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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAY 15 2023


BY: Michelle Gomez-Casillas, Deputy

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ELSA MERIDA, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

COMBE INCORPORATED,

Defendant.

Case No. **CIV SB 2310999**

CLASS ACTION COMPLAINT

1. VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT, CIVIL CODE § 1750, *et. Seq.*
2. VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, BUSINESS AND PROFESSIONS CODE § 17500, *et. Seq.*
3. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, BUSINESS AND PROFESSIONS CODE § 17200, *et. Seq.*
4. BREACH OF EXPRESS WARRANTY
5. UNJUST ENRICHMENT

DEMAND FOR JURY TRIAL

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1 Plaintiff Elsa Merida (“Plaintiff”), individually, and on behalf of all others similarly situated
2 purchasers, as more fully described herein (the “Class”), brings this class action complaint against
3 Combe Incorporated (“Defendant”) and alleges as follows:

4 **I. SUMMARY OF THE ACTION**

5 1. For over 50 years, Defendant’s Vagisil brand has been one of the most iconic brands
6 in the feminine hygiene marketplace, offering women an array of scented, feminine washes which
7 it claims will help women ensure their intimate areas are properly “cleansed.” As a result,
8 generations of women have used Vagisil products to cleanse their intimate areas and eliminate
9 purportedly undesirable vaginal odors, believing that Vagisil products are carefully crafted for use
10 on their most sensitive, intimate skin. Unbeknownst to Vagisil’s consumers, this is not the case.

11 2. Defendant falsely labels and advertises its Vagisil intimate feminine washes, namely,
12 the Scentsitive Scents® Daily Intimate Wash in various scents, pH Balance Daily Intimate Wash,
13 Odor Block Daily Intimate Wash, and Healthy Detox All Over Wash, (collectively, the “Products”)
14 as “Hypoallergenic,” “pH balanced,” “Skin-Friendly,” and/or “Gentle,” (the “Challenged
15 Representations”), even though the Products contain known allergens and irritating ingredients that
16 are not suitable for use on the sensitive, intimate female skin. The irritants and allergens include
17 cocamidopropyl betaine, sodium laureth sulfate (SLS), disodium EDTA, salicylic acid, and
18 fragrance.

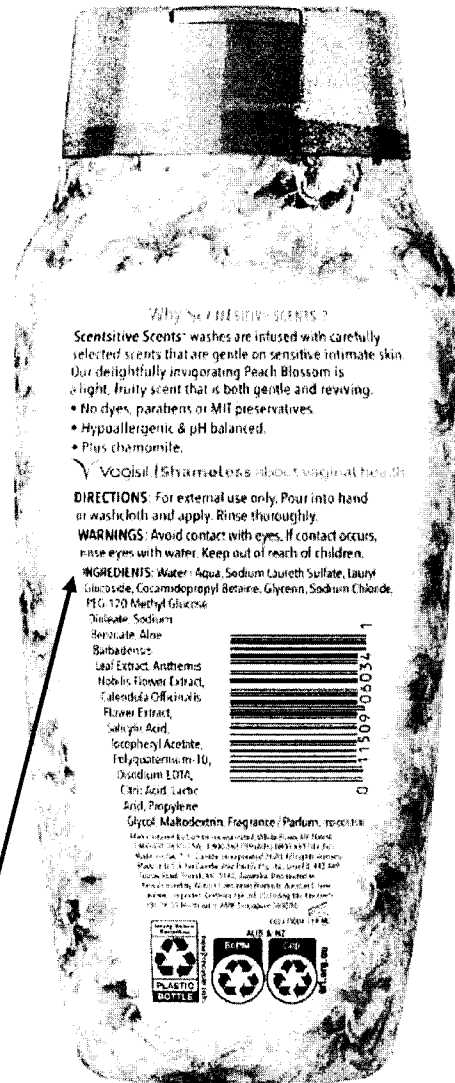
19 3. Defendant’s Challenged Representations deceive reasonable consumers into
20 believing the Products are gently formulated for sensitive skin, and in particular, for the intimate
21 skin of the external female genitalia. In reality, the Products contain harsh ingredients proven to
22 cause skin irritation and allergic skin reactions. These chemicals interfere with the natural process
23 of the female body, increasing consumers’ risk of negative skin reactions, pain, irritation, bacterial
24 vaginosis, and yeast infections. Below are fair and accurate depictions of the Products’ front
25 labeling, with the Challenged Representations circled in red, and their ingredient list.

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The Products' labels.

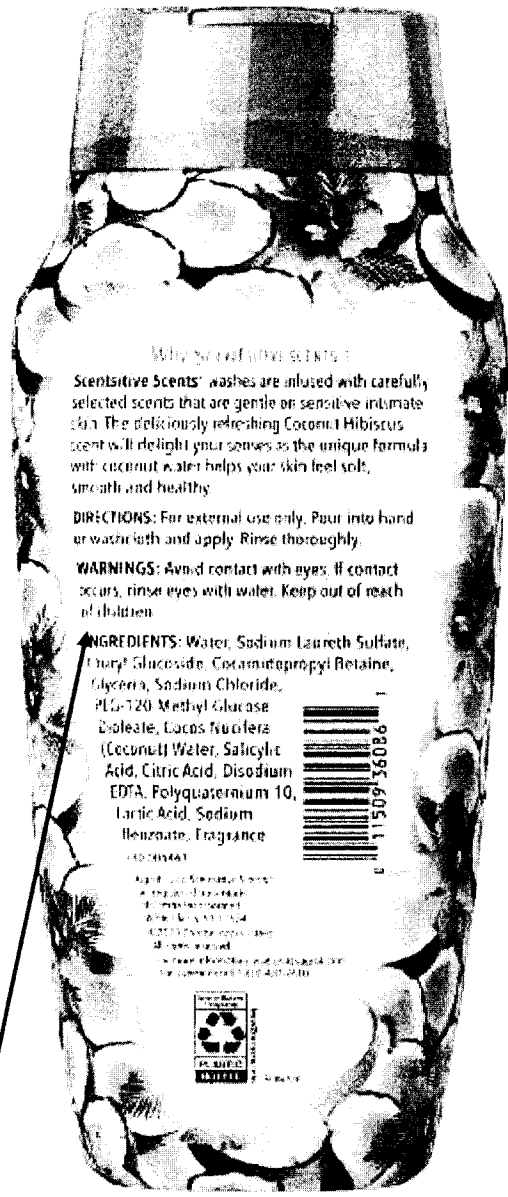
Scentsitive Scents® Daily Intimate Wash



Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Diolate, Sodium Benzoate, Aloe Barbadensis Leaf Extract, Anthemis Nobilis Flower Extract, Calendula Officinalis Flower Extract, Salicylic Acid, Tocopheryl Acetate, Polyquaternium-10, Disodium EDTA, Citric Acid, Lactic Acid, Propylene Glycol, Maltodextrin, Fragrance

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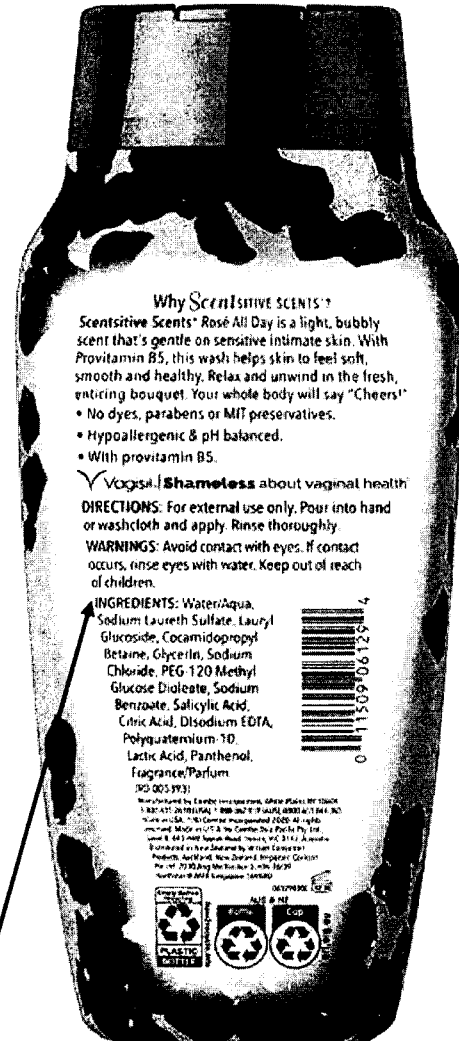
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Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Dioleate, Cocos Nucifera (Coconut) Water, Salicylic Acid, Citric Acid, Disodium EDTA, Polyquaternium-10, Lactic Acid, Sodium Benzoate, Fragrance

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Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Dioleate, Sodium Benzoate, Salicylic Acid, Citric Acid, Disodium EDTA, Polyquaternium-10, Lactic Acid, Panthenol, Fragrance.

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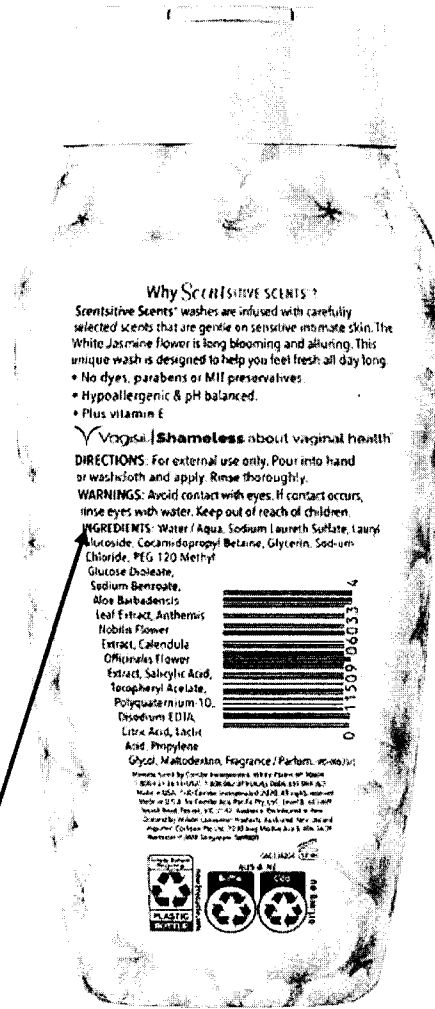


INGREDIENTS: Water/Aqua, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG 120 Methyl Glucose Diolate, Sodium Benzoate, Bambusa Vulgaris Leaf / Stem Extract, Salicylic Acid, Aloe Barbadosis Leaf Extract, Tocopheryl Acetate, Polyquaternium-10, Disodium EDTA, Citric Acid, Lactic Acid, Butylene Glycol, Maltodextrin, Fragrance/Parfum. (FD-005332)

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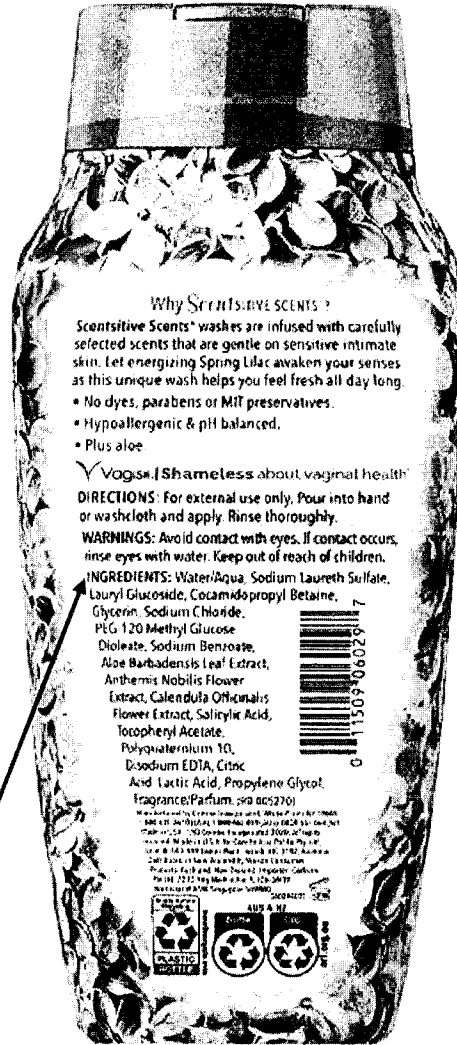
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Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Diolate, Sodium Benzoate, Aloe Barbadensis Leaf Extract, Anihemis Nobilis Flower Extract, Calendula Officinalis Flower Extract, Salicylic Acid, Tocopheryl Acetate, Polyquaternium-10, Disodium EDTA, Citric Acid, Lactic Acid, Propylene Glycol, Maltodextrin, Fragrance

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Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Diolate, Sodium Benzoate, Aloe Barbadensis Leaf Extract, Anthemis Nobilis Flower Extract, Calendula Officinalis Flower Extract, Salicylic Acid, Tocopheryl Acetate, Polyquaternium-10, Disodium EDTA, Citric Acid, Lactic Acid, Propylene Glycol, Maltodextrin, Fragrance

Odor Block Daily Intimate Wash:

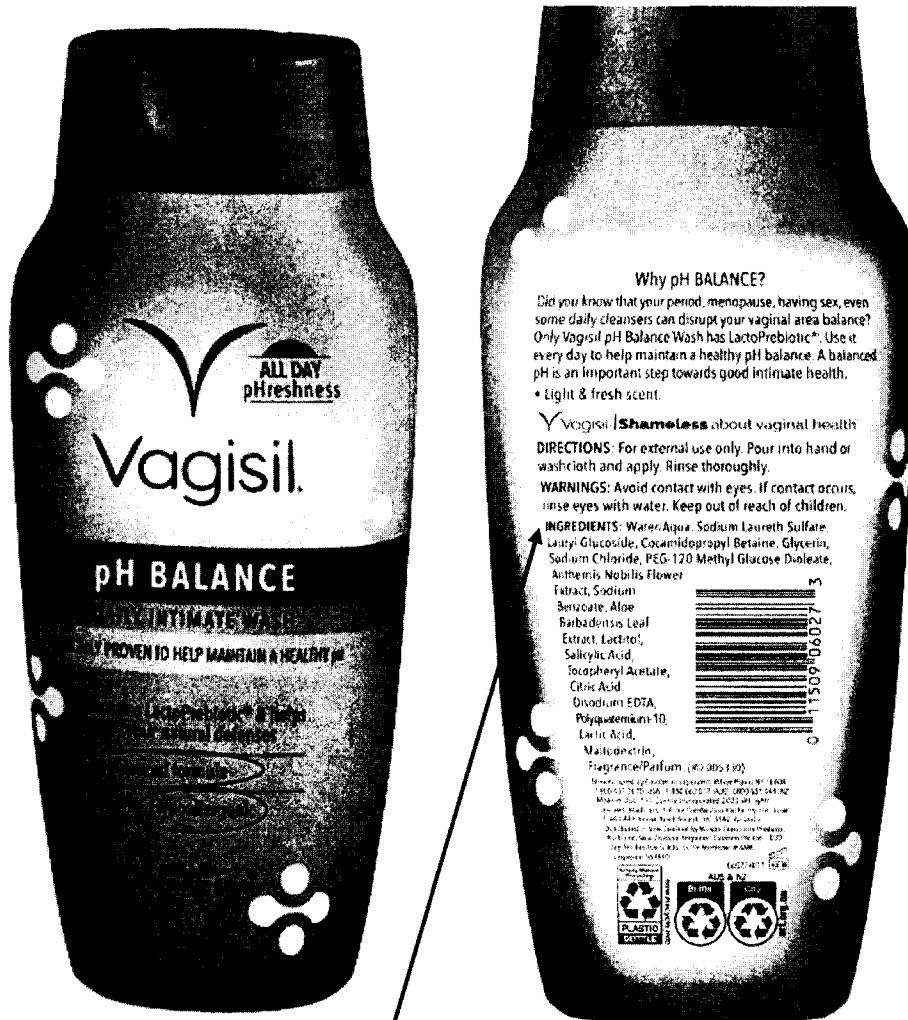


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Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Dioleate, Sodium Benzoate, Calendula Officinalis Flower Extract, Tocopheryl Acetate, Salicylic Acid, Anthemis Nobilis Flower Extract, Citric Acid, Aloe Barbadensis Leaf Extract, Disodium EDTA, Polyquaternium-10, Lactic Acid, Maltodextrin, Propylene Glycol, Fragrance

pH Balance Daily Intimate Wash:

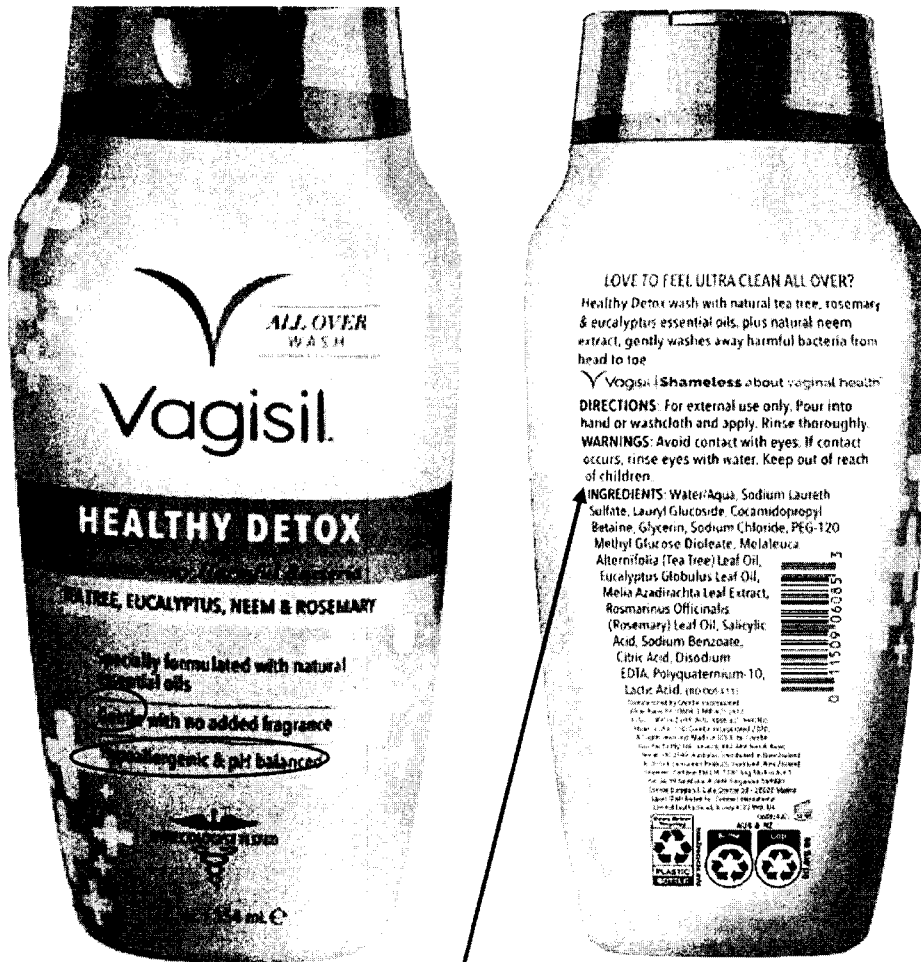


Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Dioleate, Anthemis Nobilis Flower Extract, Sodium Benzoate, Aloe Barbadensis Leaf Extract, Lactitol, Salicylic Acid, Tocopheryl Acetate, Citric Acid, Disodium EDTA, Polyquaternium-10, Lactic Acid, Maltodextrin, Fragrance/Parfum (403 0051 80)

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Healthy Detox All Over Wash:



Water, Sodium Laureth Sulfate, Lauryl Glucoside, Cocamidopropyl Betaine, Glycerin, Sodium Chloride, PEG-120 Methyl Glucose Dioleate, Melaleuca Alternifolia (Tea Tree) Leaf Oil, Eucalyptus Globulus Leaf Oil, Melia Azadirachta Leaf Extract, Rosmarinus Officinalis (Rosemary) Leaf Oil, Salicylic Acid, Sodium Benzoate, Citric Acid, Disodium EDTA, Polyquaternium-10, Lactic Acid.

4. Based on the Challenged Representations on the front labels of the Products, Plaintiff and other reasonable consumers believe the Products are gently formulated for sensitive skin, including female intimate areas. Defendant misleads consumers into believing the Products do not contain ingredients that knowingly cause irritation, allergic reactions, or burning of the skin and/or that the Products will be more gentle than other non-sensitive feminine wash formulas on the market—none of which is true.

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1 5. Defendant’s false and deceptive claims are uniformly advertised through its front
2 labels, packaging, website, and other media, in violation of California advertising laws.

3 6. Through its false, misleading, and deceptive advertising, Defendant has duped
4 thousands or more consumers into buying the Products at retail stores across California based on its
5 material claims that the Products contain ingredients that are gently formulated for sensitive skin
6 including female intimate areas.

7 7. Plaintiff and members of the Plaintiff’s Class purchased the Products in reliance on
8 Defendant’s material misrepresentations. They would not have purchased the Products had they
9 known the claims as described herein were false, deceptive, and misleading.

10 8. Plaintiff seeks injunctive relief and restitution against Defendant for false and
11 misleading advertising in violation of Civil Code Section 1750 *et seq.*, Business and Professions
12 Code Section 17500 *et seq.*; Business and Profession Code Section 17200, *et seq.*, and in breach of
13 Defendant’s express warranty; and resulting in Defendant’s unjust enrichment. Defendant has made
14 and continues to make these false and misleading statements in its labeling and advertising of the
15 Products. Compliance with remedial statutes like those underlying this lawsuit will benefit Plaintiff,
16 the putative class, consumers, and the general public.

17 **II. JURISDICTION AND VENUE**

18 9. This Court has jurisdiction over all causes of action asserted herein pursuant to the
19 California Constitution, Article VI, Section 10, because this case is a cause not given by statute to
20 other trial courts.

21 10. Plaintiff has standing to bring this action pursuant to Civil Code Section 1750, *et*
22 *seq.*; Business and Professions Code Section 17500, *et seq.*; and Business and Professions Code
23 Section 17200, *et seq.*

24 11. The Products are manufactured, labeled, advertised, distributed, and sold by
25 Defendant.

26 12. Out-of-state participants can be brought before this Court pursuant to the provision of
27 California Code of Civil Procedure Section 395.5.

28 13. Defendant is subject to personal jurisdiction in California based upon sufficient

1 minimum contacts which exist between Defendant and California. Defendant is authorized to do
2 and is currently doing business in California.

3 14. Venue is proper in this Court because Plaintiff purchased the Scentsitive Scents®
4 Peach Blossom Daily Intimate Wash Product in San Bernadino County; Defendant Combe receives
5 substantial compensation from sales in San Bernadino County; and Defendant made numerous
6 misrepresentations which had a substantial effect in San Bernadino County, including, but not
7 limited to, label, point of purchase displays, print media, and internet advertisements.

8 **III. PARTIES**

9 15. **Plaintiff.** Plaintiff Elsa Merida is, and at all times relevant hereto was, a citizen of
10 California residing in San Bernadino County. Plaintiff purchased the Scentsitive Scents® Peach
11 Blossom Daily Intimate Wash from a Target store in San Bernardino, California in or around August
12 2022 and used the Product as directed. Plaintiff experienced irritation using the Product as directed.
13 The Scentsitive Scents® Daily Intimate Wash that Plaintiff purchased is also available for sale in at
14 least five other scents, including Coconut Hibiscus, Rosé All Day, Cucumber Magnolia, White
15 Jasmine, and Spring Lilac. In making her purchasing decision, Plaintiff relied upon the labeling and
16 advertising of the Product, which she reasonably believed was suitable for use on intimate, sensitive
17 skin and thus did not contain harsh chemicals known to cause allergic reactions and/or irritation.
18 These labels were prepared and approved by Defendant and its agents and disseminated statewide
19 as well as designed to encourage consumers like Plaintiff to purchase the Product. Plaintiff paid
20 approximately \$5.79 for the Product and would not have purchased the Product, or would have paid
21 substantially less for the Product, if she had known it contains harmful chemicals that are known
22 allergens and irritants. Plaintiff spent money to purchase a product that was different than what she
23 expected, and she did not receive the benefit of her bargain. Plaintiff desires to purchase the Product
24 again in the future but does not have the specialized knowledge to know whether the Product's
25 labeling is truthful and compliant with California and federal consumer protection laws.

26 16. **Defendant.** Defendant Combe Incorporated is headquartered in New York.
27 Combe Incorporated maintains its principal business office at 1101 Westchester Avenue, White
28 Plains, New York 10604. Combe Incorporated, directly and through its agents, has substantial

1 contacts with and receives substantial benefits and income from and through the State of California.
 2 Combe Incorporated is one of the owners, manufacturers, and/or distributors of the Products, and is
 3 a company that created and/or authorized the false, misleading, and deceptive labeling and
 4 packaging for the Products.

5 17. Defendant and its agents prepared, approved, and disseminated the Products'
 6 labeling and advertising statewide. Defendant designed the Products' labels to entice consumers
 7 who seek to purchase products, specifically intimate feminine wash products, that are gentle enough
 8 for use on intimate skin. If Plaintiff had known that the Products contain irritating and harmful
 9 ingredients including, cocamidopropyl betaine, SLS, disodium EDTA, salicylic acid, and fragrance,
 10 she would not have purchased the Product.

11 18. Defendant, upon becoming involved with the manufacture, advertising, and sale
 12 of the Product, knew or should have known that the claims about the Products and, in particular, the
 13 Challenged Representations are false, deceptive, and misleading. Defendant affirmatively
 14 misrepresented the contents and benefits of the Products in order to convince the public and the
 15 Products' users to purchase and use the Products, resulting in profits to Defendant, all to the damage
 16 and detriment of the consuming public.

17 **FACTUAL ALLEGATIONS**

18 19. **Feminine Hygiene Products.** Intimate hygiene products—like the Products—are
 19 regularly used by some women as part of their daily cleansing routine.¹ In fact, the global feminine
 20 intimate care market is expected to grow annually at a rate of 3.4% from 2019 to 2025 and reach a
 21 revenue of \$1.45 billion by 2025, with North America dominating the market.² The market's growth
 22 is attributed in large part by the increasing concern among female consumers surrounding genital
 23 hygiene.³

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 26 ¹Ying Chen, et al., *Role of female intimate hygiene in vulvovaginal health: Global hygiene practices and product usage*, 13 WOMENS HEALTH (LOND) 58 (2017),
 27 <https://pubmed.ncbi.nlm.nih.gov/28934912/>

28 ²*Feminine Intimate Care Market Size: Global Industry Report, 2019-2025*, GRAND VIEW RESEARCH, <https://www.grandviewresearch.com/industry-analysis/feminine-intimate-care-market>. (Last visited May 11, 2023)

³*Id.*

1 20. This concern stems from the fact that brands and manufacturers, like Defendant,
2 have created an industry whose sole purpose is to pressure woman into being ashamed of their
3 body's natural odors.⁴ This emphasis on an odor-free or even perfumed vaginal area prompts women
4 to purchase products that will help regulate their purportedly undesirable vaginal odors associated
5 with menstruation and other natural vaginal discharge.⁵

6 21. The term 'feminine hygiene' dates to 1924 when the marketers behind Lysol and
7 Zonite—popular household disinfectants of the time—advertised their disinfectants as
8 contraceptive douches. In the following decades, women were inundated with advertisements that
9 were meant to make them feel shame related to their natural menstrual cycles. Feminine washes are
10 marketed to women as a way to promote vaginal hygiene and eliminate unwanted odors.

11 22. In the 1970s, building on this tradition, Defendant released its Vagisil products,
12 which directly targeted women by telling them that their vulva and vagina require an odor reducer.

13 23. Unbeknownst to most consumers, the chemical capability of a product—like the
14 Products—to change the pH of the vagina may actually cause more harm than good.⁶ Indeed, a
15 majority of gynecologists have stated that vaginal cleaning products are unnecessary and can in fact
16 cause irritation that disrupts the pH of the vagina, leading to yeast infections.⁷ Gynecologists instead
17 recommend simply using clean, warm water in order to avoid killing the “good” bacteria.

18 24. Despite the fact that Defendant's products disrupt the pH of the vagina and contain
19 harsh chemical irritants and allergens, Defendant deceptively markets the Products as gentle and
20 appropriate for daily use on female genitalia.

21 25. **The Products Are Substantially Similar:** As described herein, Plaintiff
22 purchased the Scentsitive Scents® Peach Blossom Daily Intimate Wash. The additional Products
23 are substantially similar to the Product Plaintiff purchased:

24 **a. Defendant.** All Products are manufactured, sold, marketed, advertised, labeled, and
25

26 ⁴ Amanda L. Jenkins, et al., “*Clean and fresh: Understanding women's use of vaginal hygiene*
27 *products*,” 78 SEX ROLES 697 (2018), <https://link.springer.com/article/10.1007/s11199-017-0824-1>

28 ⁵ *Id.*

⁶ Amanda L. Jenkins, et al., *Is the vaginal cleansing product industry causing harm to women?*, 19
EXPERT REV. ANTI INFECT THER. 267 (2021), <https://pubmed.ncbi.nlm.nih.gov/32909859/>

⁷ Sarah Jacoby, *Here's Why Some Gynecologists Are Calling Out Vagisil's New 'Cleansing'*
Products, SELF, (February 9, 2021), <https://www.self.com/story/vagisil-omv-cleansing-products>

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packaged by Defendant.

- b. **Brand.** All Products are sold under the same, trademarked brand name: Vagisil.
- c. **Purpose.** All Products are feminine washes, primarily intended to be used daily to cleanse the female, external genitalia.
- d. **Key Ingredients.** All Products are made from largely the same ingredients, including, but not limited to the key ingredients at issue in the Scentsitive Scents® Peach Blossom Daily Intimate Wash: SLS, cocamidopropyl betaine, salicylic acid, disodium EDTA, and fragrance.
- e. **Marketing Demographics.** All Products are marketed directly to women for personal use.
- f. **Challenged Misrepresentations.** All Products contain the same Challenged Representations, “Hypoallergenic” and “pH balanced,” and/or “Skin-Friendly” (the Scentsitive Scents® Daily Intimate Wash), “Gentle” (the Odor Block Daily Intimate Wash and Healthy Detox All Over Wash), conspicuously and prominently placed on the front label and/or packaging, and/or repeated on the back labels, indicating they are suitable for use in intimate areas.
- g. **Packaging.** All Products are packaged in a similar packaging—using similar styles for written content. The Products’ front packaging largely share, in common, the same marketing claims, including brand identity, identity of the product line, and the Challenged Representations.
- h. **Misleading Effect.** The misleading effect of the Challenged Representations on consumers is the same for all Products—consumers over-pay a premium for intimate washes that contain ingredients that are not suitable for use on female, external genitalia.

26. **The Products Contain Harsh Chemicals:** Intimate feminine washes, like the Products, contain chemical formulations used to remove vaginal “odors.” The Products contain cocamidopropyl betaine, a surfactant that has been found to create a variety of different skin

1 irritation symptoms that are components of allergic reactions.⁸ This chemical was listed named the
2 “Allergen of the Year” in 2004 by the American Contact Dermatitis Society.⁹

3 27. The Products also contain salicylic acid—a peeling agent typically used in
4 products targeting acne. Salicylic acid can dry out the skin, particularly sensitive skin like the
5 vulva.¹⁰

6 28. Sodium laureth sulfate, or SLS, and disodium EDTA are also included in the
7 Products. SLS is derived from ethoxylated lauryl alcohol.¹¹ SLS is commonly used as a surfactant
8 for household detergents and shampoos. It can cause skin irritation and is classified as a corrosive
9 and an irritant.¹² Disodium EDTA is a water-soluble acid and a strong emulsion stabilizer with
10 chelating properties.¹³ It protects the integrity of skincare products from undergoing unwanted
11 consistency changes, pH changes, odor changes, or texture changes,¹⁴ and is a known irritant that
12 can cause skin corrosion and irritation.¹⁵

13 29. The Scentsitive Scents,[®] Odor Block Daily Intimate Wash, and pH Balance Daily
14 Intimate Wash Products also include fragrance, which includes chemicals that give a product a
15 certain scent, and are known irritants.¹⁶ Fragrance is one of the most common causes of contact

16 ⁸Sharon E. Jacob and Sadegh Aimni, *Cocamidopropyl betaine*, 19 *DERMATITIS* 157 (2008),
17 <https://pubmed.ncbi.nlm.nih.gov/18627690/>; CM Mowad, *Cocamidopropyl betaine allergy*, 12
18 *AM J CONTACT DERMAT* 223 (2001), <https://pubmed.ncbi.nlm.nih.gov/11753899/>

19 ⁹J Fowler, *Cocamidopropyl Betaine: Contact Allergen of the Year*, *DERMATITIS* (2004),
20 [https://journals.lww.com/dermatitis/Citation/2004/03000/Cocamidopropyl_Betaine__Cont%20ac
21 t_Allergen_of_the.2.aspx](https://journals.lww.com/dermatitis/Citation/2004/03000/Cocamidopropyl_Betaine__Cont%20act_Allergen_of_the.2.aspx).

22 ¹⁰Tasleem Ariif, *Salicylic acid as a peeling agent: a comprehensive review*, 8
23 *CLIN COSMET INVESTIG.DERMATOL* 455 (2015),
24 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4554394/>; *Salicylic*
25 *Acid*, *PUBCHEM*, <https://pubchem.ncbi.nlm.nih.gov/compound/Salicylic-Acid> (Last visited May
26 11, 2023); Vanessa Ngan, *Salicylic acid*, *DERMNET* (2005), [https://dermnetnz.org/topics/salicylic-
27 acid](https://dermnetnz.org/topics/salicylic-acid) (Last visited May 11, 2023).

28 ¹¹*Sodium Laureth Sulfate*, *EWG*, [https://www.ewg.org/skindeep/ingredients/706089-
SODIUM_LAURETH_SULFATE/](https://www.ewg.org/skindeep/ingredients/706089-SODIUM_LAURETH_SULFATE/) (Last visited May 11, 2023).

¹²*Sodium laureth sulfate*, *PUBCHEM*,
<https://pubchem.ncbi.nlm.nih.gov/compound/Sodium-laureth-sulfate> (Last visited May 11, 2023).

¹³Rebecca S. Lanigan and Torill A. Yamarik, *Final report on the safety assessment of EDTA, calcium disodium EDTA, diammonium EDTA, dipotassium EDTA, disodium EDTA, TEA-EDTA, tetrasodium EDTA, tripotassium EDTA, trisodium EDTA, HEDTA, and trisodium HEDTA*, 21 *Suppl 2 INT J TOXICOL* 95 (2002), <https://pubmed.ncbi.nlm.nih.gov/12396676/>.

¹⁴*Id.*

¹⁵*Disodium EDTA*, *PUBCHEM*,
[https://pubchem.ncbi.nlm.nih.gov/compound/DisodiumEDTA#section=Antidote-and-Emergency-
Treatment](https://pubchem.ncbi.nlm.nih.gov/compound/DisodiumEDTA#section=Antidote-and-Emergency-Treatment) (Last visited May 11, 2023).

¹⁶Stanley M. Caress and Anne C. Steinemann, *Prevalence of fragrance sensitivity in the American population*, 71 *J. ENVTL. HEALTH* 46 (2009), <https://pubmed.ncbi.nlm.nih.gov/19326669/>.

1 dermatitis.¹⁷ When used in scented feminine wash products—like the Products—it can interfere
 2 with the natural process of the female body, upsetting the balance of good bacteria—which protects
 3 against infection and disease-causing organisms, such as bacterial vaginosis and yeast infections—
 4 and pH levels in the vagina.¹⁸

5 30. One study found that 1 in 4 consumers noted they have experienced fragrance
 6 sensitivity or have been diagnosed with a fragrance allergy.¹⁹ Notably, this number has been
 7 growing steadily for 20 years.²⁰

8 31. A 2019 study found that preservatives, surfactants, perfumes, and fragrances are
 9 most likely to cause contact dermatitis.²¹

10 32. Feminine hygiene products, like the Products, are used on permeable and sensitive
 11 vaginal and vulvar tissues where chemical exposure is instantaneous.²² Harsh ingredients, like in
 12 the Products, are therefore known to irritate the vulvar skin and mucous membranes and induce or
 13 exacerbate vulvar dermatitis.²³

14 33. Because the Products contain these known allergens and harsh chemicals known
 15 to cause irritation, it is misleading and deceptive for Defendant to represent that the Products are
 16 skin-friendly, gentle, formulated for sensitive skin, or hypoallergenic.

17
 18 ¹⁷ *Eczema Types: Contact dermatitis causes*, AMERICAN ACADEMY OF DERMATOLOGY,
 19 <https://www.aad.org/public/diseases/eczema/types/contact-dermatitis/causes> (Last visited May
 11, 2023).

20 ¹⁸ *Are Scented Tampons and Pads Bad for You?*, CLEVELAND CLINIC, (Jan. 13, 2021),
 21 <https://health.clevelandclinic.org/are-scented-tampons-and-pads-bad-for-you/>.

22 ¹⁹ *Myths & Misconceptions: Understanding Fragrance-Free Personal Care*, Natural Marketing
 23 Institute and Johnson & Johnson Consumer Inc., [https://nmisolutions.com/wp-](https://nmisolutions.com/wp-content/uploads/2021/02/NMI-Johnson-and-Johnson-Fragrance-Report1.pdf)
 24 [content/uploads/2021/02/NMI-Johnson-and-Johnson-Fragrance-Report1.pdf](https://nmisolutions.com/wp-content/uploads/2021/02/NMI-Johnson-and-Johnson-Fragrance-Report1.pdf) (Last visited May 11,
 2023).

25 ²⁰ *Id.*

26 ²¹ *AAD 2019: Cause of Contact Dermatitis in Personal Care Products May Come as a Surprise*.
 27 DERMATOLOGY, (March 11, 2019),
 28 [https://www.practiceupdate.com/content/aad-2019-cause-of-contact-dermatitis-in-personal-care-](https://www.practiceupdate.com/content/aad-2019-cause-of-contact-dermatitis-in-personal-care-products-may-come-as-a-surprise/80882)
 products-may-come-as-a-surprise/80882 (Last visited May 11, 2023).

²² Nan Lin, et al., *Volatile organic compounds in feminine hygiene products sold in the US market: A survey of products and health risks*, 144 ENVIRONMENT INTERNATIONAL 105740, (2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7958867/>.

²³ Ying Chen, et al., *supra*, note 1; Valerie C. Robinson, et al., *Final report of the amended safety assessment of sodium laureth sulfate and related salts of sulfated ethoxylated alcohols*, 29 4 Supp. INTERNATIONAL JOURNAL OF TOXICOLOGY 151S (2010), <https://journals.sagepub.com/doi/abs/10.1177/1091581810373151>.

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1 34. **The Products Are Not “pH Balanced.”** Despite their front label representing
2 they are a “pH Balanced formula,” the Products are not.

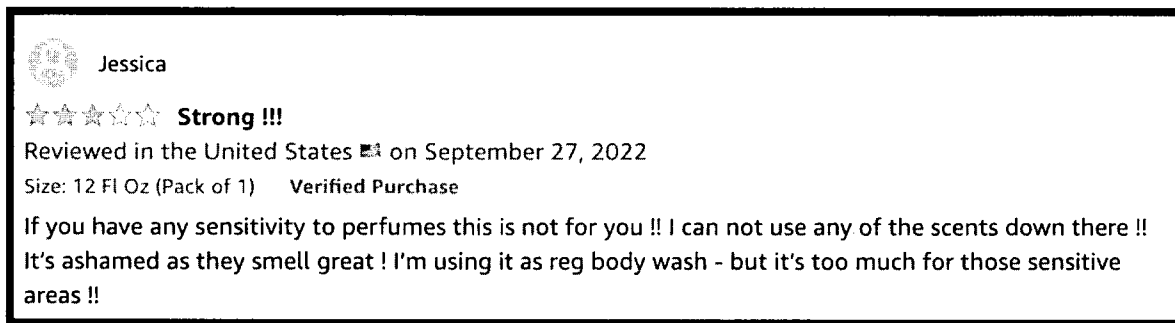
3 35. Balanced pH is critical to maintaining vulvar and vaginal health. Studies have
4 shown that vulvar pH is usually between 3.5 to 4.7, while vaginal pH generally varies depending on
5 age and the stage of the menstrual cycle.²⁴

6 36. The Scentsitive Scents,[®] Odor Block Daily Intimate Wash, and pH Balance Daily
7 Intimate Wash Products contain fragrance, which is made up of chemicals that give a product a
8 certain scent, and is a known irritant.²⁵ Fragrance is one of the most common causes of contact
9 dermatitis.²⁶ Fragrance used in scented feminine wash products can interfere with the natural
10 process of the female body by upsetting pH levels and disrupting the balance of good bacteria which
11 protects against infection and disease-causing organisms, such as bacterial vaginosis and yeast
12 infections.²⁷

13 37. The Products’ ingredients therefore can disrupt the pH levels in the vagina
14 rendering the claim that the Products contain a “pH Balanced Formula” deceptive and misleading.

15 38. **Consumers Have Complained About the Products’ “Irritating” and**
16 **“Allergic” Effects.** Below are samples of verified consumer reviews for several of the Products,
17 including, Scentsitive Scents[®] Peach Blossom, Cucumber Magnolia, White Jasmine, Spring Lilac,
18 Odor Block Daily Intimate Wash, pH Balance Daily Intimate Wash, and Healthy Detox All Over
19 Wash that have been published on the internet.²⁸

20 **Scentsitive Scents[®] Peach Blossom Reviews**



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27 ²⁴ Ying Chen, et al., *supra*, note 1.

²⁵ Stanley M. Caress and Anne C. Steinemann, *supra*, note 16.


²⁶ *Eczema Types: Contact dermatitis causes*, *supra*, note 17.

²⁷ *Are Scented Tampons and Pads Bad for You?*, *supra*, note 18.

²⁸ All screenshots of consumer reviews for the Products have been taken from Amazon.com.

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 **Pretty Easy Going**

☆☆☆☆☆ **Not what I expectes**

Reviewed in the United States 🇺🇸 on February 8, 2022

Size: 12 Fl Oz (Pack of 1) Verified Purchase

This product did not go well with my PH level. It made my area have a bitter smell. I am allergic to normal soaps for my privates so I try to find things for sensitive skin and good PH. This was not the one


 **ShiMarie**

☆☆☆☆☆ **NOT FOR SENSITIVE SKIN**

Reviewed in the United States 🇺🇸 on December 16, 2020

Size: 12 Fl Oz (Pack of 1) Verified Purchase

This IS NOT for SENSITIVE SKIN! The scent is not good either. No good

 **Amazon Customer**

☆☆☆☆☆ **Can cause irritation! Beware!!**


Reviewed in the United States 🇺🇸 on August 30, 2019

Size: 12 Fl Oz (Pack of 1)

This might be a little TMI but.. My first time using It i noticed by the 4th day I got a yeast infection so I stopped using it then decided to go for it again and what do you know another one. I would stay away from heavy perfumed washes like this if your sensitive like me. No thank you on this!

2 people found this helpful

Scentsitive Scents® Cucumber Magnolia Reviews

 **Amazon Customer**

☆☆☆☆☆ **Burns**


Reviewed in the United States 🇺🇸 on February 13, 2023

Size: 12 Fl Oz (Pack of 1) Style: Cucumber Magnolia Verified Purchase

This burns my privates. I thought it was sensitive. Misleading Im giving it away!

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 Mila

☆☆☆☆☆ **Caused irritation**


Reviewed in the United States on February 3, 2022

Size: Pack of 1 Style: Cucumber Magnolia Verified Purchase

It happened for the first time. This product caused irritation and itching. When I stopped using it, irritation has gone. Be cautious may be it's not good for every woman.

2 people found this helpful

Helpful Report abuse

 Safiya Graham

☆☆☆☆☆ **Caused my first yeast infection!**

Reviewed in the United States on May 15, 2020


Size: Pack of 1 Style: Cucumber Magnolia Verified Purchase

This is not good for your privates ladies. After using it for a month I'm going back to using good old Dove soap and water. I got a really bad yeast infection because this stuff was stripping all the good bacteria from my area. Would not recommend.

21 people found this helpful

Helpful Report abuse

Scentsitive Scents® White Jasmine Review

 Denelle Andrea


☆☆☆☆☆ **For sensitive skin? I don't think so!**

Reviewed in the United States on November 12, 2020

Size: Pack of 1 Style: Wash Verified Purchase

Thanks to this wash I am not doing so great down there. I used it for 2 washes and now I have irritated skin down there. Will never purchase this again. Not safe for sensitive skin at all. The white jasmine scent was very strong, that should have been a red flag but I trusted the label that this was for sensitive skin. Very disappointed. Now I'll have many days to overcome these symptoms from using this soap.

Scentsitive Scents® Spring Lilac Review

 Oksana

☆☆☆☆☆ **Not for sensitive skin**

Reviewed in the United States on January 22, 2021

Size: 12 Fl Oz (Pack of 1) Style: Spring Lilac Verified Purchase

This made my skin itch like crazy in the shower. Once I dried off I was fine and had to wait for some patches of redness to go away. I don't recommend this for your whole body. Just wash your privates down there to control ur ph levels.


One person found this helpful

Helpful Report abuse

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Odor Block Daily Intimate Wash Reviews


 caressa

☆☆☆☆☆ **NO HELP**

Reviewed in the United States 🇺🇸 on February 3, 2021

Size: 12 Fl Oz Verified Purchase

DO NOT ORDER! THAT WHY I HAVE A UTI! ODOR COMES NATURALLY OUT YOUR VAGINA FROM DISCHARGE. IT'LL MESS UP YOUR PH BALANCE AND FLORA. DO NOT ORDERRR!!!!!!

 Hope


☆☆☆☆☆ **Gave me BV N UTI**

Reviewed in the United States 🇺🇸 on November 30, 2020

Size: 12 Fl Oz

I've been using this product on and off for years. But I've been using it this time for 8 months and with that 8 months I got a uti that turned into a kidney infection since than I got 4 BV and a yeast infection back to back. I haven't had sex nothing to set off me getting BV! I realize it's this soap it has high fragrance which BV loves please stay away from this product please just use Dove white soap! This soap will give you a UTI, BV and yeast infection! DO NOT BUY THIS SOAP or any vag soaps just use dove white beauty bar! It's safe and fragrance free dye free and hyper allergenic

pH Balance Daily Intimate Wash

 Capri

☆☆☆☆☆ **Not a Good Feminine Wash for Sensitive Vagina.**

Reviewed in the United States 🇺🇸 on March 24, 2016

Size: 12 Fl Oz (Pack of 1)


I tried this feminine wash to get my PH Balance back in alignment but I was Totally Wrong. It burned like nobody's business down there.

This wash uses Sodium Lauyl Sulfate which is notorious as a dry skin chemical.

It has way too many chemicals plus added fragrance and will irritate a sensitive vagina.

I Highly recommend using Equate Prebiotic Wash from Walmart it is has help through numerous yeast infections and helped to cure them.

It even help with the itching and irritation. Its cheap and does a better job than Vagisil.

 Grace

☆☆☆☆☆ **Irritation**

Reviewed in the United States us on December 30, 2022

Verified Purchase

Wanted to love it... but it threw my ph off and started getting irritation

Helpful Report

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Healthy Detox All Over Wash Reviews

1 JJ

2 ☆☆☆☆☆ **Bad stuff... not for sensitive skin**

3 Reviewed in the United States on May 3, 2022

4 Size: 12 Fl Oz (Pack of 1) Style: Healthy Detox Verified Purchase

5 This is not good for sensitive skin. My skin is not super sensitive and I have tried a lot of products but this by far has hurt me

6 bad. My skin everywhere is so irritated and my neck developed a rash. I am in misery. I hope it calms down soon. It took the

7 2nd wash to realize what this was doing to me. I WISH I COULD RETURN THIS!!! but waste of money instead!!!

8 2 people found this helpful

9 Helpful Report abuse

8 Michael D. Scott

9 ☆☆☆☆☆ **HORRIBLE!!!**

10 Reviewed in the United States on April 12, 2022

11 Scent: Neem Size: 12 Fl Oz (Pack of 3) Verified Purchase

12 I use and have used Vagisil products for decades. I DO NOT have Sensitive Skin, but upon using this from the first

13 shower my skin was BURNED! I'm not talking about a Rash kind of thing, it was a 2nd degree burn! Stupid me didn't

14 put this together until the 2nd time I used it and I was ON FIRE! Nothing else was different upon showering. After

15 immediately stopping use of it it's been a week and my skin, (mainly upper body, under arms, groin area and areas with

16 any folds in skin were affected & I'm not a large person with heavy skin folds). If I could give 0 Stars I would. I'll

17 continue to use the pink bottle of Vagisil, but never this one again!

15 Ariel

16 ☆☆☆☆☆ **Definitely not for me.**

17 Reviewed in the United States on October 4, 2021

18 Size: 12 Fl Oz (Pack of 1) Style: Healthy Detox Verified Purchase

19 I've been using this line of feminine wash for many years. I was excited to see a new product, especially one that alludes to

20 a "healthy detox". Not sure if this is part of the "detox" process, but when used on my underarms and sensitive areas, it

21 actually left me feeling/smelling less clean more quickly than their normal ph balanced wash. I don't believe this is truly

22 intended to be used as a feminine wash, perhaps just a body wash? I can't imagine enjoying the effects as a fem wash. If

23 anything, it threw my ph off tremendously. The scent is nice, but even my underarms became more smelly more quickly

24 than when I wash with my normal body wash. It's also very stripping/drying for the skin, as after use my skin was almost

25 literally "squeaky" clean, but not in a good way. Decided to give 2 stars rather than 1, bc the scent is pleasant when

26 smelling right out of the bottle (for whatever that's worth lol). Definitely won't purchase again though.

27 2 people found this helpful

28 Helpful Report abuse

39. **Reasonable Consumer's Perception.** Defendant's false and deceptive labeling, advertising, marketing and packaging of the Products led Plaintiff and other reasonable consumers into believing that the Products are formulated to be hypoallergenic and gentle enough for use on intimate skin, when in fact the Products contains harsh and irritating ingredients not suitable for the intimate skin on the female's external genitalia.

40. Plaintiff and other reasonable consumers seeking intimate skin wash products do

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1 not expect the Products to contain irritating and harsh ingredients that are harmful to the skin. Nor
2 do they expect the products to cause skin irritation, burning, discomfort, or increased susceptibility
3 to bacterial infection.

4 41. By explicitly misrepresenting the Products using the Challenged Representations,
5 Defendant deceives consumers.

6 42. Defendant labels and advertises, through a uniform and consistent message, that
7 the Products are something that they are not—intimate feminine washes that are hypoallergenic and
8 gentle enough for use on intimate skin.

9 43. Defendant has made, and continues to make these false, deceptive, misleading,
10 unfair, fraudulent, and unlawful claims and promises to consumers about the Products using the
11 Challenged Representations.

12 44. **Reliance.** Plaintiff and the Class purchased the Products in reliance upon the
13 Challenged Representations. During the course of its false, misleading, and deceptive advertising
14 campaign, Defendant sold hundreds of thousands or more of the Products based upon its
15 misrepresentations. Plaintiff and the Class have suffered injury in fact and have lost money as a
16 result of Defendant’s false representations.

17 45. Plaintiff and the Class would not have purchased the Products had they known the
18 Products contained harsh and irritating ingredients that are not suitable for use on intimate skin like
19 the vulva.

20 46. Defendant falsely and misleadingly touts the benefits of the Products, while
21 displaying false and misleading material information.

22 47. **No Legitimate Business Reason.** There is no practical reason for the false or
23 misleading labeling and advertising of the Products, other than to mislead consumers that the
24 Products are comprised of a formula that is hypoallergenic and gentle enough for use on intimate
25 skin, when they are actually comprised of irritating and harmful ingredients. Defendant’s conduct
26 threatens California and nationwide consumers by disseminating deceptive and misleading
27 advertising of the Products. Defendant’s conduct also threatens other companies, large and small,
28 who “play by the rules.” Defendant’s conduct stifles competition, has a negative impact on the

1 marketplace, and reduces consumer choice.

2 48. Upon information and belief, Plaintiff alleges that during the course of the
3 deception, Defendant has sold thousands of units of the Products based upon the false and deceptive
4 labels.

5 49. Plaintiff makes the allegations herein upon personal knowledge as to herself and
6 her own acts and experiences, and as to all other matters, upon information and belief, including
7 investigation conducted by her attorneys.

8 50. **No Adequate Remedy at Law.** Plaintiff and members of the Class are entitled to
9 equitable relief as no adequate remedy at law exists.

10 a. **Broader Statutes of Limitations.** The statutes of limitations for the causes of action
11 pled herein vary. The limitations period is four years for claims brought under the
12 UCL, which is one year longer than the statutes of limitations under the FAL and
13 CLRA. Thus, class members who purchased the Products more than 3 years prior to
14 the filing of the complaint will be barred from recovery if equitable relief were not
15 permitted under the UCL.

16 b. **Broader Scope of Conduct.** In addition, the scope of actionable misconduct under
17 the unfair prong of the UCL is broader than the other causes of action asserted herein.
18 It includes, for example, Defendant's overall unfair marketing scheme to promote the
19 Products as a feminine wash formula that is gentle enough for use on intimate skin,
20 across a multitude of media platforms, including the Products' labels and packaging,
21 over a long period of time, in order to gain an unfair advantage over competitor
22 products and to take advantage of consumers' desire for products that comport with
23 the labeling and advertising. The UCL also creates a cause of action for violations of
24 law (such as statutory or regulatory requirements and court orders related to similar
25 representations and omissions made on the type of products at issue). Thus, Plaintiff
26 and Class members may be entitled to restitution under the UCL, while not entitled to
27 damages under other causes of action asserted herein (e.g., the FAL requires actual or
28 constructive knowledge of the falsity; the CLRA is limited to certain types of plaintiffs

1 (an individual who seeks or acquires, by purchase or lease, any goods or services for
2 personal, family, or household purposes) and other statutorily enumerated conduct).

- 3 c. **Injunctive Relief to Cease Misconduct and Dispel Misperception.** Injunctive relief
4 is appropriate on behalf of Plaintiff and members of the Class because Defendant
5 continue to misrepresent the Products as alleged herein. Injunctive relief is necessary
6 to prevent Defendant from continuing to engage in the unfair, fraudulent, and/or
7 unlawful conduct described herein and to prevent future harm—none of which can be
8 achieved through available legal remedies (such as monetary damages to compensate
9 past harm). Further, injunctive relief, in the form of affirmative disclosures is
10 necessary to dispel the public misperception about the Products that has resulted from
11 years of Defendant’s unfair, fraudulent, and unlawful marketing efforts. Such
12 disclosures would include, but are not limited to, publicly disseminated statements
13 that the Products’ labeling and advertising is not true and providing accurate
14 information about the Products’ true nature; and/or requiring prominent qualifications
15 and/or disclaimers on the Products’ front label concerning the Products’ true nature.
16 An injunction requiring affirmative disclosures to dispel the public’s misperception
17 and to prevent the ongoing deception and repeat purchases based thereon, is also not
18 available through a legal remedy (such as monetary damages). In addition, Plaintiff is
19 *currently* unable to accurately quantify the damages caused by Defendant’s future
20 harm, because discovery and Plaintiff’s investigation has not yet completed, rendering
21 injunctive relief all the more necessary. For example, because the court has not yet
22 certified any class, the following remains unknown: the scope of the class, the
23 identities of its members, their respective purchasing practices, prices of past/future
24 Product sales, and quantities of past/future Product sales.
- 25 d. **Public Injunction.** Further, because a “public injunction” is available under the UCL,
26 damages will not adequately “benefit the general public” in a manner equivalent to an
27 injunction.
28

1 e. **Procedural Posture—Incomplete Discovery & Pre-Certification.** Lastly, this is an
2 initial pleading in this action and discovery has not yet commenced and/or is at its
3 initial stages. No class has been certified yet. No expert discovery has commenced
4 and/or completed. The completion of fact/non-expert and expert discovery, as well as
5 the certification of this case as a class action, are necessary to finalize and determine
6 the adequacy and availability of all remedies, including legal and equitable, for
7 Plaintiff's individual claims and any certified class or subclass. Plaintiff therefore
8 reserves her right to amend this complaint and/or assert additional facts that
9 demonstrate this Court's jurisdiction to order equitable remedies where no adequate
10 legal remedies are available for either Plaintiff and/or any certified class. Such proof,
11 to the extent necessary, will be presented prior to trial of any equitable claims for relief
12 and/or the entry of an order granting equitable relief.

13 **IV. CLASS ALLEGATIONS**

14 51. Plaintiff brings this action on her own behalf and on behalf of all other persons
15 similarly situated. The Class which Plaintiff seeks to represent comprises:

16 All persons who purchased the Products in the State of California, for personal use and
17 not for resale during the time period of four years prior to the filing of the complaint
18 through the present. Said definition may be further defined or amended by additional
19 pleadings, evidentiary hearings, a class certification hearing, and orders of this Court.

20 52. The Class is so numerous that their individual joinder herein is impracticable. On
21 information and belief, members of the Class number in the thousands throughout California. The
22 precise number of Class members and their identities are unknown to Plaintiff at this time but may
23 be determined through discovery. Class members may be notified of the pendency of this action by
24 mail and/or publication through the distribution records of Defendant and third-party retailers and
25 vendors.

26 53. Common questions of fact and law predominate over questions which may affect
27 individual class members, including the following:

28 a. Whether Defendant's conduct constitutes an unfair method of competition or
unfair or deceptive act or practice in violation of California Civil Code Section 1750, *et seq.*;

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1 b. Whether Defendant used deceptive representations in connection with the sale
2 of the Products in violation of California Civil Code Section 1750, *et seq.*;

3 c. Whether Defendant represented the Products to have characteristics that it
4 does not have in violation of California Civil Code Section 1750, *et seq.*;

5 d. Whether Defendant advertised the Products with the intent not to sell them as
6 advertised in violation of California Civil Code Section 1750, *et seq.*;

7 e. Whether Defendant's advertising is untrue or misleading within the meaning
8 of Business and Professions Code Section 17500, *et seq.*;

9 f. Whether Defendant knew or by the exercise of reasonable care should have
10 known its advertising was and is untrue or misleading in violation of Business and Professions Code
11 Section 17500, *et seq.*;

12 g. Whether Defendant made false and misleading representations in its
13 advertising and labeling of the Products in violation of Business and Professions Code Section
14 17500, *et seq.*;

15 h. Whether Defendant's conduct is an unfair business act or practice within the
16 meaning of Business and Professions Code Section 17200, *et seq.*;

17 i. Whether Defendant's conduct is a fraudulent business act or practice within
18 the meaning of Business and Professions Code Section 17200, *et seq.*;

19 j. Whether Defendant's conduct is an unlawful business act or practice within
20 the meaning of Business and Professions Code Section 17200, *et seq.*;

21 k. Whether Plaintiff and the Class paid more money or a premium amount for
22 the Products than they actually received; and

23 l. How much more money or premium amount Plaintiff and the Class paid for
24 the Products than they actually received.

25 54. Plaintiff's claims are typical of the claims of the Class, and Plaintiff will fairly and
26 adequately represent and protect the interests of the Class. Plaintiff has retained competent and
27 experienced counsel in class action and other complex litigation.

28 55. Plaintiff and the Class have suffered injury in fact and have lost money as a result

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1 of Defendant’s false representations and material omissions. Plaintiff and the Class purchased the
2 Products under the false belief that the Products are a feminine wash formula that is gentle enough
3 for use on intimate skin. Plaintiff and the Class relied upon Defendant’s labeling, packaging, and
4 advertising claims and would not have purchased the Products if they had known that the Products
5 contained ingredients that are harmful and irritating for use on the skin.

6 56. A class action is superior to other available methods for fair and efficient
7 adjudication of this controversy. The expense and burden of individual litigation would make it
8 impracticable or impossible for the Class to prosecute their claims individually.

9 57. The trial and litigation of Plaintiff’s claims are manageable. Individual litigation
10 of the legal and factual issues raised by Defendant’s conduct would increase delay and expense to
11 all parties and the court system. The class action device presents far fewer management difficulties
12 and provides the benefits of a single, uniform adjudication, economics of scale, and comprehensive
13 supervision by a single court.

14 58. Defendant has acted on grounds generally applicable to the entire Class, thereby
15 making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the
16 Class as a whole. The prosecution of separate actions by individual Class members would create the
17 risk of inconsistent or varying adjudications with respect to individual Class members that would
18 establish incompatible standards of conduct for Defendant.

19 59. Absent a class action, Defendant will likely retain the benefits of its wrongdoing.
20 Because of the small size of the individual Class members’ claims, few, if any, Class members could
21 afford to seek legal redress for the wrongs complained of herein. Absent a representative action, the
22 Class will continue to suffer losses and Defendant will be allowed to continue these violations of
23 law and to retain the proceeds of its ill-gotten gains.

24 60. On September 2, 2022, written notice was sent to Defendant via certified U.S. mail
25 pursuant to Civil Code Section 1750, *et seq.*, which set forth the claims of the Class concerning the
26 Products’ false, misleading, deceptive, unlawful, unfair, and fraudulent claims.

27 //

28 //

FIRST CAUSE OF ACTION

Violation of California Consumers Legal Remedies Act,

California Civil Code 1750, *et seq.*

61. Plaintiff repeats and realleges the allegations of the previous paragraphs, and incorporates the same as if set forth herein at length.

62. Plaintiff brings this cause of action pursuant to Civil Code Section 1750, *et seq.*, the Consumers Legal Remedies Act (“CLRA”), on her own behalf and on behalf of all other persons similarly situated.

63. Plaintiff and the Class members are “consumers” within the meaning of California Civil Code Section 1761(d).

64. The sale of Defendant’s Products to Plaintiff and Class members constitutes a “transaction” within the meaning of California Civil Code Section 1761(e).

65. Defendant’s Products are “goods” within the meaning of California Civil Code Section 1761(a).

66. The CLRA prohibits certain “unfair methods of competition and unfair or deceptive acts or practices” in connection with a sale of goods and prohibits “representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have.” California Civil Code Section 1770(a)(5).

67. The CLRA also prohibits representing that the Products are of “a particular standard, quality, or grade” when it is of another. California Civil Code Section 1770(a)(7).

68. The CLRA prohibits advertising goods with the intent not to sell them as advertised and representing the goods have been supplied in accordance with a previous representation when they have not. California Civil Code Section 1770(a)(9) and (a)(16).

69. The policies, acts, and practices described herein were intended to result in the sale of the Products to the consuming public, and violated and continue to violate the CLRA by (1) using deceptive representations in connection with the Products; (2) advertising, labeling, and packaging the Products with intent not to sell it as advertised; and (3) representing that the Products have a certain quality/characteristic (a feminine wash formula that is hypoallergenic and gentle enough for

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1 use on intimate skin) when they do not.

2 70. Defendant fraudulently deceived Plaintiff and the Class by misrepresenting the
3 Products as having characteristics which they do not have, *e.g.*, labeling and advertising the Products
4 as feminine washes that are gentle enough for use on intimate skin. In doing so, Defendant
5 misrepresented and concealed material facts from Plaintiff and the Class. Said misrepresentations
6 and concealment were done with the intention of deceiving Plaintiff and the Class and depriving
7 them of their legal rights and money.

8 71. Defendant fraudulently deceived Plaintiff and the Class by labeling and
9 advertising the Products with intent not to sell them as advertised. Specifically, Defendant labeled
10 and misrepresented the Products as feminine washes that are gentle enough for use on intimate skin.
11 In doing so, Defendant misrepresented and concealed material facts from Plaintiff and the Class.
12 Said misrepresentations and concealment were done with the intention of deceiving Plaintiff and
13 the Class and depriving them of their legal rights and money.

14 72. Defendant knew or should have known, through the exercise of reasonable care,
15 that the Products' labeling and advertising were false and misleading.

16 73. Defendant's actions as described herein were done with conscious disregard of
17 Plaintiff's rights, and Defendant was wanton and malicious in its concealment of the same.

18 74. Defendant's labeling and advertising of the Products was a material factor in
19 Plaintiff's and the Class's decisions to purchase the Products. Based on Defendant's labeling and
20 advertising of the Products, Plaintiff and the Class reasonably believed that they were purchasing
21 products that were hypoallergenic and gentle enough for use on sensitive intimate skin. Had they
22 known the truth of the matter, that the Products are not hypoallergenic and gentle enough for use on
23 intimate skin, Plaintiff and the Class would not have purchased the Products.

24 75. Plaintiff and the Class have suffered injury in fact and have lost money as a result
25 of Defendant's unfair, unlawful, and fraudulent conduct. Specifically, Plaintiff paid for the Product
26 believing it was suitable for sensitive, intimate skin. In reality, the Products contain ingredients that
27 are harmful and irritating for the skin, particularly intimate skin. Plaintiff and the Class would not
28 have purchased the Products had they known the claims were false.

1 76. Defendant's false and misleading labeling and advertising should be enjoined due
2 to its false, misleading and/or deceptive nature.

3 77. By letter dated September 2, 2022, Plaintiff advised Defendant of its false and
4 misleading claims pursuant to California Civil Code Section 1782(a).

5 78. Pursuant to Section 1780(a) of the Act, Plaintiff seeks injunctive relief in the form
6 of an order enjoining the above-described wrongful acts and practices of Defendant, including, but
7 not limited to, an order enjoining Defendant from continuing to make the label and advertising
8 claims challenged herein.

9 79. Plaintiff respectfully requests that the Court enjoin Defendant from continuing to
10 employ the unlawful methods, acts, and practices alleged herein pursuant to § 1780(a)(2). In
11 addition, Defendant should be compelled to provide restitution and damages to consumers who paid
12 for the Products that are not what they expected to receive due to Defendant's misrepresentations.

SECOND CAUSE OF ACTION

Violation of California False Advertising Law, Business & Professions Code 17500, *et seq.*

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16 80. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs,
17 and incorporates the same as if set forth herein at length.

18 81. Plaintiff brings this cause of action pursuant to Business and Professions Code
19 Section 17500, *et seq.*, on her own behalf and on behalf of all other persons similarly situated.
20 Plaintiff seeks to represent a Class consisting of "All persons who purchased the Products in the
21 State of California, for personal use and not for resale during the time period of four years through
22 the present." Excluded from the Class are Defendant's officers, directors, and employees, and any
23 individual who received remuneration from Defendant in connection with that individual's use or
24 endorsement of the Products.

25 82. Defendant knowingly spread misleading claims regarding the Products as a means
26 to mislead the public about the actual ingredients in the Products.

27 83. Defendant controlled the labeling, packaging, production, and advertising of the
28 Products. Defendant knew or should have known, through the exercise of reasonable care, that its

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1 representations and omissions about the ingredients of the Products were untrue, deceptive, and
2 misleading.

3 84. Defendant's actions of advertising and displaying misleading claims and falsely
4 labeling the Products using the Challenged Representations in prominent type face on each Product
5 label are likely to deceive consumers into believing the Products do not contain ingredients that
6 knowingly cause irritation, allergic reactions, or burning of the skin.

7 85. Defendant's actions in violation of Section 17500 were false and misleading such
8 that the general public is and was likely to be deceived.

9 86. As a direct and proximate result of Defendant's conduct alleged herein in violation
10 of the FAL, Plaintiff and members of the Class, pursuant to Section 17535, are entitled to an order
11 of this Court enjoining Defendant's future wrongful conduct and requiring Defendant to disclose
12 the true nature of its misrepresentations.

13 87. Pursuant to Business & Professions Code Sections 17203 and 17535, Plaintiff and
14 the members of the Class seek an order of this Court enjoining Defendant from continuing to engage,
15 use, or employ its practice of falsely advertising that the Products contain ingredients that are
16 hypoallergenic and gentle enough for use on intimate skin, when they do not. Likewise, Plaintiff
17 and the class seek an order requiring Defendant to disclose such misrepresentations, and additionally
18 request an order awarding Plaintiff and the Class restitution of the money wrongfully acquired by
19 Defendant in amount to be determined by trial.

20 88. Plaintiff and the Class have suffered injury in fact and have lost money as a result
21 of Defendant's false representations. Plaintiff and the Class purchased the Products in reliance upon
22 the claims by Defendant that the Products were hypoallergenic and gentle enough for use on
23 sensitive intimate skin, i.e., that they did not contain ingredients that are harmful and irritating for
24 the skin. Plaintiff would not have purchased the Product if she had known that the claims and
25 advertising as described herein were false.

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THIRD CAUSE OF ACTION

**Violation of California Unfair Competition Law,
Business & Professions Code Section 17200, et seq.**

89. Plaintiff repeats and realleges the allegations set forth above, and incorporates the same as if set forth herein at length.

90. Plaintiff brings this cause of action pursuant to Business and Professions Code Section 17200, et seq., on her own behalf and on behalf of all other persons similarly situated. Plaintiff seeks to represent a Class consisting of “All persons who purchased the Products in the State of California, for personal use and not for resale during the time period of four years prior to the filing of the complaint through the present.” Excluded from the Class are Defendant’s officers, directors, and employees, and any individual who received remuneration from Defendant in connection with that individual’s use or endorsement of the Products.

91. In its labeling and advertising of the Products, Defendant misleads consumers into believing the Products do not contain ingredients that knowingly cause irritation, allergic reactions, or burning of the skin and/or that the Products will be more gentle than other non-sensitive feminine wash formulas on the market—none of which is true.

92. Defendant’s advertising claims and omissions about the Products are false, deceptive, misleading, and unreasonable.

93. The UCL prohibits “any unlawful, unfair... or fraudulent business act or practice.” Cal. Bus & Prof. Code § 17200.

A. “Unfair” Prong

94. Defendant’s action of advertising and labeling the Products as a feminine wash formula that is hypoallergenic and gentle enough for use on intimate skin is false.

95. Defendant’s action of false advertising of its Products’ status causes injuries to consumers, who do not receive what they were promised.

96. Defendant’s false and deceptive claims that the Product contains a hypoallergenic formula that is gentle enough for use on intimate skin stifles competition in the marketplace.

97. Consumers cannot avoid any of the injuries caused by Defendant’s false and

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1 misleading advertising of the Products.

2 98. Here, Defendant's conduct of advertising its Products as a feminine wash formula
3 that is hypoallergenic and gentle enough for use on intimate skin, when they are not, results in
4 financial harm to consumers. Thus, the utility of Defendant's conduct is vastly outweighed by the
5 gravity of its harm.

6 99. Defendant's labeling and advertising of the Products as a feminine wash formula
7 that is hypoallergenic and gentle enough for use on intimate skin is false, deceptive, misleading, and
8 unreasonable, and constitutes unfair conduct.

9 100. Defendant knew or should have known of its unfair conduct.

10 101. As alleged in the preceding paragraphs, the material misrepresentations by
11 Defendant detailed above constitute an unfair business practice within the meaning of California
12 Business & Professions Code § 17200.

13 102. There were reasonably available alternatives to further Defendant's legitimate
14 business interests other than the conduct described herein. Defendant could have marketed the
15 Products without making any false statements about the absence of harmful ingredients in the
16 Products.

17 103. All of the conduct alleged herein occurs and continues to occur in Defendant's
18 business. Defendant's wrongful conduct is part of a pattern or generalized course of conduct
19 repeated on thousands of occasions daily.

20 104. Pursuant to Business & Professions Code Section 17203, Plaintiff and the Class
21 seek an order of this Court enjoining Defendant from continuing to engage, use, or employ its
22 practice of false and deceptive advertising and labeling of the Product. Likewise, Plaintiff and the
23 Class seek an order requiring Defendant to disclose such misrepresentations, and additionally
24 request an order awarding Plaintiff restitution of the money wrongfully acquired by Defendant in
25 an amount to be determined at trial.

26 105. Plaintiff and the Class have suffered injury in fact and have lost money as a result
27 of Defendant's unfair conduct. Plaintiff and the Class paid an unwarranted premium for the
28 Products. Plaintiff and the Class would not have purchased the Products had they known that the

1 Products contained several harmful ingredients.

2 **B. “Fraudulent” Prong**

3 106. Defendant’s conduct of advertising false claims about the Products being a
4 feminine wash formula that is hypoallergenic and gentle enough for use on intimate skin is likely to
5 deceive members of the public.

6 107. Defendant’s advertising and labeling of the Products as a feminine wash formula
7 that is hypoallergenic and gentle enough for use on intimate skin is false, deceptive, misleading, and
8 unreasonable and constitutes fraudulent conduct.

9 108. Defendant knew or should have known of its fraudulent conduct.

10 109. As alleged in the preceding paragraphs, the material misrepresentations by
11 Defendant detailed above constitute a fraudulent business practice in violation of California
12 Business & Professions Code Section 17200.

13 110. There were reasonably available alternatives to further Defendant’s legitimate
14 business interests, other than the conduct described herein. Defendant could have marketed the
15 Product without making any false statements about the Products as a feminine wash formula that is
16 hypoallergenic and gentle enough for use on intimate skin.

17 111. All of the conduct alleged herein occurs and continues to occur in Defendant’s
18 business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct
19 repeated on thousands of occasions daily.

20 112. Pursuant to Business & Professions Code Section 17203, Plaintiff and the Class
21 seek an order of this Court enjoining Defendant from continuing to engage, use, or employ its
22 practice of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek
23 an order requiring Defendant to disclose such misrepresentations, and additionally request an order
24 awarding Plaintiff restitution of the money wrongfully acquired by Defendant in an amount to be
25 determined at trial.

26 113. Plaintiff and the Class have suffered injury in fact and have lost money as a result
27 of Defendant’s fraudulent conduct. Plaintiff and the Class paid an unwarranted premium for the
28 Products. Plaintiff and the Class would not have purchased the Products if they had known that the

1 Products contained sensitizing and harmful ingredients.

2 **C. “Unlawful” Prong**

3 114. Defendant’s advertising of the Product, as alleged in the preceding paragraphs,
4 violates California Civil Code Section 1750, *et seq.*, California Business and Professions Code
5 Section 17500, *et seq.*

6 115. Defendant’s packaging, labeling, and advertising of the Products as a feminine
7 wash formula that is hypoallergenic and gentle enough for use on intimate skin is false, deceptive,
8 misleading, and unreasonable, and constitutes unlawful conduct.

9 116. Defendant knew or should have known of its unlawful conduct.

10 117. As alleged in the preceding paragraphs, the misrepresentations by Defendant
11 detailed above constitute an unlawful business practice within the meaning of California Business
12 and Professions Code Section 17200.

13 118. There were reasonably available alternatives to further Defendant’s legitimate
14 business interests other than the conduct described herein. Defendant could have truthfully labeled
15 and advertised the Products.

16 119. All of the conduct alleged herein occurred and continues to occur in Defendant’s
17 business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct
18 repeated on thousands of occasions daily.

19 120. Pursuant to Business and Professions Code Section 17203, Plaintiff and the Class
20 seek an order of this Court enjoining Defendant from continuing to engage, use, or employ its
21 practice of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek an
22 order requiring Defendant to disclose such misrepresentations, and additionally request an order
23 awarding Plaintiff restitution of the money wrongfully acquired by Defendant in an amount to be
24 determined at trial.

25 121. Plaintiff and the Class have suffered injury in fact and have lost money as a result
26 of Defendant’s unlawful conduct. Plaintiff paid an unwarranted premium for the Product. Plaintiff
27 and the Class would not have purchased the Products if they had known that Defendant deceived
28 consumers into believing the Products are a feminine wash formula that is hypoallergenic and gentle

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1 enough for use on intimate skin.

2 122. As a result of the business acts and practices described above, Plaintiff and
3 members of the Class, pursuant to § 17203, are entitled to an order enjoining such future wrongful
4 conduct on the part of Defendant and such other orders and judgments that may be necessary to
5 disgorge Defendant’s ill-gotten gains and to restore to any person in interest any money paid for the
6 Product as a result of the wrongful conduct of Defendant.

7 **FOURTH CAUSE OF ACTION**

8 **Breach of Express Warranty**

9 123. Plaintiff repeats and realleges the allegations of the previous paragraphs and
10 incorporates the same as if set forth herein at length.

11 124. Defendant expressly warrants that the Products are a feminine wash formula that
12 is hypoallergenic and gentle enough for use on intimate skin, as set forth above. Defendant’s claims
13 constitute an affirmation of fact, promise, and/or description of the goods that became part of the
14 basis of the bargain and created an express warranty that the goods would conform to the stated
15 promise. Plaintiff placed importance on Defendant’s claims.

16 125. All conditions precedent to Defendant’s liability under this contract have been
17 performed by Plaintiff and the Class.

18 126. Defendant breached the terms of the contract, including the express warranties,
19 with Plaintiff and the Class by not providing Products that conform to the advertising and label
20 claims.

21 127. As a result of Defendant’s breach of contract, Plaintiff and the Class have been
22 damaged in the amount to be determined at trial.

23 **FIFTH CAUSE OF ACTION**

24 **Unjust Enrichment**

25 128. Plaintiff repeats and realleges the allegations set forth above, and incorporates the
26 same as if set forth herein at length.

27 129. By means of Defendant’s wrongful conduct alleged herein, Defendant knowingly
28 sold the Products to Plaintiff and members of the Class in a manner that was unfair, unconscionable,

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1 and oppressive.

2 130. Defendant knowingly received and retained wrongful benefits and funds from
3 Plaintiff and members of the Class. In so doing, Defendant acted with conscious disregard for the
4 rights of Plaintiff and members of the Class.

5 131. As a result of Defendant’s wrongful conduct as alleged herein, Defendant has been
6 unjustly enriched at the expense of, and to the detriment of, Plaintiff and members of the Class.

7 132. Defendant’s unjust enrichment is traceable to, and resulted directly and
8 proximately from, the conduct alleged herein.

9 133. Under the common law doctrine of unjust enrichment, it is inequitable for
10 Defendant to be permitted to retain the benefits it received, without justification, from selling the
11 Products to Plaintiff and members of the class in an unfair, unconscionable, and oppressive manner.
12 Defendant’s retention of such funds under such circumstances making it inequitable to retain the
13 funds constitutes unjust enrichment.

14 134. The financial benefits derived by Defendant rightfully belong to Plaintiff and
15 members of the Class. Defendant should be compelled to return in a common fund for the benefit
16 of Plaintiff and members of the Class all wrongful or inequitable proceeds received by Defendant.

17 135. Plaintiff and members of the Class have no adequate remedy at law.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, prays
20 for judgment and relief on all causes of action as follows:

- 21 a. **Certification:** For an order certifying this action as a class action, appointing
- 22 Plaintiff as the Class Representative, and appointing Plaintiff’s Counsel as
- 23 Class Counsel;
- 24 b. **Declaratory Relief:** For an order declaring that Defendant’s conduct violates
- 25 the statutes and laws referenced herein;
- 26 c. **Injunction:** For an order requiring Defendant to immediately cease and desist
- 27 from selling the unlawful Products in violation of law; enjoining Defendant
- 28 from continuing to market, advertise, distribute, and sell the Products in the
- unlawful manner described herein; requiring Defendant to engage in an
- affirmative advertising campaign to dispel the public misperception of the
- Products resulting from Defendant’s unlawful conduct; and requiring all

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further and just corrective action, consistent with permissible law and pursuant to only those causes of action so permitted;

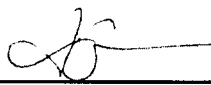
- d. **Damages/Restitution/Disgorgement:** For an order awarding monetary compensation in the form of damages, restitution, and/or disgorgement to Plaintiff and the Class, consistent with permissible law and pursuant to only those causes of action so permitted;
- e. **Attorneys' Fees & Costs:** For an order awarding attorneys' fees and costs, consistent with permissible law and pursuant to only those causes of action so permitted;
- f. **Pre-/Post-Judgment Interest:** For an order awarding pre-judgment and post-judgment interest, consistent with permissible law and pursuant to only those causes of action so permitted; and,
- g. **All Just & Proper Relief:** For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial on all triable issues.

DATED: May 12, 2023

CLARKSON LAW FIRM, P.C.



Ryan J. Clarkson, Esq.
Shireen M. Clarkson, Esq.
Tracey B. Cowan, Esq.

Attorneys for Plaintiff

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Certain Vagisil Hygiene Washes Not as 'Skin-Friendly' as Advertised, Class Action Alleges](#)
