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and the putative Class

11  
12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 JOSEPH MATTOCKS, individually,  
on behalf of himself and others  
15 similarly situated,

16 Plaintiff,

17 vs.

18 KIMBERLY-CLARK  
19 CORPORATION; KIMBERLY-  
20 CLARK WORLDWIDE, INC.; and  
21 KIMBERLY-CLARK GLOBAL  
SALES, LLC,

22 Defendants.

Case No.: '17CV1397 MMAAGS

**CLASS ACTION COMPLAINT FOR**

1. **UNFAIR AND UNLAWFUL BUSINESS ACTS AND PRACTICES (CAL. BUS & PROF. CODE §17200 *ET SEQ.*);**
2. **DECEPTIVE ADVERTISING PRACTICES (CAL. BUS & PROF. CODE § 17500, *ET SEQ.*);**
3. **CONSUMER LEGAL REMEDIES ACT (CAL. CIV. CODE § 1750, *ET SEQ.*);**
4. **BREACH OF EXPRESS WARRANTY; AND**
5. **QUASI-CONTRACT.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Joseph Mattocks, individually and on behalf of others similarly situated,  
2 by and through his undersigned counsel, hereby files this Class Action Complaint against  
3 Defendants Kimberly-Clark Corporation, Kimberly-Clark Worldwide, Inc., and  
4 Kimberly-Clark Global Sales, LLC (collectively “Defendants” or “Kimberly-Clark”)  
5 and states as follows:

6 **NATURE OF THE ACTION**

7 1. This case arises out of Defendants’ unlawful merchandising practices with  
8 respect to their Scott® Naturals Flushable Cleansing Cloths; Scott® Naturals Flushable  
9 Wipes; and Scott® Naturals with Aloe Vera Flushable Wipes, which are offered for sale  
10 in both soft packages and “pop-up tubs,” as well as in refill packages (collectively, the  
11 “Products” or in the singular, “Product”). The Products are moist towelettes intended  
12 for use in place of, or in addition to, toilet paper.

13 2. Defendants label and advertise the Products as being “natural” by  
14 prominently and uniformly displaying the term “Naturals” on the Products’ labeling and  
15 packaging. In addition, Defendants reinforce the Products’ “natural” image through the  
16 Products’ labeling and packaging designs, which include nature images, such as green  
17 coloring and leaves. As a result, the Products’ labeling and packaging representations  
18 convey to reasonable consumers that the Products are natural and free of unnatural,  
19 synthetic, and/or artificial ingredients.

20 3. Defendants’ labeling, packaging, and advertising of the Products as  
21 “natural” is false, misleading, and likely to deceive reasonable consumers because the  
22 Products actually contain numerous unnatural, synthetic, and/or artificial ingredients,  
23 including (and as more specifically described *infra*) phenoxyethanol, sodium benzoate,  
24 amodimethicone, sodium lauryl glucose carboxylate, polysorbate 20, lauryl glucoside,  
25 sorbic acid, malic acid, and propylene glycol. In addition, on information and belief,  
26 during the class period (defined *infra*), the Products also contained  
27 methylisothiazolinone, yet another unnatural, synthetic and/or artificial ingredient.  
28

1 Consequently, the Products are not natural.

2 4. Plaintiff Joseph Mattocks (“Plaintiff”) brings this action individually and  
3 on behalf of those similarly situated. Plaintiff seeks to represent a National Class and a  
4 California Subclass (defined *infra*). Plaintiff seeks damages, interest thereon, reasonable  
5 attorneys’ fees and costs, restitution, other equitable relief, and disgorgement of all  
6 benefits Defendants have enjoyed from their unlawful and/or deceptive business  
7 practices, as detailed herein. In addition, Plaintiff seeks injunctive relief to stop  
8 Defendants’ unlawful conduct in the labeling, packaging, advertising, and marketing of  
9 the Products. Plaintiff makes these allegations based on his personal knowledge as to  
10 himself and his own acts and observations and, otherwise, on information and belief  
11 based on investigation of his counsel.

12 **JURISDICTION AND VENUE**

13 5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §  
14 1332(d) because this is a class action in which: (1) there are over 100 members in the  
15 proposed class; (2) members of the proposed class have a different citizenship from  
16 Defendants; and (3) the claims of the proposed class members exceed \$5,000,000 in the  
17 aggregate.

18 6. This Court has personal jurisdiction because Defendants’ contacts with the  
19 forum are continuous and substantial, and Defendants intentionally availed themselves  
20 of the markets within California through their sales of the Products to California  
21 consumers.

22 7. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because  
23 Defendants engage in continuous and systematic business activities within the State of  
24 California. Moreover, a substantial part of the events and omissions giving rise to the  
25 claims alleged herein occurred in this District. *See* Declaration of Joseph Mattocks  
26 Regarding Venue Pursuant to Cal. Civ. Code § 1780(d), attached hereto as Exhibit A.

27 **PARTIES**

28 8. Plaintiff Joseph Mattocks is a resident of San Diego, California. Plaintiff

1 purchased a pop-up tub of Scott® Naturals Flushable Cleansing Cloths from an  
2 Albertsons grocery store in El Cajon, California on May 5, 2017, for approximately  
3 \$2.99, plus tax. Plaintiff purchased the Product for personal and family use. Plaintiff's  
4 claim is typical of all Class members in this regard. In addition, the advertising,  
5 packaging, and labeling of the Product purchased by Plaintiff is typical of and  
6 substantially similar to the advertising, packaging, and labeling of the Products  
7 purchased by members of the Class.

8 9. Defendant Kimberly-Clark Corporation is a Delaware corporation with its  
9 principal place of business at 401 North Lake Street, Neenah, Wisconsin 54956.

10 10. Defendant Kimberly-Clark Worldwide, Inc. and Defendant Kimberly-  
11 Clark Global Sales, LLC are Delaware corporations with principal offices at 351 Phelps  
12 Drive, Irving, Texas 75038. Upon information and belief, Kimberly-Clark Worldwide,  
13 Inc. and Kimberly-Clark Global Sales, LLC are wholly-owned subsidiaries of Defendant  
14 Kimberly-Clark Corporation.

15 11. Defendants and their agents promoted, marketed and sold the Products at  
16 issue in this jurisdiction and in this judicial district. The unfair, unlawful, deceptive, and  
17 misleading advertising and labeling of the Products was prepared and/or approved by  
18 Defendants and their agents, and was disseminated by Defendants and their agents  
19 through labeling and advertising containing the misrepresentations alleged herein.

20 **FACTUAL ALLEGATIONS**

21 **A. Contrary to Defendants' Representations that the Products Are**  
22 **Natural, the Products Contain Numerous Unnatural, Artificial, and**  
23 **Synthetic Ingredients**

24 12. Defendants manufacture, market, promote, advertise, and sell numerous  
25 products under various brand names, including the Scott® Naturals Products at issue.

26 13. Seeking to profit from consumers' desire for natural products, free of  
27 synthetic, artificial, and/or unnatural ingredients, Defendants falsely and deceptively  
28 represent the Products as being "natural" by prominently and uniformly displaying the

1 term “Naturals” on the Products’ labeling and packaging. In addition, Defendants  
2 reinforce the Products’ “natural” image through the Products’ labeling and packaging  
3 designs, which include nature images, such as green coloring and leaves.



## **Products' Ingredients**

14. Despite labeling and advertising the Products as being natural, the Products actually contain numerous unnatural, synthetic, and/or artificial ingredients, including phenoxyethanol, sodium benzoate, amodimethicone, sodium lauryl glucose carboxylate, polysorbate 20, lauryl glucoside, sorbic acid, malic acid, and propylene glycol. In addition, on information and belief, during the class period (defined *infra*), the Products also contained methylisothiazolinone, another unnatural, synthetic and/or artificial ingredient.

15. Phenoxyethanol, according to the Federal Trade Commission (“FTC”), is an unnatural, synthetic preservative, which can depress the central nervous system and may cause vomiting and diarrhea in infants.<sup>1</sup>

16. In addition, the FTC charged several companies with falsely claiming in advertisements that their products were all-natural or 100% natural when those products contained unnatural, synthetic ingredients, including phenoxyethanol.<sup>2</sup>

17. Furthermore, a May 2012 report from the French Agence Nationale de Securite du Medicament et des Produits de Sante cautioned consumers not to use wipes containing phenoxyethanol on children under the age of three because of health concerns related to “reproductive and developmental toxicity.”

18. The Material Safety Data Sheet (MSDS) on phenoxyethanol states that it

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<sup>1</sup> <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm049301.htm> (last visited May 25, 2017).

<sup>2</sup> <https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care> (last visited May 25, 2017); <https://www.ftc.gov/system/files/documents/cases/160412shikai-cmpt.pdf> (last visited May 25, 2017); <https://www.ftc.gov/system/files/documents/cases/160412rockymountaincmpt.pdf> (last visited May 25, 2017); <https://www.ftc.gov/system/files/documents/cases/160412edenbodyworkscmpt.pdf> (last visited May 25, 2017); <https://www.ftc.gov/system/files/documents/cases/160412beyondcoastalcmpt.pdf> (last visited May 25, 2017); <https://www.ftc.gov/system/files/documents/cases/160412californianaturelcmpt-exhibits.pdf> (last visited May 25, 2017); <https://www.ftc.gov/news-events/press-releases/2016/07/ftc-approves-four-final-orders-barring-companies-making-false-all/> (last visited May 25, 2017).

1 can cause skin and lung irritation, and that it may also be toxic to the kidneys, nervous  
2 system, and liver, and repeated, long-term exposure can cause organ damage. The  
3 MSDS further states that the toxic effects can occur through inhalation, skin exposure,  
4 and ingestion.

5 19. According to Hazard Notifications from the Globally Harmonized System  
6 of Classification and Labeling of Chemicals (GHS), phenoxyethanol presents a category  
7 2 danger for skin irritation, a category 4 danger for acute oral toxicity if swallowed, and  
8 a category 2A danger for causing serious eye damage or eye irritation.

9 20. Sodium benzoate is a synthetic chemical preservative. According to federal  
10 regulation 21 C.F.R. § 184.1733, sodium benzoate “is not found to occur naturally.”  
11 Indeed, the FDA stated that the use of the term “natural” in association with a product  
12 containing sodium benzoate is false and misleading.<sup>3</sup>

13 21. Amodimethicone is an abbreviation of “amine-functionalized silicone,”  
14 which is a family of silicones, synthetically modified to have specific properties. The  
15 most well-known silicone, dimethicone, is a synthetic ingredient used as a lubricant and  
16 conditioning agent. The FTC recently charged several companies with falsely claiming  
17 in advertisements that their products were all-natural or 100% natural when those  
18 products contained unnatural, synthetic chemical ingredients, such as dimethicone.<sup>4</sup>

19 \_\_\_\_\_  
20 <sup>3</sup> <http://fda-warning-letters.blogspot.com/2011/03/shemshad-food-products-inc-31111.html> (last  
21 visited May 25, 2017).

22 <sup>4</sup> [https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-](https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care)  
23 [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 May 25, 2017);  
24 <https://www.ftc.gov/system/files/documents/cases/160412shikai-cmpt.pdf> (last visited May 25, 2017);  
25 <https://www.ftc.gov/system/files/documents/cases/160412rockymountaincmpt.pdf> (last visited May  
26 25, 2017);  
27 <https://www.ftc.gov/system/files/documents/cases/160412edenbodyworkscmpt.pdf> (last visited May  
28 25, 2017);  
29 <https://www.ftc.gov/system/files/documents/cases/160412beyondcoastalcmpt.pdf> (last visited May 25,  
2017);  
30 <https://www.ftc.gov/system/files/documents/cases/160412californianaturelcmpt-exhibits.pdf> (last  
visited May 25, 2017);  
31 [https://www.ftc.gov/news-events/press-releases/2016/07/ftc-approves-four-final-orders-barring-](https://www.ftc.gov/news-events/press-releases/2016/07/ftc-approves-four-final-orders-barring-companies-making-false-all/)  
32 [companies-making-false-all/](https://www.ftc.gov/news-events/press-releases/2016/07/ftc-approves-four-final-orders-barring-companies-making-false-all/) (last visited May 25, 2017).

1           22.   Sodium lauryl glucose carboxylate is a synthetic surfactant or cleaning  
2 agent.

3           23.   Polysorbate 20 is a synthetic ingredient typically used as an emulsifier or a  
4 surfactant. Polysorbates are produced by reacting sorbitol with ethylene oxide. The  
5 reaction of these ingredients can result in the creation of 1,4-dioxane, which is  
6 potentially carcinogenic and has been linked to skin allergies and skin irritation.

7           24.   Lauryl glucoside is a synthetic surfactant or cleaning agent.

8           25.   Sorbic acid is a “chemical preservative,” as defined by federal regulations  
9 21 C.F.R. § 182.3089 and 21 C.F.R. § 582.3089.

10          26.   Malic acid is classified as a synthetic adjuvant or flavoring substance. *See*  
11 21 C.F.R. § 582.60.

12          27.   Propylene glycol “does not occur in nature.” 21 C.F.R. § 184.1666.  
13 Propylene glycol is manufactured by treating propylene with chlorinated water to form  
14 chlorohydrin, which is converted to glycol by treatment with a sodium carbonate  
15 solution. It is also prepared by heating glycerol with sodium hydroxide.

16          28.   Methylisothiazolinone is a synthetic preservative, biocide, EPA-registered  
17 pesticide, and is toxic. Methylisothiazolinone is used to control slime-forming bacteria,  
18 fungi, and algae. Methylisothiazolinone is an allergenic and was named Allergen of the  
19 Year for 2013 by the American Contact Dermatitis Society. Prolonged exposure to even  
20 low levels of Methylisothiazolinone and related compounds may have damaging  
21 consequences to the developing nervous system.

22          29.   Accordingly, because the Products contain numerous unnatural, synthetic,  
23 and/or artificial ingredients, including phenoxyethanol, methylisothiazolinone, sodium  
24 benzoate, amodimethicone, sodium lauryl glucose carboxylate, polysorbate 20, lauryl  
25 glucoside, sorbic acid, malic acid and propylene glycol, they are mislabeled, misleading,  
26 and misbranded under both federal and state law.

27          30.   7 U.S.C. § 6502(21) defines the term “synthetic” as “a substance that is  
28 formulated or manufactured by a chemical process or by a process that chemically



1 changes a substance extracted from naturally occurring plant, animal, or mineral sources,  
2 except that such term shall not apply to substances created by naturally occurring  
3 biological processes.”

4 31. In addition, the FTC has cautioned that “[m]arketers that are using terms  
5 such as natural must ensure that they can substantiate whatever claims they are  
6 conveying to reasonable consumers. If reasonable consumers could interpret a natural  
7 claim as representing that a product contains no artificial ingredients, then the marketer  
8 must be able to substantiate that fact.”<sup>5</sup>

9 32. Consumers have become increasingly concerned about the effects of  
10 unnatural, synthetic and/or artificial ingredients in products. Indeed, consumers are  
11 willing to pay, and have paid, a premium for products represented as “natural” over  
12 products containing unnatural, synthetic ingredients.<sup>6</sup>

13 33. Reasonable consumers, including Plaintiff, believe that products  
14 represented as “natural” do not contain synthetic, artificial, and/or unnatural ingredients.

15 34. Reasonable consumers lack the meaningful ability to test or independently  
16 ascertain or verify whether a product is natural, especially at the point of sale.  
17 Reasonable consumers would not know the true nature of the ingredients by merely  
18 reading the ingredients label on the Products.

19 35. Nor are reasonable consumers expected or required to scrutinize the  
20 ingredients list on the Products to confirm or debunk Defendants’ prominent and uniform  
21 representations that the Products are “natural.”

22 36. Nowhere do Defendants disclose on the labeling and packaging of the  
23 Products that the ingredients described herein are in fact synthetic, artificial, and/or  
24 unnatural. Therefore, Defendants materially misled and failed to adequately inform  
25

26 \_\_\_\_\_  
27 <sup>5</sup> Guides for the Use of Environmental Marketing Claims, 75 FR 63552-01, 63586 (Oct. 15, 2010).

28 <sup>6</sup> In 2010, for example, nationwide sales of natural products totaled \$117 billion.  
[http://www.npainfo.org/NPA/About\\_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociati  
on.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8](http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8) (last visited May 25, 2017).

1 consumers, including Plaintiff, that the Products contain unnatural, synthetic and/or  
2 artificial ingredients.

3 37. Based on Defendants' uniform material misrepresentations and omissions,  
4 consumers have purchased the Products to their detriment.

5 **B. Plaintiff Purchased the Misbranded Product**

6 38. Plaintiff relied on Defendants' material representations and omissions,  
7 described herein, in deciding to purchase the Product, including that the Product is  
8 "natural."

9 39. At the time Plaintiff purchased the Product, Plaintiff did not know, and had  
10 no reason to know, that the Product packaging, labeling, and advertising were  
11 misleading, deceptive, and unlawful as set forth herein. Plaintiff would not have  
12 purchased the Product, or would have purchased it on different terms, if he had known  
13 the truth.

14 40. It is possible, however, that Plaintiff would purchase the Products in the  
15 future if they were properly labeled, and/or the ingredients complied with the labeling  
16 and advertising statements, including that they only contained "natural" ingredients, and  
17 no longer contained phenoxyethanol, sodium benzoate, amodimethicone, sodium lauryl  
18 glucose carboxylate, polysorbate 20, lauryl glucoside, sorbic acid, malic acid, propylene  
19 glycol, and methylisothiazolinone.

20 41. In addition, Defendants' false, misleading, and deceptive  
21 misrepresentations and omissions are likely to continue to deceive and mislead  
22 reasonable consumers and the general public.

23 **CLASS DEFINITION AND CLASS ALLEGATIONS**

24 42. Plaintiff brings this action as a class action pursuant to Federal Rules of  
25 Civil Procedure 23(b)(2) and 23(b)(3) on behalf of himself, on behalf of all others  
26 similarly situated, and as a member of the Nationwide Class and California Subclass  
27 defined as follows (collectively, the "Class"):  
28

1 All citizens of the United States who, within the relevant statute  
2 of limitation periods, purchased Defendants' Products  
3 ("Nationwide Class");

4 All citizens of California who, within four years prior to the filing  
5 of this Complaint, purchased Defendants' Products within the  
6 territorial jurisdiction of California ("California Subclass").

7 43. Excluded from the Class are: (i) Defendants, their assigns, successors, and  
8 legal representatives; (ii) any entities in which Defendants have controlling interests;  
9 (iii) federal, state, and/or local governments, including, but not limited to, their  
10 departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or  
11 subdivisions; (iv) all persons presently in bankruptcy proceedings or who obtained a  
12 bankruptcy discharge in the last three years; and (v) any judicial officer presiding over  
13 this matter and person within the third degree of consanguinity to such judicial officer.

14 44. Plaintiff reserves the right to amend or otherwise alter the class definition  
15 presented to the Court at the appropriate time, or to propose or eliminate sub-classes, in  
16 response to facts learned through discovery, legal arguments advanced by Defendants,  
17 or otherwise.

18 45. This action is properly maintainable as a class action pursuant to Federal  
19 Rule of Civil Procedure 23 for the reasons set forth below.

20 46. **Numerosity**: Members of the Class are so numerous that joinder of all  
21 members is impracticable. Upon information and belief, the Class consists of hundreds  
22 of thousands of purchasers dispersed throughout the United States, and the Subclass  
23 likewise consists of thousands or tens of thousands of purchasers throughout the State of  
24 California. Accordingly, it would be impracticable to join all members of the Class  
25 before the Court.

26 47. **Common Questions Predominate**: There are numerous and substantial  
27 questions of law or fact common to all members of the Class that predominate over any  
28 individual issues. Included within the common questions of law or fact are:

- Whether Defendants made material representations and omissions in the

1 marketing and sale of the Products;

- 2 • Whether Defendants engaged in unlawful, unfair or deceptive business
- 3 practices by advertising and selling their Products;
- 4 • Whether Defendants violated California Bus. & Prof. Code § 17200, *et*
- 5 *seq.*; Cal. Bus. & Prof. Code § 17500, *et seq.*; and the Consumers Legal
- 6 Remedies Act, Cal. Civ. Code § 1750, *et seq.*;
- 7 • Whether Defendants committed a breach of express warranty;
- 8 • Whether Plaintiff and the Class are entitled to equitable and/or
- 9 injunctive relief;
- 10 • Whether Plaintiff and the Class members have sustained damage as a
- 11 result of Defendants' unlawful conduct;
- 12 • The proper measure of damages sustained by Plaintiff and Class
- 13 members; and
- 14 • Whether Defendants were unjustly enriched by their deceptive practices.

15 48. **Typicality**: Plaintiff's claims are typical of the claims of the members of  
16 the Class he seeks to represent because Plaintiff, like the Class members, purchased  
17 Defendants' misbranded Products. Defendants' unlawful, unfair and/or fraudulent  
18 actions concern the same business practices described herein irrespective of where they  
19 occurred or were experienced. Plaintiff and the Class sustained similar injuries arising  
20 out of Defendants' conduct. Plaintiff's and Class members' claims arise from the same  
21 practices and course of conduct and are based on the same legal theories.

22 49. **Adequacy**: Plaintiff is an adequate representative of the Class he seeks to  
23 represent because his interests do not conflict with the interests of the members of the  
24 Class Plaintiff seeks to represent. Plaintiff will fairly and adequately protect the interests  
25 of members of the Class and has retained counsel experienced and competent in the  
26 prosecution of complex class actions including complex questions that arise in consumer  
27 protection litigation.

28 50. **Superiority and Substantial Benefit**: A class action is superior to other

1 methods for the fair and efficient adjudication of this controversy, since individual  
2 joinder of all members of the Class is impracticable and no other group method of  
3 adjudication of all claims asserted herein is more efficient and manageable for at least  
4 the following reasons:

- 5 a. The claims presented in this case predominate over any questions of  
6 law or fact, if any exists at all, affecting any individual member of  
7 the Class;
- 8 b. Absent a Class, the members of the Class will continue to suffer  
9 damage and Defendants' unlawful conduct will continue without  
10 remedy while Defendants profit from and enjoy their ill-gotten gains;
- 11 c. Given the size of individual Class members' claims, few, if any,  
12 members could afford to or would seek legal redress individually for  
13 the wrongs Defendants committed against them, and absent members  
14 have no substantial interest in individually controlling the  
15 prosecution of individual actions;
- 16 d. When the liability of Defendants have been adjudicated, claims of all  
17 members of the Class can be administered efficiently and/or  
18 determined uniformly by the Court; and
- 19 e. This action presents no difficulty that would impede its management  
20 by the Court as a class action, which is the best available means by  
21 which Plaintiff and members of the Class can seek redress for the  
22 harm caused to them by Defendants.

23 51. Because Plaintiff seeks relief for all members of the Class, the prosecution  
24 of separate actions by individual members would create a risk of inconsistent or varying  
25 adjudications with respect to individual members of the Class, which would establish  
26 incompatible standards of conduct for Defendants.

27 52. The prerequisites to maintaining a class action for injunctive or equitable  
28 relief pursuant to Fed. R. Civ. P. 23(b)(2) are met as Defendants have acted or refused

1 to act on grounds generally applicable to the Class, thereby making appropriate final  
2 injunctive or equitable relief with respect to the Class as a whole.

3 53. The prerequisites to maintaining a class action pursuant to Fed. R. Civ. P.  
4 23(b)(3) are also met as questions of law or fact common to Class members predominate  
5 over any questions affecting only individual members, and a class action is superior to  
6 other available methods for fairly and efficiently adjudicating the controversy.

7 54. Plaintiff and Plaintiff's counsel are unaware of any difficulties that are  
8 likely to be encountered in the management of this action that would preclude its  
9 maintenance as a class action.

### 10 CAUSES OF ACTION

#### 11 **FIRST CAUSE OF ACTION**

#### 12 **Unfair and Unlawful Business Acts and Practices** 13 **(Business and Professions Code § 17200, *et seq.*)** 14 ***(for the California Subclass)***

15 55. Plaintiff re-alleges and incorporates by reference the allegations contained  
16 in the preceding paragraphs of this complaint, as though fully set forth herein.

17 56. Defendants' conduct constitutes an unfair business act and practice  
18 pursuant to California Business & Professions Code §§ 17200, *et seq.* (the "UCL"). The  
19 UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful,  
20 unfair or fraudulent business practices and unfair, deceptive, untrue or misleading  
21 advertising . . . ."

22 57. Plaintiff brings this claim seeking equitable and injunctive relief to stop  
23 Defendants' misconduct, as complained of herein, and to seek restitution of the amounts  
24 Defendants acquired through the unfair, unlawful, and fraudulent business practices  
25 described herein.

26 58. Defendants' knowing conduct, as alleged herein, constitutes an "unfair"  
27 and/or "fraudulent" business practice, as set forth in California Business & Professions  
28 Code §§ 17200-17208.

59. Defendants' conduct was and continues to be unfair and fraudulent because,

1 directly or through their agents and employees, Defendants made uniform materially  
2 false representations and omissions that the Products were “natural,” when in fact they  
3 were not.

4 60. Defendants are aware that the representations and omissions they have  
5 made about the Products were and continue to be false and misleading.

6 61. Defendants had an improper motive—to derive financial gain at the  
7 expense of accuracy or truthfulness—in their practices related to the labeling and  
8 advertising of the Products.

9 62. There were reasonable alternatives available to Defendants to further  
10 Defendants’ legitimate business interests, other than the conduct described herein.

11 63. Defendants’ misrepresentations of material facts, as set forth herein, also  
12 constitute an “unlawful” practice because they violate California Civil Code §§ 1572,  
13 1573, 1709, 1710, 1711, and 1770, as well as the common law.

14 64. Defendants’ conduct in making the representations described herein  
15 constitutes a knowing failure to adopt policies in accordance with and/or adherence to  
16 applicable laws, as set forth herein, all of which are binding upon and burdensome to  
17 their competitors. This conduct engenders an unfair competitive advantage for  
18 Defendants, thereby constituting an unfair business practice under California Business  
19 & Professions Code §§ 17200-17208.

20 65. In addition, Defendants’ conduct was, and continues to be, unfair, in that  
21 the injury to countless purchasers of the Products is substantial, and is not outweighed  
22 by any countervailing benefits to consumers or to competitors.

23 66. Moreover, Plaintiff and members of the California Subclass could not have  
24 reasonably avoided such injury. Defendants’ uniform, material representations and  
25 omissions regarding the Products were likely to deceive, and Defendants knew or should  
26 have known that their representations and omissions were untrue and misleading.  
27 Plaintiff purchased the Products in reliance on the representations made by Defendants,  
28 as alleged herein.





1 reasonable consumers like Plaintiff to purchase the Products. Defendants' uniform,  
2 material representations and omissions regarding the Products were likely to deceive,  
3 and Defendants knew or should have known that their uniform representations and  
4 omissions were untrue and misleading. Plaintiff purchased the Product in reliance on  
5 the representations made by Defendants, as alleged herein.

6 74. Plaintiff and members of the California Subclass have been directly and  
7 proximately injured by Defendants' conduct in ways including, but not limited to, the  
8 monies paid to Defendants for the Products that lacked the characteristics advertised,  
9 interest lost on those monies, and consumers' unwitting support of a business enterprise  
10 that promotes deception and undue greed to the detriment of consumers, such as Plaintiff  
11 and Subclass members.

12 75. The above acts of Defendants, in disseminating material misleading and  
13 deceptive representations and statements throughout California to consumers, including  
14 Plaintiff and members of the California Subclass, were and are likely to deceive  
15 reasonable consumers in violation of § 17500.

16 76. In making and disseminating the statements alleged herein, Defendants  
17 knew or should have known that the statements were untrue or misleading, and acted in  
18 violation of § 17500.

19 77. Defendants continue to engage in unlawful, unfair and deceptive practices  
20 in violation of §17500.

21 78. As a direct and proximate result of Defendants' unlawful conduct in  
22 violation of § 17500, Plaintiff and members of the California Subclass, pursuant to §  
23 17535, are entitled to an Order of this Court enjoining such future wrongful conduct on  
24 the part of Defendants, and requiring Defendants to disclose the true nature of their  
25 misrepresentations.

26 79. Plaintiff and members of the California Subclass also request an Order  
27 requiring Defendants to disgorge their ill-gotten gains and/or award full restitution of all  
28 monies wrongfully acquired by Defendants by means of such acts of false advertising,

1 plus interests and attorneys' fees.

2 **THIRD CAUSE OF ACTION**  
3 **Consumer Legal Remedies Act**  
4 **(Cal. Civ. Code § 1750, *et seq.*)**  
5 **(*for the California Subclass*)**

6 80. Plaintiff re-alleges and incorporates by reference the allegations contained  
7 in the preceding paragraphs of this complaint, as though fully set forth herein.

8 81. Plaintiff brings this action pursuant to California's Consumer Legal  
9 Remedies Act ("CLRA"), Cal. Civ. Code § 1750, *et seq.*

10 82. The CLRA provides that "unfair methods of competition and unfair or  
11 deceptive acts or practices undertaken by any person in a transaction intended to result  
12 or which results in the sale or lease of goods or services to any consumer are unlawful."

13 83. The Products are "goods," as defined by the CLRA in California Civil Code  
14 §1761(a).

15 84. Defendants are "person[s]" as defined by the CLRA in California Civil  
16 Code §1761(c).

17 85. Plaintiff and members of the California Subclass are "consumers," as  
18 defined by the CLRA in California Civil Code §1761(d).

19 86. Purchase of the Products by Plaintiff and members of the California  
20 Subclass are "transactions," as defined by the CLRA in California Civil Code §1761(e).

21 87. Defendants violated Section 1770(a)(5) by representing that the Products  
22 have "characteristics, . . . uses [or] benefits . . . which [they] do not have" in that the  
23 Products are falsely labeled and advertised as being, among other things, "natural."  
24 Defendants knew that consumers will often pay more for products with these attributes  
25 and have unfairly profited from their false and misleading claims.

26 88. Similarly, Defendants violated section 1770(a)(7) by representing that the  
27 Products "are of a particular standard, quality, or grade . . . if they are of another" by  
28 falsely and deceptively labeling and advertising the Products as, among other things,  
"natural."

1 89. In addition, Defendants violated section 1770(a)(9) by advertising the  
2 Products “with intent not to sell them as advertised” in that the Products are falsely  
3 labeled and advertised as, among other things, “natural.”

4 90. Defendants’ uniform, material, representations and omissions regarding the  
5 Products were likely to deceive, and Defendants knew or should have known that their  
6 representations and omissions were untrue and misleading.

7 91. Plaintiff and members of the California Subclass could not have reasonably  
8 avoided such injury. Plaintiff and members of the California Subclass were unaware of  
9 the existence of facts that Defendants suppressed and failed to disclose; and, Plaintiff  
10 and members of the California Subclass would not have purchased the Products and/or  
11 would have purchased them on different terms had they known the truth.

12 92. Plaintiff and members of the California Subclass have been directly and  
13 proximately injured by Defendants’ conduct. Such injury includes, but is not limited to,  
14 the purchase price of the Products and/or the price of the Products at the prices at which  
15 they were offered.

16 93. Given that Defendants’ conduct violated § 1770(a)(5), Plaintiff and  
17 members of the California Subclass are entitled to seek and do seek injunctive relief to  
18 put an end to Defendants’ violations of the CLRA.

19 94. Moreover, Defendants’ conduct is malicious, fraudulent, and wanton in that  
20 Defendants intentionally misled and withheld material information from consumers to  
21 increase the sale of the Products.

22 95. Pursuant to California Civil Code § 1782(a), Plaintiff on his own behalf,  
23 and on behalf of members of the California Subclass, notified Defendants of the alleged  
24 violations of the Consumer Legal Remedies Act. Despite giving Defendants 30 days  
25 from the date of Defendants’ receipt of the notification letter to provide appropriate relief  
26 for violations of the CLRA, Defendants have failed to provide any such relief. As such,  
27 Plaintiff also seeks compensatory, monetary, and punitive damages, in addition to  
28 equitable and injunctive relief, and requests that this Court enter such Orders or

1 judgments as may be necessary to restore to any person in interest any money that may  
2 have been acquired by means of such unfair business practices, and for such other relief  
3 as is provided in California Civil Code § 1780 and in the Prayer for Relief.

4 96. Plaintiff further requests that the Court enjoin Defendants from continuing  
5 to employ the unlawful methods, acts, and practices alleged herein pursuant to §  
6 1780(a)(2).

7 **FOURTH CAUSE OF ACTION**  
8 **Breach of Express Warranty**  
9 ***(for the Nationwide Class and California Subclass)***

10 97. Plaintiff re-alleges and incorporates by reference the allegations contained  
11 in the preceding paragraphs of this Complaint, as though fully set forth herein.

12 98. By advertising and selling the Products at issue, Defendants made promises  
13 and affirmations of fact on the Products' packaging, and through their marketing and  
14 advertising, as described above. This labeling and advertising constitute express  
15 warranties and became part of the basis of the bargain between Plaintiff and members of  
16 the Class, and Defendants.

17 99. Defendants purport, through their advertising, to create express warranties  
18 that the Products are, among other things, "natural."

19 100. Despite Defendants' express warranties about the nature of the Products,  
20 the ingredients in the Products are not natural, and the Products are, therefore, not what  
21 Defendants represented them to be.

22 101. Accordingly, Defendants breached express warranties about the Products  
23 and their qualities because the Products do not conform to Defendants' affirmations and  
24 promises.

25 102. As a direct and proximate result of Defendants' breach of express warranty,  
26 Plaintiff and members of the Class were harmed, for example, in the amount of the  
27 purchase price they paid for the Products. Further, Plaintiff and members of the Class  
28 have suffered and continue to suffer economic losses and other general and specific

1 damages including, but not limited to, the amounts paid for the Products, and any interest  
2 that would have accrued on those monies, in an amount to be proven at trial.

3 **FIFTH CAUSE OF ACTION**  
4 **Quasi-Contract**  
5 **(for the Nationwide Class and California Subclass)**

6 103. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs  
7 as if fully set forth herein.

8 104. By purchasing the Products, Plaintiff and members of the Class conferred  
9 a benefit on Defendants in the form of the purchase price of the Products.

10 105. Defendants had knowledge of such benefits.

11 106. Defendants appreciated the benefit because, were consumers not to  
12 purchase the Products, Defendants would not generate revenue from the sales of the  
13 Products.

14 107. Defendants' acceptance and retention of the benefit is inequitable and  
15 unjust because the benefit was obtained by Defendants' fraudulent and misleading  
16 representations and omissions.

17 108. Equity cannot in good conscience permit Defendants to be economically  
18 enriched for such actions at the expense of Plaintiff and members of the Class, and  
19 therefore restitution and/or disgorgement of such economic enrichment is required.

20 **PRAYER**

21 WHEREFORE, Plaintiff, individually and on behalf of all others similarly  
22 situated, prays for judgment against Defendants as follows:

23 A. For an order certifying the Nationwide Class and the California Subclass  
24 under Rule 23 of the Federal Rules of Civil Procedure; naming Plaintiff as  
25 representative of the Class and Subclass; and naming Plaintiff's attorneys as  
26 Class Counsel to represent the Class and Subclass;

27 B. For an order declaring that Defendants' conduct violates the statutes and laws  
28 referenced herein;

- 1 C. For an order awarding, as appropriate, compensatory and monetary damages,  
2 restitution or disgorgement to Plaintiff and the Class for all causes of action;  
3 D. For an order requiring Defendants to immediately cease and desist from  
4 selling their misbranded Products in violation of law; enjoining Defendants  
5 from continuing to label, market, advertise, distribute, and sell the Products in  
6 the unlawful manner described herein; and ordering Defendants to engage in  
7 corrective action;  
8 E. For an order awarding attorneys' fees and costs;  
9 F. For an order awarding punitive damages;  
10 G. For an order awarding pre-and post-judgment interest; and  
11 H. For such other and further relief as the Court deems just and proper.

12  
13 DATED: July 10, 2017

Respectfully submitted,

**KAMBERLAW, LLP**

14  
15 By: /s/ Christopher D. Moon

16 Christopher D. Moon (SBN 246622)  
17 cmoon@kamberlaw.com  
18 Naomi Spector (SBN 222573)  
19 nspector@kamberlaw.com

**THE FRASER LAW FIRM, P.C.**  
20 Michael T. Fraser (SBN 275185)  
21 mfraser@thefraserlawfirm.net

*Attorneys for Plaintiff and the putative Class*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS MATTOCKS, JOSEPH, individually, on behalf of himself and others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number) KAMBERLAW LLP, 9404 Genesee Ave., Suite 340, La Jolla, CA 92037 Tel. 310-400-1051; THE FRASER LAW FIRM, PC, 4120 Douglas Blvd., #306-262, Granite Bay, CA 95746, Tel. 888-557-5115

DEFENDANTS KIMBERLY-CLARK CORPORATION; KIMBERLY-CLARK WORLDWIDE, INC.; and KIMBERLY-CLARK GLOBAL SALES, LLC

County of Residence of First Listed Defendant Delaware (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'17CV1397 MMAAGS

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

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

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

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location. Includes categories like Citizen of This State, Citizen of Another State, and Foreign Nation.

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

Large table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES. Contains numerous checkboxes for specific legal categories.

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

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

28 U.S.C. Sec. 1332

Brief description of cause:

Consumer Class Action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ Exceeds \$5M in aggregate CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

July 10, 2017 /s/ Christopher D. Moon

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.



**EXHIBIT A**  
Declaration of Joseph Mattocks

1 Christopher D. Moon (SBN 246622)  
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11 Phone: 888.557.5115  
12 Fax: 866.212.8434

10 Counsel for Plaintiff Joseph Mattocks  
11 and the putative Classes

12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 JOSEPH MATTOCKS, individually,  
16 on behalf of himself and others  
17 similarly situated,

17 Plaintiff,

18 vs.

19 KIMBERLY-CLARK  
20 CORPORATION; KIMBERLY-  
21 CLARK WORLDWIDE, INC.; and  
22 KIMBERLY-CLARK GLOBAL  
23 SALES, LLC,

22 Defendants.

**Case No.: '17CV1397 MMAAGS**

**DECLARATION OF PLAINTIFF  
JOSEPH MATTOCKS  
REGARDING VENUE PURSUANT  
TO CAL. CIV. CODE § 1780(d)**

24 I, Joseph Mattocks, hereby declare:

25 1. I am a named-plaintiff and a prospective class member in the above-  
26 entitled action.

27 2. I am an adult, over 18 years old. I have personal knowledge of the facts  
28 stated herein and could competently testify thereto if called upon to do so.

1 3. I am currently a resident of San Diego, California. The Complaint filed in  
 2 this matter contains causes of action for violations of: (1) Unfair Competition  
 3 Law, Cal. Business & Professions Code §§ 17200 *et seq.* (the “UCL”); (2) False  
 4 Advertising Law, Cal. Business & Professions Code §§ 17500 *et seq.* (the  
 5 “FAL”); (3) California’s Consumer Legal Remedies Act, Cal. Civil Code §§ 1750  
 6 *et seq.* (the “CLRA”); (4) Breach of Express Warranty; and (5) Quasi-Contract.  
 7 These causes of action arise out of Defendants Kimberly-Clark Corporation’s,  
 8 Kimberly-Clark Worldwide, Inc.’s, and Kimberly-Clark Global Sales, LLC’s  
 9 deceptive, unfair, and false merchandising practices with respect to their Scott®  
 10 Naturals Flushable Cleansing Cloths; Scott® Naturals Flushable Wipes; and  
 11 Scott® Naturals with Aloe Vera Flushable Wipes (collectively, the “Products” or  
 12 in the singular, “Product”).

13 4. I purchased a Product at issue in San Diego County, California.

14 5. Civil Code § 1780(d) provides that a plaintiff seeking to bring a claim  
 15 under Section 1780(a) of the California Consumer Legal Remedies Act, such as  
 16 in the above-entitled action, may commence that action “in the county in which  
 17 the person against whom it is brought resides, has his or her principal place of  
 18 business, or is doing business, or in the county where the transaction or any  
 19 substantial portion thereof occurred.”

20 6. Accordingly, the Complaint filed in the above-entitled action, is filed in the  
 21 proper venue pursuant to Civil Code § 1780(d).

22 I declare under the penalty of perjury under laws of the State of California  
 23 that the foregoing is true and correct to the best of my knowledge.

24 Executed on, 6 28, 2017, in San diego, California.

25  
 26   
 27 Joseph Mattocks, Plaintiff  
 28

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Another Complaint Aims at Kimberly-Clark's 'Naturals' Flushable Wipes](#)

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