. Defendant Oars + Alps LLC is a Delaware company with its principal  
10 place of business in Chicago, Illinois.

11 28. Defendants produce, market and distribute the Products in retail stores  
12 throughout the United States including stores physically located in the State of  
13 California.  
14

15 29. At the time of this filing, there is a dispute<sup>7</sup> involving Founders Laura  
16 Lisowski and Mia Duchnowski and early investors concerning the distributions,  
17 ownership, and other matters related to Defendant Oars its acquisition by Defendant  
18 SCJ in Delaware. To the extent that proper defendants may change as a result of the  
19 Delaware litigation, Plaintiff reserves the right to amend.  
20

21 30. Plaintiff reserves the right to amend this Complaint to add different or  
22 additional defendants, including without limitation any officer, director, employee,  
23 supplier, or distributor of Defendants who has knowingly and willfully aided, abetted,  
24 or conspired in the false and deceptive conduct alleged herein.  
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<sup>7</sup> *Supra* note 5.



1 31. Whenever reference is made in this Complaint to any representation,  
2 act, omission, or transaction of a defendant, that allegation shall mean that the  
3 defendant did the act, omission, or transaction through its officers, directors,  
4 employees, agents, and/or representatives while they were acting within the actual or  
5 ostensible scope of their authority.  
6

7  
8 **FACTS**

9 **A. Consumers Value Representations that a Product is Natural**

10 32. Consumers have become increasingly concerned about the effects of  
11 synthetic and chemical ingredients in food, cleaning products, bath and beauty  
12 products and everyday household products.<sup>8</sup>  
13

14 33. Companies such as the Defendants have capitalized on consumers'  
15 desires for purportedly "natural products."  
16

17 34. Indeed, consumers are willing to pay, and have paid, a premium for  
18 products branded "natural" over products that contain synthetic ingredients.  
19

20 35. In 2015, sales of natural products grew 9.5% to \$180 billion.<sup>9</sup> Reasonable  
21 consumers, including Plaintiff and Class Members, value natural products for  
22

22 <sup>8</sup> Julianna M. Butler & Christian A. Vossler, *What is an Unregulated and Potentially*  
23 *Misleading Label Worth? The case of "Natural"-Labelled Groceries*, Environmental &  
24 Resource Economics, Springer; European Association of Environmental and Resource  
25 Economists, vol. 70(2), pages 545-564 (2017).

25 <sup>9</sup> *Natural Products Industry Sales up 9.5% to \$180bn Says NBJ*, FOOD  
26 NAVIGATOR, [http://www.foodnavigator-usa.com/Markets/EXPO-WEST-](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6)  
27 [trendspotting-organics-natural-claims/\(page\)/6](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6) ; see also Shoshanna Delventhal,  
28 *Study Shows Surge in Demand for "Natural" Products*, INVESTOPEDIA (February  
22, 2017), [http://www.investopedia.com/articles/investing/022217/study-shows-surge-](http://www.investopedia.com/articles/investing/022217/study-shows-surge-demand-natural-products.asp)  
[demand-natural-products.asp](http://www.investopedia.com/articles/investing/022217/study-shows-surge-demand-natural-products.asp) (Study by Kline Research indicated that in 2016, the  
personal care market reached 9% growth in the U.S. and 8% in the U.K. The trend-  
driven natural and organic personal care industry is on track to be worth \$25.1  
million by 2025).

1 important reasons, including the belief that they are safer and healthier than  
2 alternative products that are not represented as natural.

3 36. Further, consumers have become increasingly concerned about the  
4 effects of synthetic ingredients in consumer products.<sup>10</sup>

5 37. Reasonable consumers, including Plaintiff and Class Members, value  
6 natural products for important reasons, including the belief that they are safer and  
7 healthier than alternative products that are not represented as natural.  
8

9 38. As a result, “natural” products are worth more than products that  
10 contain artificial ingredients, and consumers pay a premium for products labeled  
11 “natural” over products that contain synthetic ingredients.  
12

13  
14 **B. Plaintiff and Other Reasonable Consumers Understand Natural to**  
15 **Mean that a Product Lacks Artificial Ingredients**

16 39. Plaintiff and Class Members understand “natural” representations to  
17 mean that a product lacks synthetic ingredients.

18 40. This interpretation is consistent with the understanding of a reasonable  
19 consumer.  
20

21 41. The test to determine if a company’s “natural” representation is  
22 deceptive is judged by whether it would deceive or mislead a reasonable person. To  
23 assist in ascertaining what a reasonable consumer believes the term “natural” means,  
24 one can look to regulatory agency guidance.

25 42. Federal agencies have warned companies that they must ensure that  
26 they can substantiate “natural” claims.  
27

28 \_\_\_\_\_  
<sup>10</sup> Butler and Vossler, *supra* note 8.

1 43. In 2013, the United States Department of Agriculture ("USDA") issued a  
2 Draft Guidance Decision Tree for Classification of Materials as Synthetic or  
3 Nonsynthetic (Natural). In accordance with this decision tree, a substance is  
4 natural—as opposed to synthetic—if: (a) it is manufactured, produced, or extracted  
5 from a natural source (i.e. naturally occurring mineral or biological matter); (b) it has  
6 not undergone a chemical change (i.e. a process whereby a substance is transformed  
7 into one or more other distinct substances) so that it is chemically or structurally  
8 different than how it naturally occurs in the source material; or (c) the chemical  
9 change was created by a naturally occurring biological process such as composting,  
10 fermentation, or enzymatic digestion or by heating or burning biological matter.<sup>11</sup>

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13 44. The FTC has warned companies that the use of the term “natural” may  
14 be deceptive:<sup>12</sup>

15 Marketers that are using terms such as natural must ensure that they  
16 can substantiate whatever claims they are conveying to reasonable  
17 consumers. If reasonable consumers could interpret a natural claim as  
18 representing that a product contains no artificial ingredients, then the  
19 marketer must be able to substantiate that fact.

20 45. Likewise, the Food and Drug Administration (“FDA”) warns that any  
21 “natural” labeling on products must be “truthful and not misleading.”<sup>13</sup>

22 46. In April 2016, the FTC settled with four manufacturers and filed a  
23 complaint against a fifth company for representing that its products were “natural”

24  
25 <sup>11</sup> U.S. Department of Agriculture, Draft Guidance Decision Tree for Classification of  
26 Materials as Synthetic or Nonsynthetic, March 26, 2013, *available at*  
<https://web.archive.org/web/20140818174458/http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5103308>.

27 <sup>12</sup> 75 Fed. Reg. 63552, 63586 (Oct. 15, 2010).

28 <sup>13</sup> U.S. Food and Drug Administration, Small Business & Homemade Cosmetics: Fact Sheet, *available at*  
<http://www.fda.gov/Cosmetics/ResourcesForYou/Industry/ucm388736.htm#7>.

1 when they contained Phenoxyethanol and other synthetic ingredients. The  
 2 manufacturers agreed to cease marketing the products in question as being  
 3 “natural.”<sup>14</sup>

4 47. Surveys and other market research, including expert testimony Plaintiff  
 5 intends to introduce, will demonstrate that the term “natural” is misleading to a  
 6 reasonable consumer because the reasonable consumer believes that the term  
 7 “natural,” when used to describe goods such as the Products, means that the goods  
 8 are free of synthetic ingredients. For example, according to a consumer survey,  
 9 “[e]ighty-six percent of consumers expect a ‘natural’ label to mean processed foods do  
 10 not contain any artificial ingredients.”<sup>15</sup>

11 48. A reasonable consumer’s understanding of the term “natural” comports  
 12 with that of federal regulators and common meaning. That is, the reasonable  
 13 consumer understands the representation that a product is “natural” to mean that it  
 14 does not contain any synthetic ingredients.<sup>16</sup>

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 19 **C. The Reasonable Consumers’ Interpretation of “Natural” Aligns with**  
 20 **Defendants’ Interpretation of “Natural”**

21  
 22 <sup>14</sup> *Four Companies Agree to Stop Falsely Promoting Their Personal-Care Products as*  
 23 *“All Natural” or “100% Natural”; Fifth is Charged in Commission Complaint*, (April  
 2016), [https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-](https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care)  
[stop-falsely-promoting-their-personal-care](https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care) (last visited Mar. 17, 2021).

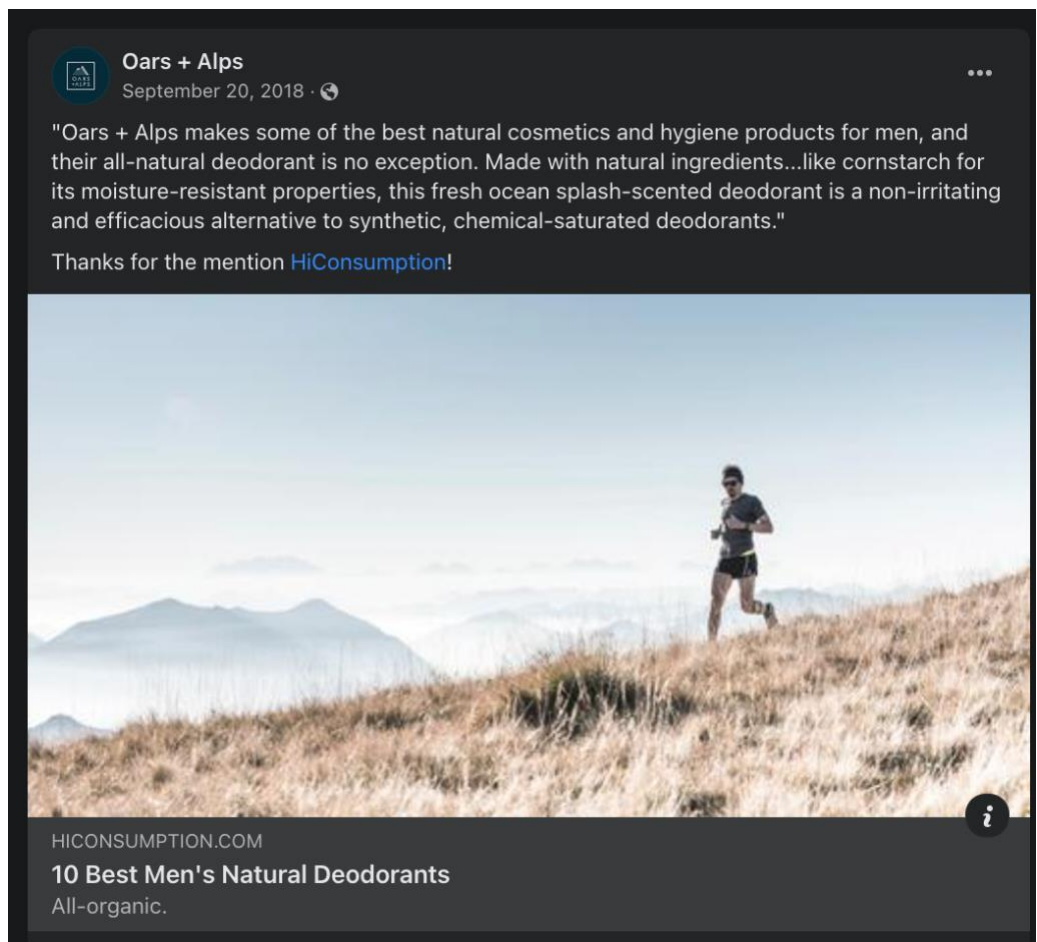
24 <sup>15</sup> Urvashi Rangan, Comments of Consumers Union on Proposed Guides for Use of  
 25 Environmental Marketing Claims, 16 C.F.R. Part 260, Notice of the Federal Trade  
 26 Commission (2010), *available at*  
 27 [https://www.ftc.gov/sites/default/files/documents/public\\_comments/guides-use-](https://www.ftc.gov/sites/default/files/documents/public_comments/guides-use-environmental-marketing-claims-project-no.p954501-00289%C2%A0/00289-57072.pdf)  
[environmental-marketing-claims-project-no.p954501-00289%C2%A0/00289-57072.pdf](https://www.ftc.gov/sites/default/files/documents/public_comments/guides-use-environmental-marketing-claims-project-no.p954501-00289%C2%A0/00289-57072.pdf)  
 (also accessible as Comment 58 at  
<http://www.ftc.gov/policy/publiccomments/initiative-353>).

28 <sup>16</sup> Butler and Vossler, *supra* note 8. “The vast majority of respondents stated a belief  
 that ‘natural’ signals no artificial flavors, colors and/or preservatives.” *Id.*

1 49. Defendants are aware that reasonable consumers interpret “natural” to  
2 mean that a product is devoid of synthetic ingredients.

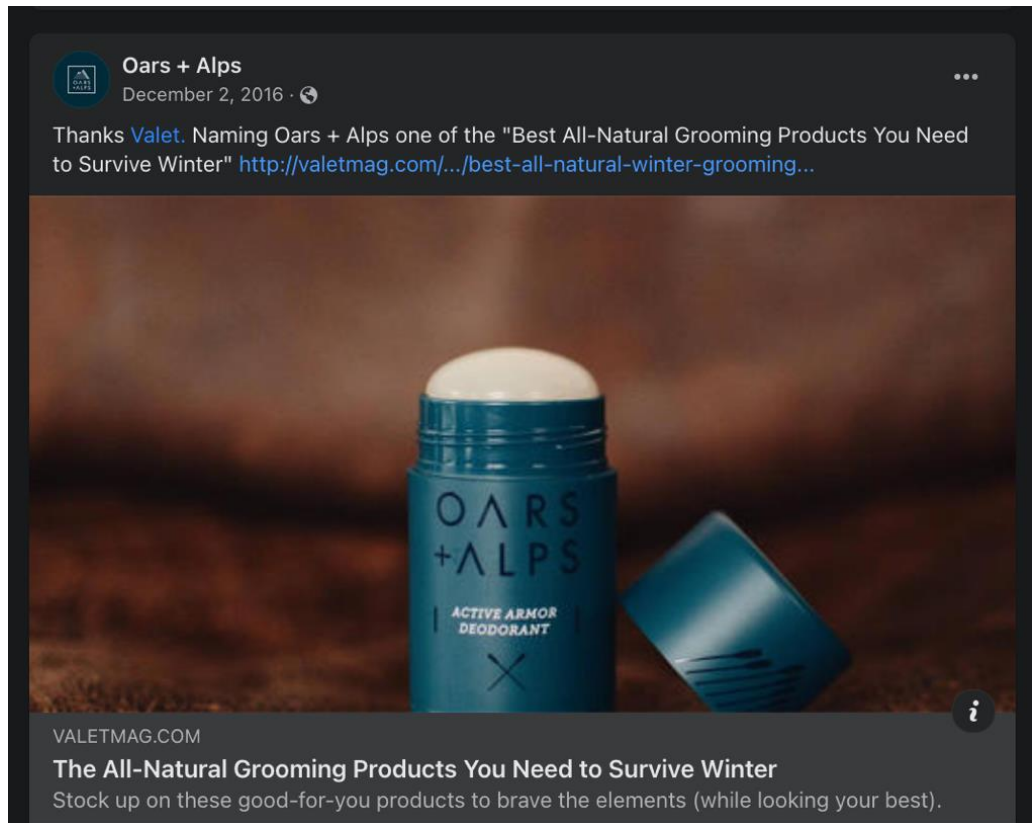
3 50. This is consistently shown with Defendants’ public statements, behavior,  
4 and marketing.

5 51. For example, the Oars + Alps official Facebook Page routinely shares  
6 and quotes articles that refer to the Products as all-natural, “natural,” and containing  
7 natural ingredients.  
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b.

52. Additionally, numerous profiles of the brand and its founders refer to the Products’ “natural” composition:

- a. “To dig deeper into the story behind this venture and how it is redefining the men’s skincare with its powerful product line based on all-natural ingredients, we sat down with Mia Saini, and here’s what she has to say.”<sup>17</sup>
- b. “When her husband started using many of the products she had brought home, she started thinking: is there an affordable skin care brand that is made just for men with all natural ingredients?”<sup>18</sup>

<sup>17</sup> AS Pioneer, *Mia Saini Duchnowski: Revolutionizing the men’s grooming industry*, <https://aspioneer.com/mia-saini-revolutionizing-the-mens-grooming-industry/>.

<sup>18</sup> Monica + Andy, *60 Mia Duchnowski - The Cofounder of Oars & Alps on Jumping In and Taking Risks*, <https://monicaandandy.com/blogs/ma-edit/mia-duchnowski>.

- 1 c. “BEHIND THE BRAND: OARS + ALPS OFFERS ALL-NATURAL AND  
2 AFFORDABLE SKIN CARE PRODUCTS FOR MEN”<sup>19</sup>
- 3 d. “Once the founders had settled on the all-natural ingredients for their  
4 core products, they teamed with a manufacturer that also works with  
5 other premium skincare companies such as Kiehl's, L'Oreal and  
6 Lancome to produce their core products.”<sup>20</sup>
- 7
- 8 e. “Founders Laura Lisowski Cox and Mia Saini Duchnowski developed the  
9 line after being frustrated with their inability to find affordable, all-  
10 natural yet effective products to suit their husbands’ active lifestyles.”<sup>21</sup>
- 11 f. “The brand uses all-natural ingredients to create mostly solid products  
12 in stick form that are spill-proof and TSA-approved.”<sup>22</sup>
- 13
- 14 g. “Mia started this men’s skincare line with all natural ingredients with  
15 her husband in mind.”<sup>23</sup>
- 16
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- 18
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20 <sup>19</sup> Kirk, Kamala, *BEHIND THE BRAND: OARS + ALPS OFFERS ALL-NATURAL*  
21 *AND AFFORDABLE SKIN CARE PRODUCTS FOR MEN*, SPA & BEAUTY TODAY  
(Jan. 17, 2021), <https://spaandbeautytoday.com/articles/behind-the-brand-oars-alps-offers-all-natural-and-affordable-skin-care-products-for-men>.

22 <sup>20</sup> Lazare, Lewis, *Two female entrepreneurs dive into men's skincare with Oars + Alps*  
23 *launch*, CHICAGO BUSINESS JOURNAL (Jan. 31, 2017),  
<https://www.bizjournals.com/memphis/bizwomen/news/latest-news/2017/01/two-female-entrepreneurs-dive-into-mens-skincare.html>.

24 <sup>21</sup> Love, James, *ACTIVE GUY ABOUT YOUR SKINCARE? MEET THE*  
25 *AFFORDABLE OARS + ALPS*, CASSIUS, <https://cassiuslife.com/44530/oars-and-alps-skincare/>.

26 <sup>22</sup> Ismael, Amir, *I tried this up-and-coming natural skincare line made for for active*  
27 *men — the products are affordable and effective, and the nice packaging is a bonus*,  
BUSINESS INSIDER (May 19, 2020), <https://www.insider.com/guides/beauty/oars-and-alps-skincare-review>.

28 <sup>23</sup> Odusanwo, Yewande, *EPISODE 1: TAKE TO THE OARS -AND ALPS*, Zora Digital  
(Jan. 23, 2019), <https://zora.digital/ztalks/podcast-episode-1-oars-and-alps/>.

1 h. “Saini and Lisowski Cox left their high-profile jobs in the spring of 2015  
2 to create Oars + Alps, a men’s skincare line that offers affordable, all  
3 natural products.”<sup>24</sup>

4 i. “...enabling men to groom themselves and keep care of their skin in an  
5 all-natural way.”<sup>25</sup>

6  
7 53. The Defendants also produce Youtube videos that examine the  
8 composition of competing products that contain “synthetic” and “harsh” ingredients.<sup>26</sup>



26 <sup>24</sup> Elkins, *supra* note 3.

27 <sup>25</sup> PitchBook, *Oars + Alps*, <https://pitchbook.com/profiles/company/179597-98>.

28 <sup>26</sup> Oars + Alps Official Youtube Channel, *Does natural deodorant work? How to choose the best natural deodorant for you*, (Nov. 4, 2020), <https://www.youtube.com/watch?v=6zxn40ogBk>.



1 54. The reasonable consumer’s understanding of “natural” also comports  
2 with the understanding of the brand’s founders:

3 a. “We searched high and low for all-natural men’s skincare options, but  
4 everything was too expensive, overly clinical, tailored to women, or just  
5 plain inconvenient to buy.”<sup>27</sup>  
6

7 55. At every step of the way, Defendants want consumers to believe that the  
8 Products are “natural.” They reference the “natural” characteristics at every detailed  
9 step including the URL for the Oars + Alps web store.

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13 **D. Defendants Represent that the Products are Natural**

14 56. Defendants capitalize on consumers’ preferences for natural products by  
15 making representations to consumers on its Products that they are natural.  
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17 57. The front label of every Product states that the Product is “Natural.”

18 58. The following image is an example of that representation being  
19 prominently made on the front of three of the Products:  
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28 <sup>27</sup> Lauletta, Tyler, *Two women created a company aimed at changing the way guys think about skincare*, BUSINESS INSIDER ( Mar. 21, 2017), <https://www.businessinsider.com/guides/oars-alps-skincare-review-2017-3>.

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59. Based on the language that appears on the front of each product, Plaintiff reasonably believed that Products contained only natural ingredients.

60. “Natural” is a representation to a reasonable consumer that the Products contain only natural ingredients.

61. Throughout its marketing efforts, Defendants reinforce that the Products are “natural.”

62. For example, the Oars + Alps official website makes numerous references to the Products “Natural” composition:

**Are your products natural?**

- a. Yes! Our products use unprocessed ingredients sourced from the earth that are free of parabens, phthalates, sulfates, glycols, and aluminum.
- b. We use natural ingredients—and not just the stuff that’s easy to find!

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## The yays

The natural ingredients that make us us

c.



d.



“ Love everything about these products...the packaging, application, natural ingredients and results. My skin has never felt and looked better.

Alex D. **Alex D.**   
 ★★★★★

e.

## Stay clean with natural ingredients

We believe in powerful, natural ingredients that deliver real results. No harmful additives, no harsh chemicals, no worries.

[Our Ingredients](#)

f.

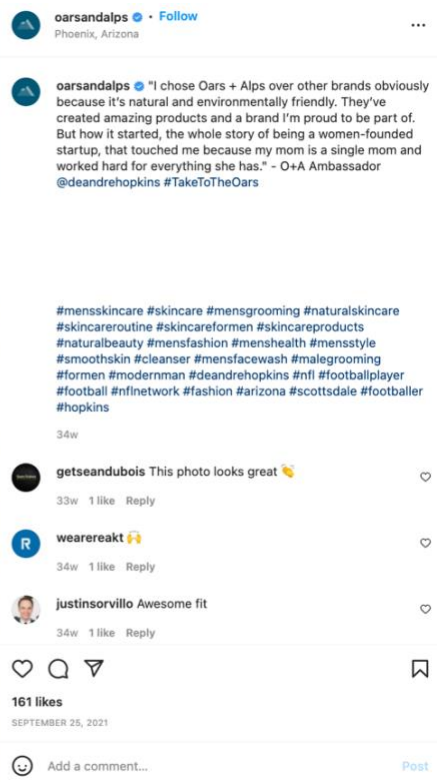
1           63.     Additionally, social media marketing efforts – including through  
2 celebrities like NFL superstar Deandre Hopkins - reinforce the “natural”  
3 representations on the Products’ labels.

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b.

64. Defendants represent on their Products’ labels and through coordinated marketing efforts that the Products are “natural.”

**E. Defendants’ Representations Are False, Misleading, and Deceptive**

65. Despite representing that the Products are “natural,” the Products contain multiple synthetic ingredients.

66. Thus, Defendants’ representations that the Products are “natural” is false, misleading, and deceptive because the Products contain ingredients that are, as set forth and described below, synthetic.<sup>28</sup>

<sup>28</sup> Other ingredients in the Products may also be artificial as well. Plaintiff’s investigation is ongoing and will seek to amend the Complaint to specify other potential artificial ingredients in the future.

- 1           **a. Phenoxyethanol** is a synthetic substance associated with depressing  
 2           the central nervous system, vomiting, and diarrhea.<sup>29</sup> This synthetic  
 3           chemical concerned the FDA, and the agency warned consumers against  
 4           using on nursing infants because it “can depress the central nervous  
 5           system” and “may cause vomiting and diarrhea, which can lead to  
 6           dehydration in infants.”<sup>30</sup> Concern for the use of this synthetic  
 7           ingredient is not restricted to the United States, and after concerns were  
 8           raised by the European Commission’s Scientific Committee on  
 9           Consumer Safety, France prohibited the labeling and marketing of  
 10          products containing Phenoxyethanol for use on children that are three  
 11          years old and younger.<sup>31</sup>
- 12           **b. Dimethicone** is a synthetic ingredient.<sup>32</sup>
- 13           **c. Caprylyl Glycol** is a synthetic skin conditioning agent and  
 14          preservative.<sup>33</sup>

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21          <sup>29</sup> 21 C.F.R. §172.515 and *FDA Consumer Update: Contaminated Nipple Cream*, (May 2008),

22          <https://web.archive.org/web/20140712202507/https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm049301.htm> (last visited Mar. 17, 2021).

23          <sup>30</sup> U.S. Food and Drug Administration, For Consumers, *Contaminated Nipple Cream*,  
 24          <https://web.archive.org/web/20140712202507/https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm049301.htm> (last visited Mar. 17, 2021).

25          <sup>31</sup> Agence Nationale de Sécurité du Médicament et des Produits de Santé, Decision of  
 26          13 Mars 2019, *available at*  
 27          [https://www.ansm.sante.fr/content/download/158253/2075101/version/1/file/DPS\\_Phenoxxyethanol-200319.pdf](https://www.ansm.sante.fr/content/download/158253/2075101/version/1/file/DPS_Phenoxxyethanol-200319.pdf).

28          <sup>32</sup> 24 No. 3 FDA Advertising & Promotion Manual Newsl. 13.

29          <sup>33</sup> ¶ 17,483 ABS CONSUMER PRODUCTS, LLC—COMPLAINT AND CONSENT  
 ORDER, FTC DKT. C-4584, FILE NO. 152 3269, ANNOUNCED APRIL 12, 2016;  
 ISSUED JULY 6, 2016., Trade Reg. Rep. P 17483.

1           **d. Potassium Sorbate** is a synthetic preservative.<sup>34</sup> It is created by using  
2           potassium hydroxide (KOH) to neutralize sorbic acid (C<sub>6</sub>H<sub>8</sub>O<sub>2</sub>). The  
3           resulting potassium sorbate may be crystallized from aqueous ethanol.  
4           Studies have shown Potassium Sorbate to have genotoxic effects on  
5           humans and other mammals.<sup>35</sup> It causes chromosomal aberrations in  
6           cells, which can trigger the development of cancer.<sup>36</sup>

7  
8           **e. Sodium Benzoate** is a synthetic preservative.<sup>37</sup> Sodium Benzoate is  
9           produced by the neutralization of benzoic acid with sodium hydroxide, or  
10          by adding benzoic acid to a hot concentrated solution of sodium  
11          carbonate until effervescence ceases. The solution is then evaporated,  
12          cooled and allowed to crystalize or evaporate to dryness, and then  
13          granulated. It does not occur naturally.<sup>38</sup> Sodium Benzoate has been  
14          shown to cause DNA damage and chromosomal aberrations.<sup>39</sup> When  
15          Sodium Benzoate combines with either Ascorbic Acid or Citric Acid (a  
16          combination of ingredients present in some of the Products), the two  
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20          <sup>34</sup> U.S. Dept. of Agriculture, CFNP TAP Review, *Potassium Sorbate*,  
21          <https://www.ams.usda.gov/sites/default/files/media/P%20Sor%20technical%20advisory%20panel%20report.pdf> and see FDA Warning Letter to Bagels Forever (dated  
22          7/22/2011) (available at: [http://wayback.archive-  
23          it.org/7993/20170112193358/http://www.fda.gov/ICECI/EnforcementActions/Warning  
24          Letters/2011/ucm265756.htm](http://wayback.archive-it.org/7993/20170112193358/http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2011/ucm265756.htm)): “Your product is manufactured with infused wild dry  
25          blueberries that contain potassium sorbate, which is listed in 21 CFR 182.3640 as a  
26          chemical preservative; therefore, your product may not make the claims ‘All Natural’  
27          and ‘No Preservatives.’”

28          <sup>35</sup> Sevcan Mamur et al., Does Potassium Sorbate Induce Genotoxic or Mutagenic  
Effects in Lymphocytes?, *TOXICOLOGY IN VITRO* 790, 793 (2010).

<sup>36</sup> *Id.*

<sup>37</sup> 21 C.F.R. § 582.3733.

<sup>38</sup> 21 C.F.R. § 184.1733.

<sup>39</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).

1 substances can react to produce benzene, which is a highly toxic  
2 carcinogen that causes leukemia.<sup>40</sup>

3 **f. Propanediol** is a synthetic liquid substance that absorbs water.<sup>41</sup>

4 **g. Ethylhexylglycerin** is a synthetic derived form of vegetable glycerin.

5  
6 **h. Citric Acid** is recognized by the FDA and other federal agencies as an  
7 artificial substance.<sup>42</sup> Citric acid is added as a synthetic preservative,  
8 flavorant, and acidity regulator. It is commonly manufactured through  
9 solvent extraction or mycological fermentation of bacteria.<sup>43</sup> While the  
10 chemical's name has the word "citric" in it, citric acid is not extracted  
11

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14 <sup>40</sup> U.S. Food and Drug Administration, *Questions and Answers on the Occurrence of*  
15 *Benzene in Soft Drinks and Other Beverages*, (2018),  
16 [https://www.fda.gov/food/chemicals/questions-and-answers-occurrence-benzene-soft-](https://www.fda.gov/food/chemicals/questions-and-answers-occurrence-benzene-soft-drinks-and-other-beverages#q4)  
17 [drinks-and-other-beverages#q4](https://www.fda.gov/food/chemicals/questions-and-answers-occurrence-benzene-soft-drinks-and-other-beverages#q4) (last visited Nov. 16, 2020); *See Gonzalez v. Pepsico,*  
18 *Inc.*, 489 F. Supp. 2d 1233, 1238 (D. Kan. 2007): "[P]roducts from defendants which  
19 contained sodium benzoate and ascorbic acid, citric acid or erythoribic acid. The Food  
20 and Drug Administration ("FDA") has reported that these ingredients may interact to  
21 form benzene, a hazardous substance which the Environmental Protection Agency  
22 ("EPA") knows to potentially cause anemia, nervous systems disorders and  
23 immunosuppression in persons who are exposed..." *and* Robert Snyder, *Leukemia and*  
24 *Benzene*, *International Journal of Environmental Research and Public Health* vol. 9,8  
25 (2012): 2875-93 *and* Lakshmi Narayanan Venu & Anoop Austin, *Study and*  
26 *Quantification of Preservative (E211) In Carbonated Soft Drink Samples,*  
27 *International Organization of Scientific Research Journal of Applied Chemistry* vol.  
28 12,4 (2019): 17-23 ("Sodium benzoate reacts with citric acid or ascorbic acid to form  
benzene").

<sup>41</sup> National Institute of Health's National Library of Medicine, Propylene glycol  
available at <https://pubchem.ncbi.nlm.nih.gov/compound/Propylene-glycol> (last visited  
November 21, 2020).

<sup>42</sup> *See* FDA Informal Warning Letter to the Hirzel Canning Company (August 29,  
2001) ("the addition of calcium chloride and citric acid to these products preclude use  
of the term 'natural' to describe this product."); U.S. International Trade Commission,  
Synthetic Organic Chemical Index, USCTIC Pub. 2933, at 3-105 (Nov. 1995).

<sup>43</sup> 21 C.F.R. § 184.1033(a).



1 from fruit. Rather, it is industrially manufactured by fermenting  
2 genetically modified strains of the black mold fungus *Aspergillus niger*.<sup>44</sup>

3 67. Consumers lack the meaningful ability to test or independently  
4 ascertain or verify whether a product is natural, especially at the point of sale.  
5 Consumers would not know that the Products contain unnatural, synthetic  
6 ingredients, by reading the ingredients label.  
7

8 68. Discovering that the ingredients are not natural and are actually  
9 synthetic requires an investigation beyond that of the skills of the average consumer.  
10 That is why, even though the ingredients listed above are identified on the back of  
11 the Products' packaging in the ingredients listed, the reasonable consumer would not  
12 understand – nor are they expected to understand – that these ingredients are  
13 synthetic.  
14

15 69. Moreover, the reasonable consumer is not expected or required to scour  
16 the ingredients list on the back of the Products in order to confirm or debunk  
17 Defendants' prominent front-of-the-product claims, representations, and warranties  
18 that the Products are "natural."  
19

20 70. Defendants did not disclose that the above listed ingredients are  
21 synthetic ingredients anywhere on the product. A reasonable consumer understands  
22 Defendants' "natural" claims to mean that the Products are "natural" and do not  
23 contain synthetic ingredients.  
24

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27 <sup>44</sup> See, e.g., Belen Max, et al. *Biotechnological Production of Citric Acid*, BRAZILIAN  
28 JOURNAL OF MICROBIOLOGY, 41.4 Sao Paulo (Oct./Dec. 2010) and Sweis, Iliana E, and  
Bryan C Cressey. *Potential role of the common food additive manufactured citric acid  
in eliciting significant inflammatory reactions contributing to serious disease states: A  
series of four case reports*, TOXICOLOGY REPORTS, 5.808 ( Aug. 9 2018).

1 71. Consumers rely on label representations and information in making  
2 purchasing decisions.

3 72. The marketing of the Products as “natural” in a prominent location on  
4 the labels of all of the Products, throughout the Class Period, evidences Defendants’  
5 awareness that “natural” claims are material to consumers.  
6

7 73. Additionally, Defendants are aware that products containing synthetic  
8 ingredients have lower demand and exploit reasonable consumers by projecting that  
9 the Products are “natural” and free of synthetic, bad ingredients.

10 a. Co-Founder Mia Duchnowski: “We want to be the go-to brand for natural  
11 men’s skincare. Skincare without the toxins and without all the bad  
12 ingredients.”<sup>45</sup>  
13

14 b. Co-Founder Laura Lisowski Cox: “Kiehl’s is very expensive. They wear  
15 these lab coats and act like there are all these great ingredients, but  
16 there are actually really poor ingredients. We wanted to create  
17 something better.”<sup>46</sup>  
18

19 74. Defendants’ deceptive representations are material in that a reasonable  
20 person would attach importance to such information and would be induced to act  
21 upon such information in making purchase decisions.

22 75. Plaintiff and the Class Members reasonably relied to their detriment on  
23 Defendants’ misleading representations and omissions.  
24  
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28 <sup>45</sup> Siegel, *supra* note 4, at approximately the 42:40 timestamp.

<sup>46</sup> McCormack, *supra* note 6.

1 76. Defendants' false, misleading, and deceptive misrepresentations and  
2 omissions are likely to continue to deceive and mislead reasonable consumers, as they  
3 have already deceived and misled the Plaintiff and the Class Members.

4 **F. Defendants' Deceptive Conduct Caused Plaintiff's and Class**  
5 **Members' Injuries**

6 77. In making the false, misleading, and deceptive representations and  
7 omissions described herein, Defendants knew and intended that consumers would  
8 pay a premium for Products labeled "natural" over comparable products not so  
9 labeled and marketed.

10  
11 78. This consumer focus on "natural" products and the associated premium  
12 that can be captured has always been the brand's target.

13 a. Co-Founder Mia Duchnowski: "...[O]ur product [costs] more than double  
14 the drugstore product. We have natural ingredients. Not every zip code  
15 wants those type of products, or lend itself to being our target  
16 consumer."<sup>47</sup>

17  
18 b. Co-Founder Laura Lisowski Cox: "It's premium formulations, but at a  
19 more approachable price point."<sup>48</sup>

20  
21 79. As an immediate, direct, and proximate result of Defendants' false,  
22 misleading, and deceptive representations, Defendants injured the Plaintiff and the  
23 Class Members in that they:

24 a. Paid a sum of money for Products that were not what Defendants  
25 represented;

26  
27  
28 <sup>47</sup> Siegel, *supra* note 4, at approximately the 34:34 timestamp.

<sup>48</sup> McCormack, *supra* note 6.

- b. Paid a premium price for Products that were not what Defendants represented;
- c. Were deprived of the benefit of the bargain because the Products they purchased were different from what Defendants warranted; and
- d. Were deprived of the benefit of the bargain because the Products they purchased had less value than what Defendants represented.

80. Plaintiff and the Class Members paid for Products that were "natural" but received Products that were not "natural." The products Plaintiff and the Class Members received were worth less than the products for which they paid.

81. Based on Defendants' misleading and deceptive representations, Defendants were able to, and did, charge a premium price for the Products over the cost of competitive products not bearing the misrepresentations.

82. Plaintiff and the Class Members paid money for the Products. However, Plaintiff and the Class Members did not obtain the full value of the advertised Products due to Defendants' misrepresentations and omissions. Plaintiff and the Class Members purchased, purchased more of, and/or paid more for, the Products than they would have had they known the truth about the Products. Consequently, Plaintiff and the Class Members have suffered injury in fact and lost money as a result of Defendants' wrongful conduct.

83. Defendants knew that consumers will pay more for a product marketed as "natural," and intended to deceive Plaintiff and putative Class Members by labeling and marketing the Products as purportedly natural products.

84. Plaintiff and Class Members paid for the Products over and above comparable products that did not purport to be "natural." Given that Plaintiff and

1 Class Members paid for the Products based on Defendants’ misrepresentations that  
2 they are “natural,” Plaintiff and Class Members suffered an injury in the amount  
3 paid.

4 85. Additionally, Plaintiff and Class Members paid a premium for the  
5 Products over and above comparable products that did not purport to be “natural.”  
6 Given that Plaintiff and Class Members paid a premium for the Products based on  
7 Defendants’ misrepresentations that they are “natural,” Plaintiff and Class Members  
8 suffered an injury in the amount of the premium paid.  
9

10  
11 **CLASS DEFINITIONS AND ALLEGATIONS**  
12

13 86. Plaintiff, pursuant to Federal Rule of Civil Procedure 23, brings this  
14 action on behalf of the following classes (collectively, the “Class,” “Classes,” and  
15 “Class Members”):

- 16 a. California Class: All persons who purchased Defendants’ Products  
17 within the State of California and within the applicable statute of  
18 limitations period; and  
19  
20 b. Nationwide Class: All persons who purchased Defendants’ Products  
21 within the United States and within the applicable statute of limitations  
22 period.  
23

24 87. Excluded from the Classes are Defendants, their parents, subsidiaries,  
25 affiliates, officers, and directors, those who purchased the Products for resale, all  
26 persons who make a timely election to be excluded from the Classes, the judge to  
27 whom the case is assigned and any immediate family members thereof, and those  
28 who assert claims for personal injury.

1 88. The members of the Classes are so numerous that joinder of all Class  
2 Members is impracticable. Defendants have sold, at a minimum, millions of units of  
3 the Products to Class Members.

4 89. There is a well-defined community of interest in the questions of law and  
5 fact involved in this case. Questions of law and fact common to the members of the  
6 putative classes that predominate over questions that may affect individual Class  
7 Members include, but are not limited to the following:  
8

- 9 a. whether Defendants misrepresented material facts concerning the  
10 Products on the label of every product;  
11 b. whether Defendants' conduct was unfair and/or deceptive;  
12 c. whether Defendants have been unjustly enriched as a result of the  
13 unlawful, fraudulent, and unfair conduct alleged in this Complaint such  
14 that it would be inequitable for Defendants to retain the benefits  
15 conferred upon them by Plaintiff and the Classes;  
16 d. whether Plaintiff and the Class are entitled to equitable and/or  
17 injunctive relief;  
18 e. whether Defendants breached express and implied warranties to  
19 Plaintiff and the Classes;  
20 f. whether Plaintiff and the classes have sustained damages with respect  
21 to the claims asserted, and if so, the proper measure of their damages.  
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25 90. Plaintiff's claims are typical of those of other Class Members because  
26 Plaintiff, like all members of the Classes, purchased Defendants' Products bearing  
27 the natural representations and Plaintiff sustained damages from Defendants'  
28 wrongful conduct.

1 91. Plaintiff will fairly and adequately protect the interests of the Classes  
2 and has retained counsel that is experienced in litigating complex class actions.  
3 Plaintiff has no interests which conflict with those of the classes.

4 92. A class action is superior to any other available means for the fair and  
5 efficient adjudication of this controversy, and no unusual difficulties are likely to be  
6 encountered in the management of this class action. The damages or other financial  
7 detriment suffered by Plaintiff and the other Class Members are relatively small  
8 compared to the burden and expense that would be required to individually litigate  
9 their claims against Defendants, making it impracticable for Class Members to  
10 individually seek redress for Defendants' wrongful conduct. Even if Class Members  
11 could afford individual litigation, the court system could not. Individualized litigation  
12 creates a potential for inconsistent or contradictory judgments, and increases the  
13 delay and expense to all parties and the court system. By contrast, the class action  
14 device presents far fewer management difficulties, and provides the benefits of single  
15 adjudication, economies of scale, and comprehensive supervision by a single court.  
16  
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19 93. The prerequisites to maintaining a class action for equitable relief are  
20 met as Defendants have acted or refused to act on grounds generally applicable to the  
21 classes, thereby making appropriate equitable relief with respect to the classes as a  
22 whole.

23 94. The prosecution of separate actions by members of the classes would  
24 create a risk of establishing inconsistent rulings and/or incompatible standards of  
25 conduct for Defendants. For example, one court might enjoin Defendants from  
26 performing the challenged acts, whereas another might not. Additionally, individual  
27  
28

1 actions could be dispositive of the interests of the classes even where certain Class  
2 Members are not parties to such actions.

3 **COUNT I**  
4 **Violation of California’s Unfair Competition Law (“UCL”),**  
5 **CAL. BUS. & PROF. CODE §§ 17200, et seq.**

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

8 96. Plaintiff brings this Count individually and on behalf of the members of  
9 the California Class.

10 97. Defendants are subject to California’s Unfair Competition Law, Cal.  
11 Bus. & Prof. Code §§ 17200, et seq. The UCL provides, in pertinent part: “Unfair  
12 competition shall mean and include unlawful, unfair or fraudulent business practices  
13 and unfair, deceptive, untrue or misleading advertising ....”

14 98. Defendants violated the “unlawful” prong of the UCL by violating  
15 California’s Consumer Legal Remedies Acts (“CLRA”) and False Advertising Law  
16 (“FAL”), as alleged herein.

17 99. Defendants’ misrepresentations and other conduct, described herein,  
18 violated the “unfair” prong of the UCL in that its conduct is substantially injurious to  
19 consumers, offends public policy, and is immoral, unethical, oppressive, and  
20 unscrupulous, as the gravity of the conduct outweighs any alleged benefits.

21 100. Defendants violated the “fraudulent” prong of the UCL by  
22 misrepresenting that the Products are “natural” when, in fact, they are made with  
23 synthetic ingredients.

24 101. Plaintiff and the California Class Members lost money or property as a  
25 result of Defendants’ UCL violations because: because: (a) they would not have  
26  
27  
28



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1 purchased the Products on the same terms if they knew that the Products were made  
2 with synthetic ingredients (b) they paid a substantial price premium compared to  
3 other cosmetic products due to Defendants’ misrepresentations; and (c) the Products  
4 do not have the characteristics, uses, or benefits as promised.

5  
6 102. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order  
7 enjoining Defendants from continuing to conduct business through unlawful, unfair,  
8 and/or fraudulent acts and practices, and to commence a corrective advertising  
9 campaign.

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

13  
14 104. Because Plaintiff and the California Class Members’ claims under the  
15 “unfair” prong of the UCL sweep more broadly than their claims under the FAL,  
16 CLRA, or UCL’s “fraudulent” prong, Plaintiff’s legal remedies are inadequate to fully  
17 compensate Plaintiff for all of Defendants’ challenged behavior.  
18

19  
20 **COUNT II**  
21 **Violation of The False Advertising Law (“FAL”),**  
22 **CAL. BUS. & PROF. CODE §§ 17500, et seq.**

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

25 106. Plaintiff brings this Count individually and on behalf of the members of  
26 the California Class.

27 107. California’s False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, et  
28 seq., makes it “unlawful for any person to make or disseminate or cause to be made or

1 disseminated before the public in this state, ... in any advertising device ... or in any  
2 other manner or means whatever, including over the Internet, any statement,  
3 concerning ... personal property or services, professional or otherwise, or performance  
4 or disposition thereof, which is untrue or misleading and which is known, or which by  
5 the exercise of reasonable care should be known, to be untrue or misleading.”

6  
7 108. Defendants committed acts of false advertising, as defined by §§17500, *et*  
8 *seq.*, by misrepresenting that the Products are “natural” when they are not.

9 109. Defendants knew or should have known through the exercise of  
10 reasonable care (i.e. pre-market testing) that its representations about the Products  
11 were untrue and misleading.

12  
13 110. Defendants’ actions in violation of §§ 17500, *et seq.* were false and  
14 misleading such that the general public is and was likely to be deceived.

15 111. Plaintiff and the California Class Members lost money or property as a  
16 result of Defendants’ FAL violations because: (a) they would not have purchased the  
17 Products on the same terms if they knew that the Products were made with synthetic  
18 ingredients; (b) they paid a substantial price premium compared to other cosmetic  
19 products due to Defendants’ misrepresentations; and (c) the Products do not have the  
20 characteristics, uses, or benefits as promised.

21  
22 112. Defendants profited from the sale of the falsely and deceptively  
23 advertised Products to unwary consumers.

24  
25 113. As a result, Plaintiff, the California Class, and the general public are  
26 entitled to injunctive and equitable relief, restitution, and an order for the  
27 disgorgement of the funds by which Defendants were unjustly enriched.  
28

1 114. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of  
2 herself and the California Class, seeks an order enjoining Defendants from  
3 continuing to engage in deceptive business practices, false advertising, and any other  
4 act prohibited by law, including those set forth in this Complaint.

5 115. Because the Court has broad discretion to award restitution under the  
6 FAL and could, when assessing restitution under the FAL, apply a standard different  
7 than that applied to assessing damages under the CLRA, and restitution is not  
8 limited to returning to Plaintiff and California Class Members monies in which they  
9 have an interest, but more broadly serves to deter the offender and others from future  
10 violations, the legal remedies available under the CLRA and commercial code are  
11 more limited than the equitable remedies available under the FAL, and are therefore  
12 inadequate.  
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15  
16 **COUNT III**  
17 **Violation of The Consumer Legal Remedies Act (“CLRA”),**  
18 **CAL. CIV. CODE §§ 1750, et seq.**

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

21 117. Plaintiff brings this Count individually and on behalf of the members of  
22 the California Class.

23 118. This cause of action is brought pursuant to California’s Consumers Legal  
24 Remedies Act, Cal. Civ. Code §§ 1750 (the “CLRA”).

25 119. Plaintiff and the other members of the Classes are “consumers,” as the  
26 term is defined by California Civil Code § 1761(d), because they bought the Products  
27 for personal, family, or household purposes.  
28

1 120. Plaintiff, the other members of the Classes, and Defendants have  
2 engaged in “transactions,” as that term is defined by California Civil Code § 1761(e).

3 121. The conduct alleged in this Complaint constitutes unfair methods of  
4 competition and unfair and deceptive acts and practices for the purpose of the CLRA,  
5 and the conduct was undertaken by Defendants in transactions intended to result in,  
6 and which did result in, the sale of goods to consumers.  
7

8 122. As alleged more fully above, Defendants have violated the CLRA by  
9 falsely representing to Plaintiff and the other members of the Classes that the  
10 Products are “natural” when in fact they are made with synthetic ingredients.

11 123. As a result of engaging in such conduct, Defendants have violated  
12 California Civil Code § 1770(a)(5), (a)(7) and (a)(9).  
13

14 124. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff provided  
15 notice to Defendants of its alleged violations of the CLRA, demanding that  
16 Defendants correct such violations, and providing it with the opportunity to correct  
17 its business practices. Notice was sent via certified mail, return receipt requested on  
18 May 26, 2022. As of the date of filing this complaint, Defendants have not responded.  
19 Accordingly, if after 30 days no satisfactory response to resolve this litigation on a  
20 class-wide basis has been received, Plaintiff will seek leave to amend this request to  
21 seek restitution and actual damages as provided by the CLRA.  
22

23 125. Pursuant to California Civil Code § 1780, Plaintiff seeks injunctive  
24 relief, reasonable attorneys’ fees and costs, and any other relief that the Court deems  
25 proper.  
26  
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**COUNT IV**  
**Unjust Enrichment**

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

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127. Plaintiff brings this claim individually and on behalf of the members of the proposed Classes against the Defendants.

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128. At all times relevant hereto, Defendants deceptively marketed, advertised, and sold merchandise to Plaintiff and the Classes.

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129. Plaintiff and members of the Classes conferred upon Defendants nongratuitous payments for the Products that they would not have if not for Defendants' deceptive advertising and marketing. Defendants accepted or retained the nongratuitous benefits conferred by Plaintiff and members of the Classes, with full knowledge and awareness that, as a result of Defendants' deception, Plaintiff and members of the Classes were not receiving a product of the quality, nature, fitness, or value that had been represented by Defendants and reasonable consumers would have expected.

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130. Defendants have been unjustly enriched in retaining the revenues derived from Plaintiff's and Class Members' purchases of the Products. Retention of those monies under these circumstances is unjust and inequitable because of Defendants' misrepresentations about the Products, which caused injuries to Plaintiff and Class Members because they would not have purchased the Products if the true facts had been known.

27  
28  
131. Because Defendants' retention of the non-gratuitous benefits conferred on it by Plaintiff and members of the Classes is unjust and inequitable, Defendants

1 must pay restitution to Plaintiff and members of the Classes for their unjust  
2 enrichment, as ordered by the Court.

3  
4 **RELIEF DEMANDED**

5 132. WHEREFORE, Plaintiff, individually and on behalf of all others  
6 similarly situated, seeks judgment against Defendants, as follows:  
7

- 8 a. For an order certifying the Class under Rule 23 of the Federal Rules of  
9 Civil Procedure and naming Plaintiff as representative of the Classes  
10 and Plaintiff's attorneys as Class Counsel to represent the members of  
11 the Classes;  
12  
13 b. For an order declaring the Defendants' conduct violates the statutes and  
14 laws referenced herein;  
15  
16 c. For an order awarding, as appropriate, compensatory and monetary  
17 damages, statutory damages, restitution or disgorgement to Plaintiff  
18 and the Classes for all causes of action;  
19  
20 d. For an order requiring Defendants to immediately cease and desist from  
21 selling their misbranded Products in violation of law; enjoining  
22 Defendants from continuing to label, market, advertise, distribute, and  
23 sell the Products in the unlawful manner described herein; and ordering  
24 Defendants to engage in corrective action;  
25  
26 e. For prejudgment and postjudgment interest on all amounts awarded;  
27  
28 f. For an order awarding punitive damages; and  
For an order awarding attorneys' fees and expenses and costs of suit

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial on all causes of action so triable.

Dated: May 31, 2022

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*\*Pro hac vice forthcoming*

*Counsel for Plaintiff and the Proposed Class*

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Oars + Alps Cosmetic Products Falsely Labeled as 'Natural,' Class Action Alleges](#)

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