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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARY SCHNURER, on behalf of
herself and all similarly situated
individuals,

Plaintiff,

vs.

MATHERSON ORGANICS, LLC,

Defendant.

Case No.: '20CV1223 LAB LL

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Mary Schnurer (“Plaintiff”) brings this Class Action against
2 Matherson Organics, LLC (“Defendant” or “Active Wow” herein), on behalf of
3 herself and all others similarly situated, and alleges the following based on her
4 personal knowledge and the investigation of her counsel:

5 **I. INTRODUCTION**

6 1. This is a consumer Class Action against Defendant for the false
7 advertising, unfair and deceptive marketing practices, and materially misleading
8 claims and omissions it negligently employed and disseminated in connection with
9 the sale of a line of whitening dental products containing activated charcoal, under
10 the brand name Active Wow. (Defendant is referred to herein by its brand name
11 Active Wow.)

12 2. Activated charcoal is highly porous and has adsorptive qualities that
13 can be useful in certain contexts. In recent years, health and beauty products
14 containing activated charcoal have become a consumer sensation. Marketers,
15 celebrities and social media influencers tout a variety of activated charcoal
16 products for purported detoxifying properties and other enhanced wellbeing and
17 health benefits. Consumers have been willing to pay a premium for these charcoal
18 products.

19 3. Active Wow sells numerous oral care products containing activated
20 charcoal, all of which are promoted as whitening, detoxifying, and drawing stains
21 out through charcoal adsorptive properties. Their whitening charcoal products
22 include toothpastes, toothpowders, as well as gels that contain charcoal (sold in
23 whitening ‘pens’ and whitening ‘kits’ with teeth trays). At issue in the allegations
24 asserted herein are Active Wow’s charcoal toothpowder products. These include
25 the following:

26 Active Wow ‘24K White’ Activated Coconut Teeth Whitening Charcoal
27 Powder – All Natural

28 Active Wow Charcoal Teeth Whitening Powder – Peppermint

1 Active Wow Charcoal Teeth Whitening Powder – Spearmint

2 Active Wow Charcoal Teeth Whitening Powder – Vanilla

3 These products as well as any other Active Wow toothpowders containing
4 activated charcoal that have been marketed and made available for purchase by
5 Defendant within the relevant statute(s) of limitations, are collectively referred to
6 herein as “**Charcoal Toothpowders**” or any of such products generically referred
7 to as “**Charcoal Toothpowder.**”

8 4. As detailed later herein, Plaintiff Schnurer purchased the Active
9 Wow ‘24K White’ Activated Coconut Teeth Whitening Charcoal Powder – All
10 Natural (specifically referred to herein as “**24K White Charcoal Toothpowder**”
11 but otherwise referred to herein generally as one of the Charcoal Toothpowders
12 (as defined above in Paragraph 3)). The 24K White Charcoal Toothpowder and
13 other Charcoal Toothpowders at issue herein are substantially similar in that they
14 are products of the identical type and have largely the same ingredients, and were
15 marketed with the same or essentially similar misrepresentations and omissions.

16 5. Active Wow promotes its Charcoal Toothpowders as whitening,
17 detoxifying and adsorptive, safe, and generally beneficial to oral health. The
18 Defendant makes claims on the jar labels and packaging of the Charcoal
19 Toothpowders as well as on the Active Wow website, on Amazon.com and other
20 online retailers, and elsewhere in extensive online marketing and print advertising.

21 6. These claims include but are not limited Active Wow’s promises that
22 its charcoal formula (contained in each of the Charcoal Toothpowders): “naturally
23 whitens your teeth”; “is safe to use for whitening your teeth, while being easy on
24 your gums”; “purifies and detoxifies”; “easy on gums, and gentle on enamel”; is
25 “enamel safe”; and “is your new best friend for detoxifying the mouth, removing
26 bad breath, and gently polishing away stains quickly and easily.” Active Wow
27 claims the activated charcoal “works by pulling stains off your teeth through a
28

1 process called ‘adsorption’.” Printed on each jar of Charcoal Toothpowder is the
2 statement: “Enjoy a whiter, healthier smile, the natural way!”

3 7. Specifically as to the 24K White Charcoal Toothpowder, printed on
4 the product packaging is the claim: “3rd Party Tested for Enamel Safety.” Active
5 Wow provides no other details or substantiation to back up this claim.

6 8. Active Wow’s marketing strategy has been very successful, and the
7 Charcoal Toothpowders have become top sellers in their product category.
8 However, that success is built on messaging that is misleading and deceptive to
9 consumers, and that negligently and misleadingly omits material information
10 concerning the safety and efficacy of use of charcoal in oral care.

11 9. Active Wow had duties to uphold as to its claims and omissions
12 concerning the Charcoal Toothpowders. For example, the Federal Trade
13 Commission (“FTC”) requires that marketers such as Active Wow ensure that
14 advertising claims are truthful, not misleading, and are supported by a reasonable
15 basis before disseminating such claims. Active Wow was also obligated not to
16 misbrand the Charcoal Toothpowders. Pursuant to regulations of the Federal Drug
17 Administration (“FDA”), products such as the Charcoal Toothpowders are
18 misbranded if the claims conveyed on the labeling and packaging are false or
19 misleading or when they lack requisite warning statements for safety hazards.

20 10. Similarly, multiple state laws have statutorily incorporated and mirror
21 portions of the relevant federal regulatory framework. For example, California’s
22 Sherman Food, Drug & Cosmetic Law (California Health & Safety Code §§
23 109875 *et seq.*) (the “Sherman Law”) adopts pertinent FDA regulations.¹ The
24 Sherman Law makes it unlawful to falsely advertise or misbrand products such as
25 the Charcoal Toothpowders, as well as to sell them.

26
27
28 ¹ The federal and parallel state requirements imposed on Active Wow are not raised herein
in order to seek to enforce any standard of conduct that would exceed that which is required
under the federal framework.

1 11. Despite its legal obligations to do so, Active Wow did not (and does
2 not) possess the requisite evidence to substantiate its claims concerning the
3 benefits and safety of its Charcoal Toothpowders; such evidence did not exist
4 when it made its claims, nor does it currently exist.

5 12. The consensus of respected dentists, researchers and industry experts
6 weighs against the use of charcoal dentifrices,² due to the lack of scientific
7 substantiation on safety and efficacy, as well as risks of harm. For example, in
8 2017, findings published in the Journal of the American Dental Association
9 (JADA) concluded that there is insufficient laboratory or clinical data to
10 substantiate the safety and efficacy of dentifrice containing activated charcoal, and
11 cautioned against its use. In 2019 the British Dental Journal (BDJ) again
12 confirmed a lack of substantiation in the form of scientific, sound and reliable
13 studies. The 2019 BDJ article expressed concern that charcoal toothpastes are a
14 “marketing gimmick” that could, in fact, cause harm to oral health, structures, and
15 aesthetics. Many qualified dental professionals have also spoken out on these
16 findings and other safety, therapeutic and cosmetic concerns, and have cautioned
17 against the use of charcoal dentifrices. Dr. Ada Cooper, a spokesperson for the
18 American Dental Association, recently commented on the lack of safety
19 substantiation (and reported hazards) for charcoal dentifrice and stated: “Just
20 because something is popular doesn’t mean it’s safe.”³

21 13. Notably, the American Dental Association (“ADA”) has not
22 approved *any* charcoal dentifrices for its ADA Seal of Acceptance (the “ADA
23 Seal”). The ADA Seal certifies the safety and efficacy of a dentifrice, based on
24 clinical data and research.

25 14. Active Wow knew or should have known that many of its claims
26 regarding the Charcoal Toothpowders lacked a credible basis or substantiation,

27 ² “Dentifrice” is a term for tooth-cleansing pastes and powders.

28 ³ “Beware Whitening Promise of Charcoal Toothpastes,” The Family Dental Center, Mar.
2019, [[https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-
toothpastes/](https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-toothpastes/)]. (emphasis added).

1 and that they were misleading, deceptive, and/or false. Active Wow also omitted
2 material facts, including that scientific literature counter-indicates the safety and
3 efficacy of charcoal in oral care use. Such representations and omissions were
4 material and likely to deceive a reasonable consumer, yet Active Wow nonetheless
5 negligently and recklessly proceeded with its opportunistic marketing campaign,
6 and continues to do so, without regard to the consequences to the deceived
7 consumer.

8 15. To bolster its inaccurate, misleading claims and omissions on the
9 benefits and safety of the Charcoal Toothpowders, Active Wow extols itself as
10 exceptionally conscientious of health and safety. It negligently and falsely
11 advertises itself as such in order to secure consumer confidence in the brand and
12 its Charcoal Toothpowders and to induce consumer purchases.

13 16. Active Wow intended for consumers to rely on its claims, which are
14 ubiquitously made in advertising and marketing materials, and printed on the
15 products' packaging and labeling. Active Wow knowingly presented its inaccurate
16 claims and engaged in deceptive practices, precisely due to Active Wow's belief
17 that such conduct was likely to deceive the consumer and induce a purchase in
18 reliance thereon.

19 17. Plaintiff and putative class members reasonably relied upon and
20 attributed value to the asserted benefits, efficacy, safety, value and other qualities
21 of the Charcoal Toothpowders, and did not know, nor could they reasonably have
22 known, of Active Wow's omissions of material information and
23 misrepresentations, deceptive and false marketing practices, or of the lack of
24 required substantiation on safety and efficacy. As a direct and proximate result of
25 this misconduct by Active Wow, Plaintiff and others similarly situated have
26 suffered ascertainable out-of-pocket losses from their purchases of one or more
27 Charcoal Toothpowders. Through its negligent and unlawful conduct, Active
28 Wow successfully induced Plaintiff and the putative class members to pay for oral

1 care products that (i) do not perform by ‘naturally’ whitening; (ii) do not purify
2 and detoxify, nor provide other promised benefits through the adsorptive
3 properties of charcoal; (iii) are not “easy on gums, and gentle on enamel” or
4 clinically proven to be enamel-safe, or otherwise safe and gentle as was
5 represented; (iii) are not of the value and quality for the price premium paid; (iv)
6 do not meet basic oral hygiene needs that other, less expensive dentifrices would;
7 and (v) may in fact be detrimental and harmful to oral health and aesthetics.
8 Furthermore, some consumers have experienced the negative effects that activated
9 charcoal can cause, including discoloration of the gumline, gum irritation,
10 excessive abrasion of tooth enamel and dentin, yellowing of the teeth, and damage
11 to dental implants.

12 18. Active Wow’s false and misleading claims and omissions enabled it
13 to sell the Charcoal Toothpowders in great quantity.

14 19. Active Wow capitalizes on foreseeable consumer misconceptions,
15 and prioritizes its own profits and jeopardizes consumers’ oral health, safety, and
16 wellbeing when it makes misleading and unsubstantiated claims on the safety,
17 health and efficacy of the Charcoal Toothpowders and omits contradictory and
18 material information, including on safety and risk. It fails to make disclosures it
19 had a duty to make, and negligently makes its unsubstantiated health, efficacy and
20 safety claims despite its legal duties to substantiate the same, and to ensure the
21 safety and efficacy of its products. Material omissions include the potential
22 hazards of using charcoal in dentifrice, and that scientific literature counter-
23 indicates the safety and efficacy of charcoal in oral care use.

24 20. Active Wow’s conduct in its advertising, marketing, labeling, and
25 sale of the Charcoal Toothpowders was, and continues to be, in violation of
26 common law, federal and statutory law, and public policy; it is also immoral,
27 unethical, unscrupulous, and substantially injurious to consumers. Defendant was
28 unjustly enriched as a result its wrongful conduct.

1 21. Defendant's conduct is in violation of the California Consumer Legal
2 Remedies Act, California Civil Code §§ 1750, *et seq.* (the "CLRA"); California's
3 Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL"); and
4 California's False Advertising Law, Bus. & Prof. Code §§ 17500, *et seq.* (the
5 "FAL"). Defendant's conduct also constitutes a breach of express and implied
6 warranties, as well as violations of common law including negligent
7 misrepresentation.

8 22. Plaintiff brings this proposed Class Action on behalf of herself and
9 other similarly situated consumers in the United States who purchased Active
10 Wow Charcoal Toothpowders within the relevant statute of limitations period (the
11 "Nationwide Class"), as well as a proposed subclass of members who purchased
12 the Charcoal Toothpowders in the state of California (the "CA Subclass") (all
13 potential class members are collectively referred to herein the "Classes" or "Class
14 members"). For the alleged violations of state statutory law and common law,
15 Plaintiff seeks, on behalf of herself and the putative class members, to recover
16 compensatory and statutory damages, treble or punitive damages as available,
17 attorneys' fees and costs, as well as declaratory and injunctive relief. Plaintiff
18 further seeks disgorgement and restitution as statutorily provided for, as well as on
19 the basis of quasi-contract.

20 II. PARTIES

21 23. Plaintiff Mary Schnurer is a natural person and a citizen of
22 California. On June 22, 2017, Ms. Schnurer purchased the Active Wow '24K
23 White' Activated Coconut Teeth Whitening Charcoal Powder – All Natural
24 (specifically referred to herein as 24K White Charcoal Toothpowder). Prior to her
25 decision to enter into a transaction and purchase the toothpowder, Ms. Schnurer
26 was exposed to and saw the package labeling and the online marketing claims. On
27 June 22, 2017 Ms. Schnurer purchased the 24K White Charcoal Toothpowder on
28 Amazon.com. She made her purchase in reliance on Active Wow's marketing and

1 advertisements, and the representations it made on its packaging and online
2 (including in its Amazon listing for the product she purchased). She expected that
3 the product would meet the representations made, including but not limited to that
4 it would whiten teeth, that it would remove toxins, that it would be safe for daily
5 use, and that – as a natural alternative to toothpaste – it would be effective to
6 adequately meet dental hygiene and oral health care needs. However, Ms.
7 Schnurer’s expectations, which were based on Active Wow’s own representations,
8 were not met. For example, rather than ‘naturally whitening’ her teeth, the product
9 was actually abrading her enamel, and had not been proven safe for use.

10 24. As a result of her purchase Ms. Schnurer suffered actual damage and
11 economic injury. She paid an ascertainable out-of-pocket purchase price for a
12 falsely advertised and misbranded dentifrice. She paid a price premium over other
13 similar products. The purchased product cannot deliver the promised health and
14 cosmetic benefits and it does not possess the detoxifying, ‘naturally whitening’,
15 and other properties Active Wow claimed. It also lacks the represented level of
16 safety and safety substantiation. Moreover, its use poses some risk and it is
17 potentially detrimental to oral health and aesthetics.

18 25. Ms. Schnurer became aware and discovered the nature of her claims
19 made herein in the fall of 2019, when she came across the announcement of a
20 potential class action against purveyors of personal care products containing
21 charcoal.

22 26. Ms. Schnurer has standing to assert claims on all Charcoal
23 Toothpouders sold by Active Wow (of varying flavors or sold at different times),
24 because the products are substantially similar (in fact, they are nearly identical).
25 Defendant’s negligent and unlawful conduct as to all of the Charcoal
26 Toothpouders is, and continues to be, substantially similar as to the particular
27 Charcoal Toothpowder it sold to Ms. Schnurer. Defendant conveys the same or
28 very similar marketing messages, including misrepresentations and omissions of

1 material fact. The packaging, labeling and marketing claims and omissions by
2 Active Wow induced numerous consumer purchases, and resulted in the same
3 types of injuries to others as was suffered by Ms. Schnurer.

4 27. Ms. Schnurer continues to suffer ongoing concrete harm and
5 imminent injury because she is unable to rely on the veracity of Active Wow's
6 product labeling and advertising and will be unable to rely in the future, when she
7 wants to make a purchase of another Active Wow dentifrice but as a previously
8 misled consumer, she lacks confidence in the representations made. Alternatively,
9 when considering a purchase decision in the future, she will be injured if she
10 believes the claims have been substantiated or corrected, and, as any reasonable
11 consumer would, thinks she can rely on the labeling and marketing to be truthful
12 and non-misleading and be confident in the representations concerning the
13 products.

14 28. Defendant Matherson is a citizen of the state of Florida. It is
15 registered in the state of Florida and has its principal place of business at 75 North
16 Woodward Avenue, #85899, Tallahassee, Florida 32313. Defendant is a health
17 and beauty company engaged in the business of selling the Active Wow Charcoal
18 Toothpouders among other health and beauty products to consumers from its
19 website, www.activewow.com, through online stores of third-party retailers
20 including Amazon, and through the brick-and-mortar stores owned by third parties
21 and other third-party distributors. It conducts mass marketing campaigns and
22 distributes its Active Wow Charcoal Toothpouders throughout the United States.

23 **III. JURISDICTION AND VENUE**

24 29. This Court has jurisdiction over this matter under the Class Action
25 Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)(2), as the amount in controversy
26 exceeds \$5 million, exclusive of interest and costs; it is a Class Action of over 100
27 members; and Plaintiff is a citizen of a state different from Defendant.

28

1 30. This Court has personal jurisdiction over Defendant, because
2 Defendant has sufficient minimum contacts with the state of California and
3 purposefully availed itself, and continues to avail itself, of the jurisdiction of this
4 Court through the privilege of conducting its business ventures in the state of
5 California. Specifically, it promotes its products (including the Charcoal
6 Toothpowers) in this state through print and online advertising and marketing
7 (disseminated and targeted to California residents), and also distributes and sells
8 its products (including the Charcoal Toothpowers) in the state of California.
9 Much of the conduct giving rise to this action occurred in the state of California
10 because many of the acts, claims and omissions giving rise to this action occurred
11 in and were disseminated in the state of California; because Plaintiff Schnurer
12 made her online purchase while in the state of California and the product was
13 delivered to and used in California; because Active Wow entered into and serviced
14 numerous sales transactions for the Charcoal Toothpowers in the state; and
15 numerous putative class members purchased the Charcoal Toothpowers in
16 California, and did so in reliance on and as an immediate result of the claims and
17 omissions by Active Wow in its labeling, marketing, advertising.

18 31. Venue is proper in this district under 28 U.S.C. § 1391(a) because a
19 substantial part of the events or omissions giving rise to the claims asserted herein
20 occurred in this district, as Defendant does business throughout this district
21 (including promoting, selling, marketing, and distributing the Active Wow
22 Charcoal Toothpowers at issue), and the Plaintiff purchased the Active Wow
23 Charcoal Toothpowder in this district and had the product delivered to this district.

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IV. FACTUAL ALLEGATIONS

A. Background

32. Activated charcoal is made from coal, wood, coconut shells, sawdust, bamboo, or similar ingredients.⁴ The raw material is superheated, treated with different chemicals, and then superheated a second time with steam.⁵

33. Activated charcoal has adsorptive qualities that have proven to be quite useful in certain limited contexts. For decades, it has been used in the emergency medical treatment of certain types of poisonings and drug overdoses, because, when administered correctly, it can adsorb certain heavy metals, drugs and other toxins.⁶ The effectiveness of medicinal activated charcoal in the emergency room setting is limited and dependent on specific factors, such as the type of drug or toxin, timing between ingestion of the toxin and ingestion of the medicinal charcoal, and dosage of each.⁷

34. Activated charcoal has also been used in industrial and environmental settings to extract certain organic and inorganic substances from water.⁸ For example, it is sometimes used to remove excess amounts of fluoride from drinking water.⁹ It is used in juice manufacturing to control color and remove organic

⁴ Active Wow claims its activated charcoal is made from coconut shells.

⁵ “Activated Charcoal FAQ,” General Carbon Corp. [<http://generalcarbon.com/facts-about-activated-carbon/activated-carbon-faq/>] (last accessed June 26, 2019) (General Carbon Corp. is an activated charcoal manufacturer).

⁶ *See generally*, Robert W. Derlet & Timothy E. Albertson, “Activated Charcoal—Past, Present and Future,” 145 *West J. Med.* 493 (Oct. 1986) [<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1306980/pdf/westjmed00158-0063.pdf>].

⁷ *Id.*; *see also* Derlet & Alberston, *supra* note 3, at 493–92 & Table 1; Jennifer A. Lowry, “Use of Activated Charcoal in Pediatric Populations,” World Health Organization: Subcommittee of Expert Committee on the Selection and Use of Essential Medicines, Jan. 2008, at 2, [https://www.who.int/selection_medicines/committees/subcommittee/2/charcoal_rev.pdf] (reviewing literature on medical use of activated charcoal).

⁸ *See generally* “The History of Activated Carbon,” Jurassic Activated Carbon, Feb. 9, 2014 [<https://www.jurassiccarbon.com/blogs/news/12186281-the-history-of-activated-carbon>].

⁹ Manisha Poudyal & Sandhya Babel, “Removal of Fluoride using Granular Activated Carbon and Domestic Sewage Sludge,” 82 *Int’l Proceedings of Chem., Biological, and Env’tl. Eng’g* 139 (2015) [<http://www.ipcbee.com/vol82/027-IEEA2015-C3024.pdf>]; *see also* Behrooz Eftekhari et al., “The Effectiveness of Home Water Purification Systems on the Amount of Fluoride in Drinking Water,” *J. of Dentistry, Shiraz U. of Med. Sci.*, Sept. 2015, at 278, (noting that use of home water purification systems, including several using carbon-based filtration methods, reduced the amount of fluoride in water).

1 compounds.¹⁰ Activated charcoal can also adsorb water-soluble vitamins,
2 including forms of Vitamins C and B.¹¹

3 35. Inspired by the use of activated charcoal in these limited and
4 particular contexts, enterprising companies like Defendant have been eager to
5 extrapolate charcoal's adsorptive properties for use in a much broader context,
6 often with little to no substantiation. Products containing activated charcoal are
7 increasingly prevalent, and are promoted with vague claims of 'detoxifying'
8 properties as well false or overstated health and beauty benefits. Activated
9 charcoal has been marketed to the public as capable of extracting nearly any
10 undesirable element or substance, and in nearly any context.

11 36. Yet, writes Scott Gavura in *Activated Charcoal, The Wellness Scam*
12 (Science Based Medicine, Aug. 8, 2019): "what's popularly called a 'detox' today
13 has nothing to do with actual medical detoxification," and "[f]ake detox, the kind
14 you find in magazines, and sold in pharmacies, juice bars, and health food stores,
15 is **make-believe medicine. The use of the term 'toxin' in this context is**
16 **meaningless.... but it sounds just scientific enough to be plausible.**"¹² Mr.
17 Gavura goes on, "if you hear the words 'detox' uttered anywhere but an
18 emergency room, keep in mind that you're hearing a **marketing pitch, not**
19 **credible health evidence.**"¹³ "Despite the marketing hype, activated charcoal has
20 no ability to suck out the toxic chemicals from the rest of your body."¹⁴

21 37. Multiple scientific and consumer publications have made note of this
22 logical fallacy and have debunked the broadly asserted 'detoxifying' properties of
23 activated charcoal (particularly in its most commonly available form as an
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25 ¹⁰ Cetin Kadakal et al., "Research Note: Effect of Activated Charcoal on Water-Soluble
26 Vitamin Content of Apple Juice," 27 *J. of Food Quality* 171 (Apr. 2004)
[<https://doi.org/10.1111/j.1745-4557.2004.tb00647.x>].

27 ¹¹ *Id.*

28 ¹² Scott Gavura, "Activated Charcoal, The Wellness Scam," *Science Based Medicine*, Aug.
8, 2019 [<https://sciencebasedmedicine.org/activated-charcoal-the-wellness-scam/>].

¹³ *Id.* (emphasis added).

¹⁴ *Id.* (emphasis added).

1 ingestible supplement). In April 2017, Consumer Reports published *Activated*
2 *Charcoal Isn't a Magic Health Bullet*, wherein Julia Calderone writes: “In recent
3 years, people have tried to translate the very limited success of activated charcoal
4 in the ER to their everyday lives, assuming that if it can adhere to and remove
5 certain drugs in an emergency room, it can stop all kinds of toxins, making an
6 already healthy person even healthier.”¹⁵ Lisa Sasson, M.S., R.D., clinical
7 associate professor of nutrition at New York University is quoted as saying “**this**
8 **logical leap is not based in science.**”¹⁶

9 38. In another example from 2017, the Superfoodly.com website
10 published *Activated Charcoal Uses May Be Harmful, Possibly Cancerous?*
11 stating: “The problem is that none of these cleansing/detox benefits are backed by
12 science.... **using [charcoal] to remove toxins from your body is nonsensical,**
13 unless you literally just ingested poison (and even then, only certain types will it
14 absorb). There are no clinical trials or peer reviewed research which suggests
15 activated charcoal removes toxins daily when used as a supplement.”¹⁷

16 39. Simultaneous with the charcoal trend, consumer demand for teeth-
17 whitening products has risen. The global market for teeth-whitening products is
18 expected to reach \$7.4 billion by 2024.¹⁸ Dentists, dental scientists and researchers
19 have raised concerns about the rapid growth of dental health ‘fads,’ including the
20 use of charcoal in oral care, which, even when “there is a lack of . . . scientifically
21 supported information around such items, [] this does not stop them from being
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26 ¹⁵ Julia Calderone, “Activated Charcoal Isn't a Magic Health Bullet,” Consumer Reports
27 (April 13, 2017) [<https://consumerreports.org/dietary-supplements/activated-charcoal-fad-not-a-magic-health-bullet/>].

28 ¹⁶ *Id.*

¹⁷ “Activated Charcoal Uses May Be Harmful, Possibly Cancerous?,” Superfoodly (July
28, 2017) [<https://www.superfoodly.com/activated-charcoal-uses-side-effects/>].

¹⁸ <https://www.hexaresearch.com/research-report/teeth-whitening-products-market>.

1 used.”¹⁹ As Dr. Ada Cooper, a spokesperson for the American Dental Association,
2 recently stated: “**Just because something is popular doesn’t mean it’s safe.**”²⁰

3 40. Active Wow has successfully leveraged the charcoal and detox trend
4 and consumer enthusiasm for teeth whitening with its development, marketing,
5 and sales of its Charcoal Toothpowders. of its line of oral care products containing
6 activated charcoal.

7 **B. Contemporary Scientific Studies Challenge the Safety and**
8 **Efficacy of Activated Charcoal for Use in Dentifrice**

9 41. The first use of charcoal for oral hygiene dates back to Hippocrates in
10 ancient Greece.²¹ The Romans apparently followed this practice, along with other
11 questionable oral care practices such as rinsing their mouths with urine.²²

12 42. In the United States, there have been several attempts to introduce
13 charcoal as an oral health product. According to commentary published in the
14 Journal of the American Dental Association (“JADA”) in 1932, a product named
15 “Kramer’s Original Charcoal Dental Cream,” had been pronounced “not
16 acceptable” as an Accepted Dental Remedies (ADR) by the Council on Dental
17 Therapeutics (the “Council”). The Council found that “[c]linical experiences are
18 recorded in which the particles of charcoal became imbedded in the gum tissue
19 and produced a bluish line near the margin, which is removable only by surgical
20 means.”²³ When the Kramer’s brand produced no evidence to rebut the clinical
21

22 ¹⁹ Marco Antonio Dias da Silva & Anthony Damien Walmsey, “Fake News and Dental
Education,” 226 *British Dental Journal* 397, 397-99 (2019).

23 ²⁰ “Beware Whitening Promise of Charcoal Toothpastes,” The Family Dental Center, Mar.
24 2019, [<https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-toothpastes/>]. (emphasis added).

25 ²¹ See S.W.B. Newsom, “Hygiene and the Ancient Romans,” *J. of Infection Prevention*, at
25, June 2004 [<https://journals.sagepub.com/doi/abs/10.1177/14690446040050030601>].

26 ²² C. Valerius Catullus, “On Egnatius of the White Teeth,” circa B.C. 84–54, (Tr. Richard
Francis Burton, 1894),
27 [<http://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.02.0005:poem%3D39>] (poem
by the Roman poet Catullus referring to the practice of whitening teeth by rinsing with urine).

28 ²³ John K. Brooks et al., “Commentaries: More on Charcoal and Charcoal-Based
Dentifrices,” 148 *JADA* 785 (2017), [<http://dx.doi.org/10.1016/j.adaj.2017.09.027>] (quoting
S.M. Gordan, “Kramer’s Original Charcoal Dental Cream: not acceptable for A.D.R.,” 33 *JADA*
912, 912–13 (1946)).

1 results, the Council denied it as an ADR “**because it is a dentifrice intended for**
2 **daily use that contains charcoal, a potentially harmful substance.**”²⁴

3 43. Decades after the American dentistry establishment officially rejected
4 charcoal for use in dentifrice, the topic has again resurfaced, in light of the
5 burgeoning consumer trend. One study, presented at the Academy of General
6 Dentistry 2015 Annual Meeting, concluded that “activated charcoal was more
7 abrasive than a whitening toothpaste on acrylic resins” and warned that “[t]he fine
8 black charcoal powder may become embedded in defects such as margins or
9 cracks present on older dentition.”²⁵

10 44. In 2017, the Journal of the American Dental Association published a
11 literature review to “examine the efficacy and safety of charcoal and charcoal-
12 based dentifrices.” John K. Brooks et al., *Charcoal and Charcoal-Based*
13 *Dentifrices*, 148 JADA 661 (2017) (referred to herein as “*Charcoal-Based*
14 *Dentifrices* (JADA 2017)” or “the 2017 JADA article”). The authors, Dr. John
15 Brooks, DDS, Dr. Nasir Bashirelahi, PhD, and Dr. Mark A. Reynolds, DDS, PhD,
16 reviewed the first 50 consecutive charcoal dentifrices from Google.com and
17 Amazon.com to assess how the marketing claims of these products compared with
18 efficacy and safety of charcoal-based dentifrices as found in the available
19 scientific literature.²⁶

20 45. The authors of *Charcoal-Based Dentifrices* (JADA 2017) reviewed
21 advertising claims about the charcoal-based dentifrice on the market, and found:
22 “Nearly one-half of the charcoal-based dentifrices were advertised as being
23 capable of detoxification, with most claiming to detoxify the oral cavity or teeth.
24 **Our review failed to identify scientific support in the literature that topical**
25

26 ²⁴ *Id.*

27 ²⁵ Brantley McCarty et al., “Activated Charcoal as a Whitening Dentifrice,” Presented at
Academy of General Dentistry 2015 Annual Meeting, June 18–21, 2015, San Francisco, CA
28 [<https://www.epostersonline.com/agd2015/node/72>] (last accessed June 5, 2019).

²⁶ John K. Brooks et al., “Charcoal and Charcoal-Based Dentifrices,” 148 JADA 661
(2017).

1 **application of charcoal can provide any detoxification benefits to the teeth or**
2 **oral mucosa.”²⁷**

3 46. The authors of the 2017 JADA article additionally reported that
4 “[c]harcoal has been recognized as an abrasive mineral to the teeth and
5 gingiva, and its inclusion in tooth preparations raises concern about damage
6 to these oral structures, as well as increasing caries susceptibility due to the
7 potential loss of enamel.”²⁸

8 47. In conclusion, the authors of *Charcoal-Based Dentifrices* (JADA
9 2017) stated:

10 In our literature review, we found insufficient scientific evidence to
11 substantiate the cosmetic, health benefits (antibacterial, antifungal,
12 or antiviral; reduced caries; tooth whitening; oral detoxification),
13 or safety claims of marketed charcoal-based dentifrices. Controlled
clinical trials and laboratory investigations of charcoal-based
dentifrices . . . are needed to determine product efficacy and safety.²⁹

14 48. In May 2019, the British Dental Journal confirmed that supporting
15 scientific evidence remained lacking, and again raised the same and similar
16 concerns reflected in the 2017 JADA article. Linda H. Greenwall et al., *Charcoal-*
17 *Containing Dentifrices*, 226 BDJ 697, 698 (2019) (referred to herein as
18 “*Charcoal-Containing Dentifrices* (BDJ 2019)” or “the 2019 BDJ article”). It
19 further noted the tendency for buildup of charcoal particles in surface defects,
20 fissures, and gumline, and resulting poor aesthetic effects.³⁰

21 49. The May 2019 article in the British Dental Journal, *Charcoal-*
22 *Containing Dentifrices* (BDJ 2019), concluded that charcoal-based dentifrices
23 “may be considered to be a fashionable, marketing ‘gimmick’” that is “based on
24 folklore on the use of different forms of charcoal for oral and dental remedies,” or
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26 ²⁷ *Id.* (emphasis added). The authors were unable to identify any randomized, controlled
27 clinical trials with a follow-up duration of 3 months or longer testing the safety or effectiveness
of charcoal-based dentifrices. All of the available studies lacked adequate controls to measure
clinical oral improvements with charcoal-based dentifrices.

28 ²⁸ *Id.* (emphasis added).

29 ²⁹ *Id.* (emphasis added).

30 ³⁰ *Id.*

1 improperly based on “present day uses of charcoal for medical purposes.”³¹ The
 2 2019 BDJ article lamented the prevalent and **“worrying approach”** in the
 3 marketing of charcoal dentifrices that places “a strong emphasis on benefits which
 4 appeal to consumers, which have yet to be disproved,” and that favor a
 5 ““scientifically claimed until proved wrong’ approach . . . over substantiated,
 6 evidence-based promotion.”³² The authors opined that **“the ethics of such an
 7 approach to the marketing of health-influencing products is at best
 8 questionable. False and deceptive messaging, together with the selective
 9 provision of information could be classed as misleading practice, contrary to
 10 the consumers’ best interests and protection.”**³³

11 **C. The American Dental Association has Not Approved any**
 12 **Activated Charcoal Toothpowders for its ADA Seal of**
 13 **Acceptance**

14 50. The American Dental Association (“ADA”) was founded in 1859.³⁴
 15 Per the ADA’s description of its mission, the ADA “exists to power the profession
 16 of dentistry and to assist our members in advancing the overall oral health of their
 17 patients.”³⁵ The ADA presents itself as a “strong advocate[] for public health”
 18 working with an aim to keep patients “healthy from the dental chair to daily care
 19 at home.”³⁶

20 51. In furtherance of the ADA’s public health goals, the organization
 21 administers the ADA Seal of Acceptance Program (“Seal Program”), which began
 22 in 1931.³⁷ The ADA began the Seal Program to combat “extravagant claims”
 23

24 ³¹ Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental*
 25 *Journal* 697, 698 (2019).

26 ³² *Id.* (emphasis added).

27 ³³ *Id.* (emphasis added).

28 ³⁴ <https://www.ada.org/en/about-the-ada/ada-history-and-presidents-of-the-ada> (last
 accessed November 18, 2019).

³⁵ <https://www.ada.org/en/about-the-ada> (last accessed November 18, 2019).

³⁶ *Id.*

³⁷ <https://www.ada.org/en/science-research/ada-seal-of-acceptance> (last accessed
 November 18, 2019).

1 about what dental products could do.³⁸ Since that time, the ADA Seal of
 2 Acceptance has become “[u]niversally recognized by consumers as a symbol of
 3 safety and effectiveness” and “is carried on more than 300 oral health products,
 4 including toothpastes, toothbrushes, dental floss, mouth rinses, denture adherents,
 5 and chewing gum.”³⁹ Companies can submit dental products to the Seal Program
 6 by including “data from clinical or laboratory studies that demonstrate safety and
 7 efficacy according to product category requirements developed by the ADA
 8 Council on Scientific Affairs.”⁴⁰ Members of the ADA Council review
 9 submissions for adherence to product category requirements and, if necessary,
 10 utilize consultants with relevant specific area expertise.⁴¹ Once a product’s safety
 11 and efficacy has been demonstrated, the ADA Council will award the Seal
 12 Acceptance.⁴²

13 52. A variety of major brands have sought and received the ADA Seal of
 14 Acceptance for certain products, including, but not limited to, Crest, Efferdent,
 15 ACT, CVS, Equate (Walmart), Listerine, Up and Up (Target), Oral-B, and
 16 Colgate.⁴³ **Significantly, the ADA has not granted the ADA Seal of Acceptance**
 17 **to any product with activated charcoal.**⁴⁴

18 53. Defendant has not received the ADA Seal of Acceptance for any of
 19 its Active Wow Charcoal Toothpowders.⁴⁵ Based upon the prevailing scientific
 20 literature regarding the lack of safety and efficacy of activated charcoal in dental
 21 products, Active Wow would have or should have been aware of the extremely

22 ³⁸ <https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-faq>, “What is
 23 the ADA Seal?” (last accessed November 18, 2019).

³⁹ <https://www.ada.org/en/about-the-ada> (last accessed November 18, 2019).

24 ⁴⁰ <https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-faq>, “What
 25 determines if a dental product qualifies for the Seal?” (last accessed November 18, 2019).

⁴¹ <https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-faq>, “How are
 26 products evaluated?” (last accessed November 18, 2019).

⁴² *Id.*

27 ⁴³ <https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-shopping-list>
 (last accessed November 18, 2019).

⁴⁴ See [https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-shopping-](https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-shopping-list)
 28 [list](https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-shopping-list) (last accessed November 18, 2019).

⁴⁵ <https://www.ada.org/en/science-research/ada-seal-of-acceptance/ada-seal-shopping-list>
 (last accessed November 18, 2019).

1 low likelihood that its Charcoal Toothpowders could qualify for the ADA Seal of
2 Acceptance. Nevertheless, it has chosen to make the exact sort of false, deceptive,
3 and/or misleading extravagant claims that inspired the creation of the ADA’s Seal
4 Program.

5 **D. Active Wow’s Representations on the Charcoal Toothpowders’**
6 **Labeling, Packaging, Advertising and Marketing**

7 54. Since at least 2016, Defendant has packaged, marketed, distributed,
8 and sold some or all of its Active Wow Charcoal Toothpowders.

9 55. Examples of the product jars and packaging include:



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DIRECTIONS

Wet a toothbrush and dip it in the powder (a little goes a long way - it can last 100 uses). Gently brush teeth for 1-2 minutes. Rinse thoroughly and spit close to the drain with water running. Use once or twice daily. Enjoy a whiter, healthier smile, the natural way! 😊

 **ALL NATURAL**  **PEROXIDE-FREE**

 **MADE IN USA**  **GENTLE & EFFECTIVE**

 **3RD PARTY TESTED FOR ENAMEL SAFETY**



**EXPERIENCE
POWDER-FUL
WHITENING.**

Our naturally brilliant formula whitens your teeth with the power of activated coconut charcoal. It's your new best friend for detoxifying the mouth, removing bad breath, and gently polishing away stains quickly and easily. Best of all, it's free from chemicals, artificial flavors and colors.

INGREDIENTS: Organic Activated Coconut Charcoal, Bentonite, Sodium Bicarbonate, Coconut Oil, Mint Flavor, Orange Seed Oil

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56. Printed on the packaging for each of the Active Wow Charcoal Toothpowders statement: **“Enjoy a whiter, healthier smile, the natural way!”**

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1 57. Examples of the marketing claims and imagery used to market the
2 Charcoal Toothpowders online include:



5 BENEFITS OF USING ACTIVE WOW CHARCOAL TEETH WHITENING

- 1 Natural teeth whitening** - for people who don't want to use gels and peroxides
- 2 Whitens over time** - removes stains from coffee, wine, cigarettes without bleach
- 3 Activated Coconut Formula** - derived from premium sources, easy on gums, gentle on enamel
- 4 Long Lasting** - One jar goes a long way! Should last 2-3 months depending upon usage
- 5 Detoxifies Your Mouth** - You can use activated charcoal in place of your regular toothpaste or as a supplement to regular toothpaste

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DISCOVER THE SECRET PEOPLE ACROSS THE COUNTRY ARE USING TO ACHIEVE NATURAL, BEAUTIFUL WHITE TEETH



The **natural** way to **whitening** your **teeth**

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums.

ACTIVATED CHARCOAL

TEETH WHITENING REDEFINED
SIMPLE, NATURAL INGREDIENTS

NATURALLY DERIVED
WHITENING INGREDIENTS



Organic Coconut

Bentonite

Orange Seed Oil



ORANGE SEED OIL
Helps to smooth your teeth whitening experience. It has numerous anti-inflammatory and antiseptic ingredients.

BENTONITE
Bentonite is great for remineralizing your teeth due to its high mineral content. It also absorbs toxins naturally, and is easy on your gums.

ORGANIC COCONUT ACTIVATED CHARCOAL
Activated charcoal works by drawing out stains from your teeth while detoxifying the mouth.

BRING OUT THE NATURAL BEAUTY IN YOUR SMILE.

Natural activated charcoal helps whiten your teeth by gently polishing away stains to bring the shine back to your smile.

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1 58. Attached hereto, Exhibits 1 through 6 reflect marketing claims that
2 Defendant makes regarding each of the Active Wow Charcoal Toothpowders on
3 its website activewow.com and in its listings on Amazon.com.

4 **E. Active Wow’s Marketing Claims are Debunked or**
5 **Unsubstantiated by Scientific Evidence, Misleading and/or**
6 **Untrue**

7 **(i) Detoxifying and Adsorbing**

8 59. As previously described, Active Wow consistently touts its Charcoal
9 Toothpowders as purifying, detoxifying, and possessive of adsorptive properties
10 that purportedly effectuate cosmetic and oral health benefits. For example, Active
11 Wow’s marketing claims made online include that the ingredient activated
12 charcoal “purifies and detoxifies” and “detoxifies your mouth” and that “activated
13 charcoal works by pulling stains off your teeth through a process ‘adsorption.’”
14 On its website Active Wow states that the activated charcoal in its 24K White
15 Toothpowder “works by drawing stains out from your teeth while detoxifying the
16 mouth.”

17 60. In the FAQ section of its website, Active Wow presents a section
18 titled “What is Activated Charcoal? Great Question!” and therein explains that
19 activated charcoal is “porous and adsorbent,” and “is a natural treatment used to
20 absorb toxins and chemicals to clean and purify your teeth.” Another section titled
21 “Why Activated Charcoal? ‘Cause Why Not!” states that activated charcoal “is
22 quite sticky which is perfect for teeth whitening since it sticks to particles that are
23 responsible for staining your teeth and removes them. . . . [and] is very effective
24 for [. . .] detoxifying your mouth. . . .”

25 61. In reality, Active Wow’s claims are specious and make misuse of the
26 term “detoxification.” As previously discussed, detoxification is a *medical term*
27 that refers to emergency treatments for dangerous levels of drugs, alcohol, or
28

1 poisons, like heavy metals.⁴⁶ Moreover, there are no clinical trials or peer
 2 reviewed research which suggest activated charcoal removes toxins daily when
 3 used as a supplement.”⁴⁷ “Despite the marketing hype, activated charcoal has no
 4 ability to suck out the toxic chemicals from the rest of your body.”⁴⁸

5 62. Even more implausible than the ‘detoxifying’ effects of ingestible
 6 supplements, are purported ‘detoxifying’ properties in topically applied personal
 7 care products, such as dentifrice. The logic of employing charcoal in this context
 8 is even more attenuated and is, in fact, *wholly unsupported*. As one wellness writer
 9 has put it:

10 **“At the root of the activated charcoal health fad is the misuse, or**
 11 **misunderstanding, of the word ‘toxin.’** In a detox-crazy world,
 12 toxins are used to refer to impurities or anything undesirable in your
 13 body: **stains on your teeth**, dirt or dust on your skin, naturally
 14 present sugars in your juice, a hangover after a night out. **Personal**
 15 **care products (like teeth whiteners, face masks, soaps, shampoos,**
 16 **and deodorants) containing activated charcoal bank on the idea that**
 17 **impurities can be draw out during use. . . But there is little to no**
 18 **research to prove that the trace amounts of activated charcoal,**
 19 **combined with other ingredients, in these products are effective**
 20 **and much more than just marketing.”⁴⁹**

21 63. Despite the lack of reasonable basis or credible, scientific and clinical
 22 substantiation, Active Wow extols the benefits and functions of charcoal as an
 23 adsorptive detoxifier on its website and on Amazon.

24 ⁴⁶ Scott Gavura, “Activated Charcoal, The Wellness Scam,” *Science Based Medicine*, Aug.
 25 8, 2019 [<https://sciencebasedmedicine.org/activated-charcoal-the-wellness-scam/>].

26 ⁴⁷ “Activated Charcoal Uses May Be Harmful, Possibly Cancerous?,” Superfoodly (July
 27 28, 2017) [<https://www.superfoodly.com/activated-charcoal-uses-side-effects/>]; Scott Gavura,
 28 “Activated Charcoal, The Wellness Scam,” *Science Based Medicine*, Aug. 8, 2019
 [<https://sciencebasedmedicine.org/activated-charcoal-the-wellness-scam/>]; Julia Calderone,
 “Activated Charcoal Isn’t a Magic Health Bullet,” Consumer Reports (April 13, 2017)
 [<https://consumerreports.org/dietary-supplements/activated-charcoal-fad-not-a-magic-health-bullet/>].

⁴⁸ Scott Gavura, “Activated Charcoal, The Wellness Scam,” *Science Based Medicine*, Aug.
 8, 2019 [<https://sciencebasedmedicine.org/activated-charcoal-the-wellness-scam/>].

⁴⁹ Katie Mui, “Activated Charcoal: The Powerful Detox Ingredient You Don’t Want in
 Your Regular Diet,” GoodRx, Feb. 7, 2019 [<https://www.goodrx.com/blog/what-is-activated-charcoal-detox-medication-interactions/>]. (emphasis added).

1 64. Active Wow’s detoxification claims are a marketing gimmick with no
 2 basis in fact. Very similar claims have been assessed by dental experts and
 3 determined to be unsupportable (see, e.g., the 2017 JADA and 2019 BDJ articles).
 4 Put simply, **there is no scientific support “that topical application of charcoal
 5 can provide any detoxification benefits to the teeth or oral mucosa.”⁵⁰ This
 6 includes “antibacterial, antifungal, or antiviral” benefits, as well as reduced
 7 caries or a more general (and ill-defined) notion of “oral detoxification.”⁵¹
 8 And, to the extent charcoal-based dentifrices do appear to effectuate certain
 9 purported oral hygiene or aesthetic benefits, it is not its porousness, but rather the
 10 *high abrasiveness* of the charcoal particle that enables any seemingly positive
 11 results, and in a short-sighted and risky manner.**

12 (ii) *Naturally Whitening*

13 65. Active Wow promotes its Charcoal Toothpowders as “naturally”
 14 whitening, “free from chemicals,” and safer and healthier than whitening teeth
 15 through other methods. It presents the charcoal as the ingredient effectuating
 16 whitening results, with statements such as: “Our naturally brilliant formula
 17 whitens your teeth with the power of activated coconut charcoal” and “Active
 18 Wow naturally whitens your teeth, not through harsh dental-grade whitening
 19 peroxides, but through the power of Activated Charcoal, nature’s best purifier and
 20 detoxifier” and “Activated Charcoal: Teeth Whitening Redefined. Simple, Natural
 21 Ingredients.”

22 66. When a toothpaste or toothpowder is advertised as whitening, most
 23 reasonable consumers believe it will leave their teeth whiter. However, dentists
 24 and researchers have warned that charcoal dentifrice companies’ whitening claims
 25 are misleading, due to the failure to clarify the distinction between intrinsic and
 26 extrinsic whitening mechanisms. As opposed to intrinsic whiteners, the British

27 _____
 28 ⁵⁰ John K. Brooks et al., “Charcoal and Charcoal-Based Dentifrices,” 148 *JADA* 661
 (2017).

⁵¹ *Id.*

1 Dental Journal explains, many “products whiten teeth, to different extents, by the
2 removal of surface (extrinsic) stains, which may reform relatively quickly in, for
3 example, a smoker. Typically, these products do not change the intrinsic colour of
4 the tooth, which is largely determined by the colour of the dentine.”⁵²

5 67. Linda Greenwell, in her 2017 article *Charcoal Toothpastes: What We*
6 *Know So Far*, concluded: “[t]here is no evidence that the use of charcoal
7 toothpaste has an effect on intrinsic (internal) staining of teeth or on intrinsic
8 whitening of the teeth.”⁵³ In 2019 Ms. Greenwell, as co-author *Charcoal-*
9 *Containing Dentifrices* (BDJ 2019), re-affirmed the conclusion that activated
10 charcoal “does not change the colour of the teeth other than by abrasive action
11 similar to that of a ‘smoker’s toothpaste’. . . .”⁵⁴ “The common interchangeable
12 use and misuse of the terms ‘whitening’ and ‘bleaching’ is therefore misleading
13 and confusing to consumers and patients, with the marketing of some charcoal and
14 other dentifrices being no exception.”⁵⁵

15 68. The Active Wow Charcoal Toothpowders do not intrinsically whiten
16 teeth. As such, any claimed whitening properties of the Active Wow Charcoal
17 Toothpowders are limited to the removal of extrinsic surface stains, and therefore
18 misleading.⁵⁶

19 69. Active Wow’s whitening claims are also deceptive for the additional
20 reason that it presents the Charcoal Toothpowders as possessive of “natural”
21 whitening qualities due to the unique and inherent attributes of activated charcoal;
22 as Active Wow puts it, that whitening is effectuated by “drawing stains out from
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24 ⁵² Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental J.* 697,
699 (2019).

25 ⁵³ Linda Greenwall & Nairn H.F. Wilson, Opinion, “Charcoal Toothpastes: What We
Know So Far,” *Clinical Pharmacist* (July 13, 2017) [[https://www.pharmaceutical-
26 journal.com/opinion/correspondence/charcoal-toothpastes-what-we-know-so-
far/20203167.article?firstPass=false](https://www.pharmaceutical-journal.com/opinion/correspondence/charcoal-toothpastes-what-we-know-so-far/20203167.article?firstPass=false)].

27 ⁵⁴ Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental J.* 697,
699 (2019).

28 ⁵⁵ *Id.*

⁵⁶ John K. Brooks et al., “Charcoal and Charcoal-Based Dentifrices,” 148 *JADA* 661
(2017).

1 your teeth” or “pulling stains off your teeth” through “a process called
2 adsorption.”

3 70. This is misleading and deceptive. Charcoal functions as an abrasive
4 agent. Its composition and fractal-shaped particles make it highly abrasive to tooth
5 enamel.⁵⁷ As such, any extrinsic stain-lifting that could be viewed as ‘whitening’
6 is achieved simply by mechanical abrading of extrinsic stains, and is *not achieved*
7 *from adsorptive qualities of the charcoal*; rather it is achieved by the *particularly*
8 *abrasive effects of the charcoal*.

9 71. Put another way, the Active Wow’s Charcoal Toothpowders “work”
10 to “whiten” teeth by abrading away the stains and deposits having the charcoal
11 particles scrape off the surface of the teeth, i.e. the tooth enamel. The adsorptive
12 qualities of charcoal are irrelevant in the context of purported teeth whitening, and
13 Active Wow’s representations in this regard are misleading and deceptive,
14 similarly to its frivolous ‘detoxifying’ claims.

15 72. Abrasive ingredients are commonly used in dentifrice and function to
16 mechanically lift extrinsic stains, reduce the adhesion of dental biofilms and
17 chromophores from the enamel surface, and otherwise improve discoloration and
18 clean the teeth. However, there are numerous commonly accepted and widely used
19 abrasives that are effective and much milder than charcoal, and have undergone
20 clinical testing as well as ADA scrutiny. Charcoal is particularly abrasive due to
21 its unique particle shape and composition. There are no long-term clinical studies
22 of the effects of its use, and charcoal is not in the ADA-approved list of abrasives.

23 73. Long-term use of abrasive charcoal in dentifrice such as the Active
24 Wow Charcoal Toothpowders can potentially result in a darkened and yellow
25 tooth appearance. This is because, when teeth are regularly brushed with highly
26 abrasive substances such as charcoal, the enamel can wear down and cause the
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28 ⁵⁷ See, e.g., Matthias Epple et al., “A Critical Review of Modern Concepts for Teeth
Whitening,” 79 *Dentistry J.*, 7 (Aug. 1, 2019) [<https://www.mdpi.com/2304-6767/7/3/79/html>].

1 tooth's dull, internal dentin to show through.⁵⁸ As Dr. Ada Cooper, spokesperson
2 for the American Dental Association, has explained: "Using materials that are too
3 abrasive can actually make your teeth look more yellow, because it can wear away
4 the tooth's enamel and expose the softer, yellower layer called dentin."⁵⁹
5 Furthermore, the removal of enamel by abrasive whitening dentifrices not only
6 exposes the yellowish dentin, but also causes teeth to stain even more easily in the
7 future – with the sensitive dentin exposed and no longer protected by enamel.

8 **(iii) *Safe, gentle and effective, and otherwise adequate for daily, long-***
9 ***term dental hygiene use***

10 74. Defendant has printed instructions for use on the Active Wow
11 Charcoal Toothpowders' product packaging: "Gently brush teeth for one to two
12 minutes. Rinse Thoroughly. Use once or twice daily." The instructions for use
13 printed on the package of the 24K White Charcoal Toothpowder are materially the
14 same: "Gently brush teeth for 1-2 minutes. Rinse thoroughly and spit close to the
15 drain with water running. Use once or twice daily."

16 75. In marketing materials online, materially identical instructions are
17 made, as well as additional statements concerning product, that include: "hassle
18 free, brush like normal" and "Active Wow charcoal powder is a great replacement
19 for regular toothpaste."

20 76. The packaging instructions and marketing statements send the
21 message that consumer use of the Charcoal Toothpowders should approximate a
22 regular brushing routine and that the products are appropriate for a consumer to
23 use as their primary everyday source of oral hygiene. Defendant promises the
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26 ⁵⁸ John K. Brooks et al., "Charcoal and Charcoal-Based Dentifrices," 148 *JADA* 661
27 (2017) ("Charcoal has long been recognized as an abrasive mineral to the teeth and gingiva, and
its inclusion in tooth preparations raises concerns about damage to these oral structures, as well
as increasing caries susceptibility due to the potential loss of enamel.").

28 ⁵⁹ "Beware Whitening Promise of Charcoal Toothpastes," The Family Dental Center, Mar.
2019, [[https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-
toothpastes/](https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-toothpastes/)].

1 claimed benefits will come from this regular use “over time,” and that customers
2 will enjoy a “whiter, healthier smile,” the “smartest” and “natural way.”

3 77. Defendant promotes the Charcoal Toothpowders as “Safe to Use.”

4 78. On the packaging of the 24K White Charcoal Toothpowder appear
5 logos and stamps that state: “Gentle & Effective” and “3rd Party Tested for Enamel
6 Safety.”

7 79. In its online marketing for the Charcoal Toothpowders on both
8 ActiveWow.com and Amazon.com, Defendant makes several claims regarding the
9 safety of the Charcoal Toothpowders, including, but not limited to, the following:
10 “excellent for gum health,” “no sensitivity,” “safe to use,” “easy on your gums,”
11 “gentle on enamel,” “enamel safe,” “suited for anyone to use them without any ill-
12 effects.”

13 80. To further bolster the credibility of its claims and the trustworthiness
14 of the brand, Active Wow’s messaging conveys that the brand is extremely
15 conscientious of health, safety and wellbeing. For example, in addition to the
16 safety claims and purported certification of third party testing for enamel safety,
17 the packaging of the 24K White Charcoal Toothpowder includes logos and stamps
18 that state: “All Natural,” “Peroxide-Free,” and “Made in USA.” On its website,
19 Active Wow includes logos indicating: “Cruelty-Free,” “Sulfate-Free,” “Paraben-
20 Free,” “Not Tested on Animals,” “Organic When Possible,” and “Made in the
21 USA.” It consistently touts its ingredients as derived from natural sources, and
22 without the use of artificial ingredients or chemicals. Active Wow makes all these
23 claims in order to induce confidence, trust, reliance and purchase by consumers.

24 81. Active Wow solicits consumer trust in the brand with statements such
25 as: “Active Wow started with one goal in mind – to help spread happiness through
26 smiles.”; “We’re a new kind of beauty company, created by a small team that
27 cares.”; and “We’re for real, and so are our products.”

28

1 ***Abrasive damage to teeth, enamel, and gums***

2 82. While it promotes the safety, gentleness, and even purported third-
3 party testing for enamel safety, Active Wow also fails to disclose material facts,
4 such that activated charcoal has *not* been substantiated to be safe and effective for
5 use in dentifrice, and that both JADA and BDJ have confirmed insufficient
6 scientific evidence to substantiate safety claims (as well as cosmetic and health
7 benefits).

8 83. Activated charcoal is known to be a highly abrasive and harmful
9 substance to tooth enamel.⁶⁰ Multiple scientific studies have noted its abrasiveness
10 presents a risk to enamel and gingiva in the context of oral care products. As noted
11 in the 2017 JADA article: “[c]harcoal has been recognized as an abrasive mineral
12 to the teeth and gingiva, and its inclusion in tooth preparations raises concern
13 about damages to these oral structures, as well as increasing caries susceptibility
14 due to the potential loss of enamel.”⁶¹ The 2019 BDJ article again noted the risk to
15 enamel and gingiva posed by charcoal’s abrasivity.⁶²

16 ***Oral health effects from abrasive damage***

17 84. Moreover, the abrasive damage to tooth enamel caused by charcoal
18 can set the stage for spiraling into additional oral health issues. It has been shown
19 that increased surface roughness of teeth creates an environment conducive to
20 increased bacteria in the oral cavity. This, in turn, can lead to other problems and
21 is correlated with high caries and periodontal disease.

22
23
24 ⁶⁰ See, e.g., John K. Brooks et al., “Commentaries: More on Charcoal and Charcoal-Based
25 Dentifrices,” 148 *JADA* 785 (2017) [<http://dx.doi.org/10.1016/j.adaj.2017.09.027>] (quoting S.M.
26 Gordan, “Kramer’s Original Charcoal Dental Cream: not acceptable for A.D.R.,” 33 *JADA* 912,
27 912–13 (1946)) (Concluding a charcoal dental cream was not an acceptable dental remedy
28 “because it is a dentifrice intended for daily use that contains charcoal, a potentially harmful
substance”).

⁶¹ John K. Brooks et al., “Charcoal and Charcoal-Based Dentifrices,” 148 *JADA* 661
(2017).

⁶² Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental
Journal* 697, (2019).

1 85. On a general level, a toothpaste that is optimally formulated will
2 maximize cleaning while minimizing abrasiveness. The abrasives employed in a
3 toothpaste should effectively polish teeth and remove biofilms and stains, but not
4 abrade on the tooth structure itself. The findings of a controlled scientific study,
5 published in a 2017 article, *Surface Changes of Enamel After Brushing with*
6 *Charcoal Toothpaste*, confirmed that charcoal-based toothpastes are more
7 abrasive and affecting on the surface roughness on a tooth as compared to other
8 non-charcoal whitening toothpastes.⁶³ Charcoal’s abrasiveness is related to its
9 composition and its irregular “star shaped” particles.⁶⁴ The “research concluded
10 that there were increasing surface roughness values of tooth surfaces after the use
11 of toothpaste containing charcoal, and the increased surface roughness was
12 statistically significant”⁶⁵ Increased surface roughness on a tooth’s enamel is
13 “a strategic place for bacteria to adhere to the tooth’s surface,” and “[t]he presence
14 of bacteria in the oral cavity is one of the causes of high caries and periodontal
15 disease risk.”⁶⁶

16 86. Still more problematic, experts have noted that certain characteristics
17 of Charcoal Toothpowders tend to prolong users’ brushing time and increase
18 brushing vigorousness, which can serve to *further exacerbate the abrasive effect*
19 of charcoal dentifrices. The first such characteristic is the distinct black color of
20 pastes containing charcoal. “Charcoal-containing toothpastes are black in colour
21 and brushing off the colour tends to prolong brushing, or the use of excessive
22 brushing force, which may lead to the abrasion of teeth.”⁶⁷ The same phenomena
23 occurs with dentifrices claimed to have ‘whitening’ properties, as consumers
24 might brush more frequently and vigorously to achieve the desired whitening

25 ⁶³ U I Pertiwi et al., *Surface Changes of Enamel After Brushing with Charcoal Toothpaste*,
26 IOP Conf. Series: Journal of Physics: IOP Conf. Series 884 (2017) [iopscience.iop.org]
(doi:10.1088/1742-6596/884/1/012002).

27 ⁶⁴ *Id.*

28 ⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Linda Greenwall & Nairn H.F. Wilson, Opinion, “Charcoal Toothpastes: What We
Know So Far,” *Clinical Pharmacist* (July 13, 2017).

1 more quickly, not realizing that “excessive brushing with a charcoal-based
2 dentifrice may cause more harm than good.”⁶⁸

3 ***Negative aesthetic results***

4 87. Studies also show bad aesthetic effects in some users. “Particles of
5 charcoal included in charcoal toothpaste may accumulate in crevices and other
6 defects in teeth, including cracks in the teeth of older individuals.”⁶⁹ For “patients
7 with established periodontal disease,” the use of charcoal-based dentifrices may
8 result in “the accumulation of charcoal particles deep in periodontal defects and
9 pockets, causing grey/black discoloration of the periodontal tissues.”⁷⁰

10 88. Studies have also shown that the staining and discoloration caused
11 by charcoal dentifrices can impact dental implants. When grey lines are created by
12 the buildup of charcoal particles between dental restorations and teeth, it can
13 ultimately “necessitate the costly replacement of the affected filings, veneers or
14 crowns.”⁷¹

15 ***The replacement of widely accepted ingredients with charcoal (whose
16 safety and efficacy has not been established) jeopardizes consumers’ oral
17 hygiene and oral health***

18 89. Active Wow promises multiple oral hygiene benefits from regular use
19 of the Charcoal Toothpowders and assigns unrealistic functions to untested and
20 unsubstantiated ingredients in its charcoal formula, while leaving out other
21 ingredients known to serve said function(s).

22 90. In addition to the afore-described misleading and unsubstantiated
23 claims concerning the charcoal ingredient, Active Wow makes health claims as to
24 other ingredients in its charcoal formula. As to the ingredient bentonite clay, it

25 ⁶⁸ Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental
26 Journal* 697, (2019). (emphasis added).

27 ⁶⁹ Linda Greenwall & Nairn H.F. Wilson, Opinion, “Charcoal Toothpastes: What We
28 Know So Far,” *Clinical Pharmacist* (July 13, 2017).

⁷⁰ Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental
Journal* 697, (2019).

⁷¹ Linda Greenwall & Nairn H.F. Wilson, Opinion, “Charcoal Toothpastes: What We
Know So Far,” *Clinical Pharmacist* (July 13, 2017).

1 states: “Bentonite is great for remineralizing your teeth due its high mineral
2 content. It also absorbs toxins naturally, and is easy on your gums.” Defendant
3 also states that its orange seed oil ingredient “[h]elps to smooth your teeth
4 whitening experience. It has numerous anti-inflammatory and antiseptic qualities.”
5 Active Wow describes the ingredient xylitol as “a powerful & tasty tooth
6 protector” and claims it to have “tooth-decay and cavity-fighting properties.”

7 91. Active Wow provides no evidence for the numerous claimed benefits
8 of its charcoal formula and the ingredients therein. The afore-mentioned scientific
9 publications have reviewed similar marketing claims on charcoal dentifrices and
10 found a lack of substantiation. Moreover, the 2017 JADA Article specifically
11 raised concerns about bentonite clay, which was included many of the surveyed
12 charcoal dentifrices, and questioned marketers’ “stated purpose, effectiveness, and
13 safety of bentonite clay.”⁷² JADA authors noted that “[r]eviews of adverse health
14 effects of bentonite clay have been contradictory,” and that the crystalline silica
15 within bentonite clay “is regarded as a human carcinogen” when inhaled, “and its
16 utility and safety in toothpaste have not been established.”⁷³

17 92. Researchers have warned of this very type of situation when it comes
18 to unproven and over-hyped health and safety claims about charcoal dentifrices.
19 Extreme marketing tactics and deceptive and false promises, in the absence of
20 disclosures of the truth about inadequate substantiation, cause consumers to
21 unwittingly risk their long-term oral health by purchasing and using a charcoal
22 dentifrice in lieu of a non-charcoal product containing ingredients that are
23 established as safe and effective. As the 2019 BDJ article authors noted:

24
25 ⁷² John K. Brooks et al., “Charcoal and Charcoal-Based Dentifrices,” 148 *JADA* 661
26 (2017).

27 ⁷³ *Id.*, citing US Department of Health and Human Services 14th report on carcinogenic
28 substances [https://ntp.niehs.nih.gov/ntp/roc/content/listed_substances_508.pdf]; L.D. Maxim,
R. Niebo, E.E. McConnell, “Bentonite Technology and Epidemiology: A Review,” *Inhal
Toxicol*, 28(13)(2016), pp. 591-617; J. Cervini-Silva, M.T. Ramirez-Apan, S. Kaufhold, K.
Ufer, E. Palacios, A. Montoya, “Role of Bentonite Clays on Cell Growth,” *Chemosphere*, 149
(2016) pp. 57-61.

1 “The unsubstantiated claims that certain charcoal-based dentifrices,
 2 any of which are described as eco-friendly, ecological, herbal,
 3 natural, organic or pure, have antibacterial, antiseptic and/or anti-
 4 fungal qualities, **may lull consumers into thinking that the use of
 such dentifrices may be a sustainable way to prevent or possibly
 5 even treat periodontal disease**, over and above whatever claims
 6 they are inclined to believe. Such persuasion of consumers, many of
 whom may have established oral and dental disease, is considered to
 be **opportunistic marketing, with little regard to the consequences
 of the exploitation.**”⁷⁴

7
 8 93. For example, the over-marketing of charcoal dentifrices can cause
 9 customers to abandon fluoride toothpastes for fluoride-free varieties, believing in
 10 purported oral health properties that do not exist. The authors of the 2019 BDJ
 11 article noted the “concerning [. . .] potential for individuals changing from the use
 12 of a regular fluoride-containing toothpaste to the use of a charcoal toothpaste
 13 which contains no fluoride, thereby increasing their risk of caries.”⁷⁵ The authors
 14 of the 2017 JADA article also raised this concern, and advised that dentists should
 15 “educate their patients about the **unproven claims of oral benefits and possible
 16 health risks associated with the use of charcoal dentifrices and the potential
 17 increased risk of developing caries with the use of these nonfluoridated . . .
 18 products.**”⁷⁶

19 94. The oral health benefits with which Active Wow promotes its
 20 Charcoal Toothpowders have not been substantiated. The charcoal formula in the
 21 Charcoal Toothpowders does not contain ingredients that have been proven safe
 22 and effective for said claims. These claims mislead reasonable consumers and
 23 result in the purchase and use of Charcoal Toothpowders, rather than purchase and
 24 use of dentifrices comprised of ingredients that *have* been tested and proven as
 25 safe and effective for the various purported oral health benefits claimed by Active
 26 Wow.

27 ⁷⁴ *Id.*

28 ⁷⁵ Linda H. Greenwall et al., “Charcoal-Containing Dentifrices,” 226 *British Dental
 Journal* 697, (2019).

⁷⁶ *Id.* (emphasis added).

1 **F. Active Wow Knew or Should Have Known Its Material Claims**
2 **and Material Omissions on Whitening, Detoxifying/Adsorptive**
3 **Properties, Dental Hygiene and Oral Health Benefits and Safety**
4 **were Misleading, Deceptive and/or False**

5 95. Active Wow’s Charcoal Toothpowders are subject to a legal and
6 regulatory framework concerning the marketing, advertising, branding, and
7 labeling of drugs and cosmetics.⁷⁷

8 96. As such, Active Wow has legal duties that include but are not limited
9 to: (i) to ensure the safety of the Charcoal Toothpowders; (ii) to disclose risks of
10 use and safety hazards; (iii) to ensure the advertising claims and the label and
11 packaging of the Charcoal Toothpowders are not misleading or deceptive in their
12 claims and omissions, and (iv) to possess adequate and credible substantiation for
13 its claims.

14 97. These obligations were created and are governed by, *inter alia*, the
15 Federal Trade Commission Act (15 U.S.C. § 41 *et seq.*) (“FTC Act”), as well as
16 the Federal Food, Drug and Cosmetic Act (21 U.S.C. §321 *et seq.*) (“FD&C Act”),
17 the Fair Packaging and Labeling Act (15 U.S.C. §1451 *et seq.*) (“FP&L Act”) and
18 the regulatory frameworks created thereunder. Such laws were created in the aim
19 to protect consumers from unfair and deceptive practices (including unsafe or
20 deceptively labeled or packaged products), as well as to protect against unfair
21 competition.

22 98. Similarly, multiple state laws have statutes that incorporate and/or
23 mirror pertinent portions of federal regulatory framework. For example,
24 California’s Sherman Law adopts pertinent FDA regulations on food, drugs and
25 cosmetics.

26 _____
27 ⁷⁷ Dentifrices, such as toothpastes and toothpowders sold by Active Wow, can be classified
28 as cosmetics, drugs, or a combination thereof under the federal framework. The Charcoal
Toothpowders are “cosmetics,” as defined in the FTC Act and the FD&C Act. To the extent
there are claims concerning disease, such as fighting or preventing cavities (anticaries claims),
they potentially qualify as drugs as well.

1 99. In this pleading, Plaintiff acknowledges Active Wow’s obligations
 2 and duties (and apparent non-compliance) under federal and parallel state
 3 frameworks for purposes related to the elements of the common law and state
 4 statutory causes of action asserted herein (such as the existence of various legal
 5 duties to disclose and obligatory standards of care, as well as to underscore that
 6 Active Wow knew or should have known of its noncompliance and that its
 7 conduct was wrongful). Plaintiff expressly disclaims any attempt to hold Active
 8 Wow to a higher standard than that which is required under federal law, and does
 9 not seek relief or remedy for conduct to a standard exceeding that which is
 10 required under federal law.⁷⁸

11 100. As a company engaged in the interstate marketing, distribution and
 12 sale of its Charcoal Toothpowders, Active Wow was or should have been aware of
 13 its legal duties under federal and state laws, as well as the regulatory frameworks
 14 built thereunder.

15 **The FTC Act and FTC regulations**

16 101. Section 5 of the FTC Act broadly prohibits unfair and deceptive trade
 17 practices (15 U.S.C. § 45), and Section 12 of the FTC Act prohibits the
 18 dissemination of false and misleading advertisement of food, drugs, and cosmetics
 19 (15 U.S.C. §§ 52).⁷⁹

20 102. The FTC requires advertisers to possess a reasonable basis for their
 21 advertising and marketing claims.⁸⁰ Claims concerning health and safety must be
 22 supported by competent and reliable scientific evidence.

24 _____
 25 ⁷⁸ The allegations concerning conduct that violates the FD&C Act, the FTC Act,
 26 regulations thereunder, and/or California’s Sherman Law regulations (or other parallel state
 27 laws), as raised herein, are properly asserted in the context of the causes of action and relief
 28 sought herein, and are not barred by preemption.

⁷⁹ For purposes of Section 12 of the FTC Act, classification as a “drug” or “cosmetic” is
 based on the definitions at Section 15 (c) and (e) of the FTC Act, 15 U.S.C. § 55(c), (e).

⁸⁰ The FTC requires companies to “have a reasonable basis for advertising claims before
 they are disseminated, and “a firm’s failure to possess and rely upon a reasonable basis for
 objective claims constitutes an unfair and deceptive act or practice in violation of Section 5 of
 the Federal Trade Commission Act. . . .” See FTC Policy Statement Regarding Advertising

1 103. The FTC requires that an advertiser substantiate its claims (express
2 and implied) *before* it disseminates said claims, and, when an advertiser actually
3 conveys to a consumer (expressly or impliedly) that it has certain level of support
4 or evidence for its products, it must have such substantiation *to the actual level* it
5 claims to possess.

6 **The FD&C Act and FDA regulations**

7 104. The FD&C Act (21 U.S.C. § 321 *et seq.*) prohibits the marketing and
8 movement in interstate commerce of adulterated or misbranded food, drugs and
9 cosmetics.⁸¹

10 105. The FD&C Act provides that a drug or a cosmetic will be considered
11 misbranded for numerous potential reasons, including if the drug or cosmetic’s “[
12 labeling is false or misleading in any particular.” 21 U.S.C. § 352(a) (misbranded
13 drugs⁸²); 21 U.S.C. § 362(a) (misbranded cosmetics). Labeling will be deemed
14 misleading not only because a label statement is deceptive in its representations,
15 and also when a material fact is not revealed on a label. ;.As to the latter, labeling
16 is deemed misleading if it fails to reveal facts that are material in light of other
17 representations, or material with respect to the consequences resulting from the
18 intended use of the product. 21 CFR 1.21 (Failure to reveal material facts).

19 106. A cosmetic is also considered misbranded if its safety has not been
20 adequately substantiated, and it does not conspicuously bear the statement:
21 **“Warning – The safety of this product has not been determined.”** 21 CFR
22 740.10. The safety of a cosmetic may be considered adequately substantiated if
23 experts qualified by scientific training and experience can reasonably conclude

24 Substantiation, appended to *In the Matter of Thompson Medical Co.*, 104 F.T.C. 648, 839
25 (1984), *aff’d*, 791 F.2d 189 (D.C. Cir. 1986).

26 ⁸¹ The FD&C Act defines “drug” and “cosmetic” at 21 USC §321(g)(1) and 21 USC
27 §321(i), respectively. The Charcoal Toothpowders at issue qualify as cosmetics, as they are
28 fluoride-free and are intended to be applied to the human body for cleansing, beautifying,
promoting attractiveness, or altering the appearance.

⁸² The FDA labeling requirements for over-the-counter (OTC) anticaries drug products, for
example, are specific and numerous, as well as generally prohibitive of misbranding that might
mislead the consumer. See, e.g., 21 CFR 355.50 (Labeling of anticaries drug products) and 21
CFR 330.1 (General conditions for general recognition as safe, effective and not misbranded).

1 from the available toxicological and other test data, chemical composition, and
2 other pertinent information that the product is not injurious to consumers under
3 conditions of customary use and reasonably foreseeable conditions of misuse.⁸³

4 **California’s Sherman Law and regulations of the California**
5 **Department of Health**

6 107. California’s Sherman Food, Drug & Cosmetic Law (California
7 Health & Safety Code §§ 109875 et seq.) (the “Sherman Law”) adopts, mirrors
8 and parallels the FD&C Act and pertinent regulations.

9 108. Section 110111 adopts all FDA regulations on nonprescription drugs
10 as state regulations.

11 109. Section 111730 of the Sherman Law specifically concerns cosmetics,
12 and provides: “Any cosmetic is misbranded if its labeling is false or misleading in
13 any particular.” The identical conduct violates Section 602 of the FD&C Act,
14 which declares cosmetics misbranded under federal law “if its labeling is false and
15 misleading in any particular.” 21 U.S.C. § 362(a). Plaintiff does not seek to
16 enforce any state law claims to impose any standard of conduct that might
17 excluded that which would violate the FD&C Act or FDA regulations.

18 110. Additional pertinent California regulations of the California Health &
19 Safety Code include:

- 20 a. Section 11290 (providing that, in determining whether the
21 labeling or advertisement of a food, drug, device, or cosmetic is
22 misleading, all representations made or suggested by statement,
23 word, design, device, sound, or any combination thereof; and that
24 a failure to reveal facts concerning the product, or consequences
25 of customary use of the product, shall also be considered);
26 b. Section 110390 (making it unlawful to disseminate any false
27 advertisement of any food, drug, device, or cosmetic; and
28 providing that an advertisement is false if it is false or misleading
in any particular);

⁸³ See, e.g., FDA Cosmetic Labeling Guide, <https://www.fda.gov/cosmetics/cosmetics-labeling-regulations/cosmetics-labeling-guide>.

- 1 c. Section 110395 (making it unlawful to manufacture, sell, deliver,
2 hold, or offer for sale any food, drug, device, or cosmetic that is
3 falsely advertised);
- 4 d. Section 110398 (making it unlawful to advertise any food, drug,
5 device, or cosmetic that is adulterated or misbranded);
- 6 e. Section 110400 (making it unlawful to receive in commerce or to
7 deliver any food, drug, device, or cosmetic that is falsely
8 advertised);
- 9 f. Section 111730 (providing that a cosmetic is misbranded if its
10 labeling is false or misleading in any particular);
- 11 g. Section 111735 (providing that a cosmetic is misbranded if its
12 labeling or packaging does not conform to the requirements of
13 Chapter 4 regulations on Packaging, Labeling, and Advertising,
14 commencing with Section 110290); and
- 15 h. Section 111745 (providing a cosmetic is misbranded if any word,
16 statement, or other information that is required is not prominently
17 and conspicuously placed upon the labeling).

18 111. Active Wow was, or should have been aware of, its obligations under
19 the above-described legal and regulatory framework on the federal and state
20 levels, yet appears to have negligently disregarded its duties as to claim
21 substantiation, safety, marketing and advertising, as well as product packaging and
22 labeling.

23 112. This further underscores that Active Wow knew or should have
24 known its acts and practices were also unlawful under state consumer protection
25 laws.

26 113. The above-described regulatory frameworks also serve to underscore
27 the existence of a duty to disclose.

28 114. Additionally, the above-described regulatory frameworks serve to
bolster the premise that a special relationship existed between Active Wow and
the general public of consumers, including Plaintiff and Class members. The
special relationship was created by merit of the fact that Active Wow held itself
out and made claims on oral health benefits and safety – claims it knew were

1 regulated – and that were of a certain nature requiring specialized knowledge or
 2 expertise a reasonable consumer would not possess. These claims were material to
 3 consumers’ decision to purchase as well as to their personal dental hygiene and
 4 maintenance of oral health.

5 115. Defendant Active Wow knew or should have known that it did not
 6 possess the legally required reasonable basis for its various claims,⁸⁴ or other
 7 adequate substantiation for certain health and safety claims.

8 116. Defendant also knew, or should have known, that the Charcoal
 9 Toothpouders did not possess the promised benefits and level of safety, and that
 10 there was a risk of harm. Scientific studies and journals that contradicted or
 11 questioned many of Active Wow’s claims were published and available to Active
 12 Wow at the time it disseminated its claims and marketing content.

13 117. Moreover, Active Wow would not have even had to look to academic
 14 or scientific resources, because the scientific findings were also reported in
 15 consumer reports and mainstream media outlets during the time the Charcoal
 16 Toothpouders were marketed and sold. A small sampling of media coverage and
 17 public statements made during the time Active Wow developed, marketed, and
 18 sold its Active Wow Charcoal Toothpouders includes, but is not limited to, the
 19 following:

- 20 • ABC News, June 2017, *How Safe is Activated Charcoal?* reports concerns
 21 of Dr. Upen Patel, D.D.S., because charcoal dentifrices are not evaluated by
 22 the ADA for long term use, can erode enamel, abrasiveness, gums, and
 23 tissue, and the small charcoal particles “can get stuck in your gums and in
 small cracks in your teeth, so you can have these little black lines in your
 gums and your teeth you can’t get out.”⁸⁵
- 24 • Prevention.com, September 2018, *Is Charcoal Toothpaste the Answer to*
 25 *Whiter Teeth?*, quoted Dr. Kenneth Magid, D.D.S., adjunct clinical
 26 associate professor at NYU College of Dentistry: “Not only do charcoal

27 ⁸⁴ See FTC Policy Statement Regarding Advertising Substantiation, appended to *In the*
 28 *Matter of Thompson Medical Co.*, 104 F.T.C. 648, 839 (1984), *aff’d*, 791 F.2d 189 (D.C. Cir.
 1986).

⁸⁵ Irene Cruz, “How Safe Is Activated Charcoal?,” ABC 10 (June 9, 2017)
[\[https://www.abc10.com/article/news/local/how-safe-is-activated-charcoal/447456019\]](https://www.abc10.com/article/news/local/how-safe-is-activated-charcoal/447456019).

1 toothpastes not meet the criteria that I would use to recommend them, but
 2 they may be too abrasive and damaging to teeth.” “Since charcoal
 3 toothpastes aren’t regulated by any agency or approved by the ADA, many
 4 of the products may be too abrasive for regular use and can possibly remove
 5 the enamel outside of the teeth or damage porcelain restorations such as
 6 veneers or crowns.” “Once the enamel wears away, there’s no way to
 7 regrow it, and on top of that, it can actually make your teeth look duller and
 8 darker instead of brighter. This is due to the underlying dentin showing
 9 through. . . . In addition to darkening your smile, wearing down your
 10 enamel will also make your teeth more sensitive to temperature and prone
 11 to cavities.”⁸⁶

- 12 • BBC, May 2019, *Charcoal Toothpastes ‘don’t whiten teeth,’* cited the
 13 British Dental Journal for the premise that “charcoal-based toothpastes,
 14 which claim to whiten teeth, are a ‘marketing gimmick’ which could
 15 increase the risk of tooth decay,” and are “more abrasive than regular
 16 toothpastes, potentially posing a risk to the enamel and gums.” The article
 17 quoted Dr. Greenwall-Cohen as stating that charcoal particles in toothpastes
 18 can “get caught up in the gums and irritate them,” and also be problematic
 19 for fillings.⁸⁷
- 20 • Harper’s Bazaar, August 2018, *Is Charcoal Toothpaste Safe to Use?* (re-
 21 published in July 2019), reported on the doubts and issues raised by the
 22 British Dental Journal, noting, “[u]nlike your liver and kidneys, the teeth
 23 and gums don’t perform a detoxifying function of the body, and since so-
 24 called toxins aren’t generally hanging out in your mouth anyway, there’s
 25 not much point in using your tooth cleaning to purge them.”⁸⁸
- 26 • DailyMail, May 2019, *Charcoal-based Toothpastes do NOT whiten teeth
 27 and may lead to tooth decay as dentists warn the products are reliant on
 28 ‘marketing gimmicks and folklore,* quotes Professor Damien Walmsley,
 scientific adviser for the British Dental Association: “Charcoal-based
 toothpastes offer no silver bullets for anyone seeking a perfect smile, and
 come with real risks attached.” “These abrasive formulations may be
 effective at removing surface stains, but prolonged use may also wear away
 tooth enamel. Research now shows it could even cause discoloration of the
 gums.”⁸⁹

86 Macaela Mackenzie, “Is Charcoal Toothpaste the Answer to Whiter Teeth?,” *Prevention* (Sept. 26, 2018) [<https://www.prevention.com/beauty/a23470865/charcoal-toothpaste/>].

87 “Charcoal Toothpastes ‘don’t whiten teeth,’” BBC: Health, May 10, 2019 [<https://www.bbc.com/news/health-48216116>].

88 Lauren Hubbard & Alexandra Tunell, “Is Charcoal Toothpaste Safe to Use?,” *Harper’s Bazaar*, Aug. 14, 2018 (updated: Harper’s Bazaar Staff, “Is Charcoal Toothpaste Safe to Use?,” July 31, 2019) [<https://www.harpersbazaar.com/beauty/health/advice/a3764/charcoal-toothpaste-pros-cons/>].

89 Victoria Allen, “Charcoal-based Toothpastes do NOT whiten teeth and may lead to tooth decay as dentists warn the products are reliant on ‘marketing gimmicks and folklore,” *DailyMail*

- Dr. Ada Cooper, DDS, spokesperson for the American Dental Association, warned of charcoal toothpastes in *Beware Whitening Promise of Charcoal Toothpastes* in March 2019: “Just because something is popular doesn’t mean it’s safe.” “Charcoal is recognized as an abrasive material to teeth and gums.” “Using materials that are too abrasive can actually make your teeth look more yellow, because it can wear away the tooth’s enamel and expose the softer, yellower layer called dentin.”⁹⁰

118. It is implausible that Defendant, a health and beauty company that possessed sophisticated marketing savvy and invested significant time, money and effort into the marketing of its products, failed to notice reported concerns from the dentistry profession, scientific community, researchers, and the media that the safety and efficacy of charcoal dentifrices were wholly unsubstantiated, and their use was highly risky to consumers’ oral health, dental hygiene and aesthetics. (Unlike consumers, whose attention to the claims of the oral care industry will likely be limited to time in a shopping aisle looking at product packaging, or at online retail sites that present a company’s marketing claims.)

119. Despite its various duties, and despite its knowledge (actual or imputed) of the above-described scientific journals, media reports and admonishments from the ADA and other dental experts, Active Wow negligently proceeded with its misleading marketing campaign.

G. Active Wow Intended Consumers’ Reliance and Induced Consumers’ Purchase of the Charcoal Toothpowders

120. Active Wow’s marketing was constructed in order to induce consumers to purchase the Charcoal Toothpowders over other products, and to do so at a price premium. The Charcoal Toothpowders are branded as “natural” and of the “highest quality ingredients,” “enjoy a healthier, whiter smile the smartest and natural way,” “not through harsh dental-grade whitening peroxides.”

(May 9, 2019), [<https://www.dailymail.co.uk/health/article-7010219/Charcoal-based-toothpastes-NOT-whiten-teeth.html>].

⁹⁰ The Family Dental Center, Mar. 2019, “Beware Whitening Promise of Charcoal Toothpastes,” [<https://thefamilydentalcenter.com/blog/beware-whitening-promise-of-charcoal-toothpastes/>].

1 121. The claims at issue in this Class Action Complaint – which are
2 alleged herein as misleading, inaccurate, and/or false as well as lacking a proper
3 factual basis and required evidentiary substantiation – are also the very types of
4 claims which are essential to a consumer’s decision whether to purchase one or
5 more of the Charcoal Toothpowders. The same is true of the omissions and
6 deceptions alleged herein, which are material to the purchase decision. Active
7 Wow intentionally fails to disclose material information that, if known to a
8 consumer, would inform their perception of the claims affirmatively made, and
9 would affect the purchase decision.

10 122. Active Wow negligently and misleadingly promotes the
11 (unsubstantiated) attributes of activated charcoal despite warnings from dentists
12 and the scientific community about charcoal dentifrices – at best a “marketing
13 gimmick” and, at worst, harmful to teeth, dentistry implants and overall oral
14 health. Active Wow’s misleading claims, material omissions, and its false and
15 deceptive marketing campaign as a whole, are likely to deceive (and have
16 deceived) consumers.

17 123. Active Wow negligently disseminated its misleading claims, material
18 omissions, and its false and deceptive marketing campaign, despite the capacity
19 and likelihood to deceive reasonable consumers. It did so with the intention to
20 induce reliance and the purchase of one or more of the Charcoal Toothpowders.

21 **H. Reasonable Reliance by Consumers**

22 124. Plaintiff Schnurer and other consumers and putative Class members
23 were exposed to, and reasonably relied on Defendant’s claims.

24 125. Active Wow’s product labeling, marketing, and stylistic branding
25 messaging together foster a reasonable expectation that Active Wow is a
26 trustworthy brand, that its claims were legitimate, and that the products were safe
27 and effective. Consumers reasonably relied on the oft-repeated claims that the
28 Active Wow Charcoal Toothpowders had natural and safe whitening and

1 detoxifying properties, as well as other dental hygiene benefits, were safe for
2 everyday use, as well as generally appropriate, effective and not harmful in their
3 intended use.

4 126. An average consumer lacked any meaningful ability to test or
5 practicably verify Active Wow's claims. Consumers cannot reasonably be
6 expected to research and independently ascertain the truthfulness of the claims
7 made by the sellers they pay for products.

8 127. This is particularly so in the purchase of a dental product from an oral
9 care company, and consumers can reasonably rely upon the expertise of an oral
10 care company that introduces a dental product to the retail market and presents it
11 as safe, effective and appropriate for dental hygiene and oral care maintenance
12 needs. Reasonable typical consumers lack sufficient training to discern the validity
13 of such claims, which require a certain level of expertise and specialized
14 knowledge; nor should consumers be reasonably expected to feel the need to
15 question or investigate these types of claims.

16 **I. Active Wow's Wrongful Conduct Injured Consumers**

17 128. Consumers have been harmed by these false, misleading and
18 negligently made representations because they purchased the Active Wow
19 Charcoal Toothpowders that were not as represented, and were also ineffective
20 and/or harmful.

21 129. Active Wow's misrepresentations and omissions concerned material
22 characteristics of its products, and it charged a higher price for such
23 characteristics.

24 130. Consumers relied on Defendant's claims and were induced to believe
25 that the Active Wow Charcoal Toothpowders provide benefits, properties and
26 characteristics, as well as a level of safety. Plaintiff and purported class members
27
28

1 paid a premium price for the mislabeled products. This premium is paid for an
2 unproven and potentially harmful ingredient - charcoal.⁹¹

3 131. These products were not as represented and cannot deliver the
4 promised health, dental hygiene, and cosmetic benefits, as previously discussed.
5 For example, the Active Wow had no reasonable factual basis for claiming any
6 oral health benefits delivered in the form of purported detoxifying, purifying and
7 adsorption properties of charcoal. The promised performance and benefits simply
8 were not, and could not have been, realized.

9 132. In addition to the economic injury in the form of a price premium
10 paid for falsely promised benefits, consumers have been damaged by the total
11 purchase price, because they purchased a dentifrice that does not provide the basic
12 safety and oral health maintenance that otherwise similar non-charcoal dentifrices
13 do. As such, the consumer is harmed in a second way that is distinct from, and in
14 addition to, the price premium paid for nonexistent benefits of activated charcoal.
15 Not only do the Charcoal Toothpowders fail to bring any premium or additional
16 benefit with the charcoal ingredient or the premium price charged, the products
17 also may not provide basic oral hygiene maintenance that would have been
18 provided by other non-charcoal, regular toothpastes containing ingredients that
19 have been substantiated, proven, and/or approved as legitimately safe and
20 effective. Instead, Plaintiff and putative Class members were using oral care
21 products that were deficient and do not meet basic oral health care needs and
22 maintenance.

23 133. Furthermore, the use of the products carried significant risk due to the
24 inclusion of charcoal.⁹² Consumers were damaged by the entire cost of a tube of
25

26 ⁹¹ Each consumer has been exposed to the same or substantially similar misleading and
27 unlawful practices and each product contains identical or substantially similar claims, and each
28 of the Charcoal Toothpowders were sold at a price premium. As such, each consumer suffered
the same or substantially similar injuries as the named Plaintiff, irrespective of which particular
Active Wow Charcoal Toothpowder they purchased.

⁹² For example, they used the Charcoal Toothpowders (which had been represented as,
inter alia, safe for gums, natural, healthy and effective for whitening, and non-abrasive to

1 toothpaste that was ineffective at doesn't whiten teeth, that doesn't fulfill the basic
2 maintenance of dental hygiene and that is potentially deleterious to oral health.

3 134. Active Wow took unfair advantage of its competitors in addition to
4 its consumers. It conveyed that the Charcoal Toothpowders were of such
5 premium, superior quality and had attributes that other commercially available
6 toothpowders do not (whether 'natural' or more typical toothpowders).

7 135. Active Wow has collected substantial profits as a result of numerous
8 material omissions and false and misleading claims over the benefits and safety of
9 activated charcoal in dentifrice and the Charcoal Toothpowders, and other
10 purported attributes that were false and misleading.

11 136. Defendant has knowledge that its claims lack required substantiation
12 and that the Charcoal Toothpowders do not comport with the representations it has
13 made. It also knew or should have known of the potential for serious harm caused
14 by the use of charcoal in dentifrice. Defendant's conduct is deceptive, unethical, in
15 violation of public policy, wanton and recklessly indifferent to others, and
16 substantially injurious to consumers as well as to competitors.

17 137. Defendant should not be permitted to retain its substantial benefit
18 obtained from its injurious misconduct, which in justice and equity belong to
19 Plaintiff and members of the Classes, and caused them injury; nor should it, in
20 justice and equity, be permitted to continue to benefit from its unfair and deceptive
21 practices.

22 138. Without remedy (including injunctive relief), Plaintiff, members of
23 the putative Classes, and other consumers, will suffer a concrete harm, in that they
24 cannot be confident that the labeling of products will be truthful and not
25 misleading when they are making their purchase decisions in the future.

26
27 enamel) which were, unbeknownst to them, were in fact abrading their enamel rather than safely
28 and naturally whitening their teeth. And, as previously discussed, the inclusion of charcoal
particles can directly damage dental implants or the gumline. Charcoal also causes damage that
arrives in the form of oral health issues that can arise due to failure to meet basic oral health care
needs and maintenance, as well as oral health issues that can spiral as consequences of the
abrasive damage caused by charcoal.

1 Alternatively, they might mistakenly but reasonably believe that the labeling and
2 advertising of the products has been substantiated and/or corrected, and be
3 deceived yet again into purchasing one or more of the products.

4 **V. CLASS ACTION ALLEGATIONS**

5 139. Pursuant to CAFA and the Federal Rules of Civil Procedure 23(a)
6 and (b)(3), Plaintiff brings this lawsuit as a Class Action on behalf of herself and
7 all other similarly situated members of the Nationwide Class and CA Subclass, as
8 defined below.⁹³ This Class Action satisfies the numerosity, commonality,
9 typicality, adequacy, predominance, and superiority requirements of those
10 provisions. (Plaintiff has standing on to assert claims on behalf of purchasers of all
11 of the Charcoal Toothpowders.)

12 The proposed “**Nationwide Class**” is defined, subject to timely amendment
13 following discovery, as follows:

14 All individuals who purchased one or more of the Active Wow Charcoal
15 Toothpowders within the United States from four years prior to the filing of
16 the Class Action Complaint to the time of class certification.

17 The proposed “**CA Subclass**” is defined, subject to timely amendment
18 following discovery, as follows:

19 All individuals who purchased one or more of the Active Wow Charcoal
20 Toothpowders in California from four years prior to the filing of the Class
21 Action Complaint to the time of class certification.

22 140. Members of the proposed Nationwide Class and the CA Subclass
23 (and any other alternative subclasses that may be proposed) are collectively
24 referred to herein as the “Class Members.”

25 141. Excluded from the Classes are: (1) Defendant and their subsidiaries,
26 affiliates, employees, officers, directors, assigns, and successors, as well as any
27 entities or divisions in which any of the Defendants have a controlling interest; (2)

28 ⁹³ As appropriate, Plaintiff and the undersigned counsel reserve the right to assert claims
on behalf of alternative sub-classes, as yet unknown (by state or multi-states, and/or sub-classes
defined by other defining criteria).

1 the Judge to whom this case is assigned to and any member of the Judge's
2 immediate family; and (3) anyone asserting claims for personal injury in
3 connection with the Active Wow Charcoal Toothpowders. Plaintiff reserves the
4 right to amend the definition of the Classes if discovery and/or further
5 investigation reveal that the Classes should be expanded or otherwise modified.

6 142. **Numerosity:** The exact number of Class Members is presently
7 unknown, and can only be ascertained through appropriate discovery; however,
8 Plaintiff reasonably estimates that the Nationwide Class consists of tens of
9 thousands of members, and the CA Subclass consists of thousands of members.
10 The expected numerosity of both Classes is such that joinder of all members is
11 impracticable. Moreover, the disposition of the claims of the Class Members in a
12 single action will provide substantial benefits to all parties and to the Court,
13 including in terms of practicability and manageability. The Class Members are
14 readily identifiable from information and records in Defendant's possession,
15 custody, or control.

16 143. **Commonality and Predominance:** Common questions of law and
17 fact exist as to Plaintiff and the Class members, and predominate over questions
18 affecting only individual members. Defendant engaged in a common course of
19 conduct giving rise to the legal claims as to Plaintiff herself as well as to the other
20 putative members of the Classes, all of whom were damaged by the identical
21 common law violations, business practices, and misconduct. For example,
22 consumers were exposed to the same or substantially similar set of
23 misrepresentations and omissions and packaging, labeling, and marketing;
24 manifested a similar kind and degree of reliance; and also suffered substantially
25 similar injuries. Individual questions, if any, pale by comparison, in both quality
26 and quantity, to the numerous common questions that predominate in this action.

1 144. These common questions predominate over any questions affecting
2 only individual members of the Classes and include, but are not limited to, the
3 following:

4 a. Whether Defendant's representations and omissions on the
5 safety, effectiveness, naturally whitening properties, detoxifying effects
6 and other properties or benefits of its Active Wow Charcoal
Toothpowers were unlawful;

7 b. Whether Defendant made and breached express and implied
8 warranties to the named Plaintiff and the Classes;

9 c. Whether the Active Wow Charcoal Toothpowers were
10 merchantable and fit for normal use, and in accord with statements and
promises made on their packaging;

11 d. Whether the Charcoal Toothpowers were misbranded;

12 e. Whether the Charcoal Toothpowers were falsely advertised;

13 f. Whether reasonable consumers in the general public would be
14 likely to be deceived by Defendant's advertising and marketing claims
15 regarding the Active Wow Charcoal Toothpowers;

16 g. Whether the labeling, packaging and marketing of the Active
17 Wow Charcoal Toothpowers deceived consumers into paying a higher
price than they otherwise would;

18 h. Whether Defendant violated Sections 1770 *et seq.* of the
19 California Civil Code;

20 i. Whether Defendant violated Sections 17500 *et seq.* of the
21 California Business and Professions Code;

22 j. Whether Defendant violated Sections 1750 *et seq.* of the
23 California Civil Code;

24 k. Whether Defendant should be enjoined from the continued
25 unlawful marketing, advertising, promotion, distribution, labeling, and
26 sale of the Active Wow Charcoal Toothpowers;

27 l. Whether Defendant's earnings should be disgorged;

28 m. Whether Plaintiff and the Class have sustained an ascertainable
loss as a result of Defendant's actions, and the nature and calculation of
that loss;

1 n. Whether the acts and omissions of Defendant warrant punitive
2 damages.

3 145. **Typicality:** Plaintiff's claims are typical of the claims of the
4 proposed Classes, as Plaintiff and all Class members purchased Active Wow
5 Charcoal Toothpowders after exposure to, and reliance upon, the same material
6 misrepresentations and/or omissions appearing on the packaging, Defendant's
7 websites, Defendant's Amazon.com listing, other online retail platforms, and/or
8 other forms of advertising and marketing. Plaintiff and Class members have
9 suffered the same or substantially similar injuries as a result, in that they were
10 damaged by the common thread of Defendant's misconduct and incurred expenses
11 based on their reliance thereon. Plaintiff is advancing the same claims and legal
12 theories on behalf of herself and all absent members of the Classes. As alleged
13 above, each consumer and potential Class member has been exposed to and relied
14 upon the same or substantially similar deceptive practices regardless of which
15 Charcoal Toothpowder they purchased because: 1) each product contains
16 essentially identical ingredients, including the identical main ingredient of
17 activated charcoal, 2) each product was labeled and/or promoted in marketing and
18 advertising with the same or substantially similar claims and omissions regarding
19 the benefits and safety of activated charcoal; and 3) the inclusion of activated
20 charcoal in each product gives rise to the harms described herein. They are
21 essentially one and the same product, with trivial variation in ingredients and in
22 the representations made.

23 146. **Adequacy:** Plaintiff will fairly and adequately represent and protect
24 the interests of the Classes. Plaintiff has retained counsel highly experienced in
25 prosecuting consumer class actions. Plaintiff and her counsel are committed to
26 vigorously prosecuting this action on behalf of members of the Classes, and have
27 the resources to do so. Neither Plaintiff nor her counsel have any interests adverse
28 to those of the Classes.

1 150. Plaintiff brings this claim under Article 2 of the Uniform Commercial
2 Code (the “UCC”) (as adopted and applied by the states), individually and on
3 behalf of the members of the Nationwide Class.

4 151. Under Section 2-313 of the UCC, affirmations of fact or promise
5 made by the seller to the buyer, which relate to the goods and are a basis of the
6 bargain, create an express warranty that the goods shall conform to the affirmation
7 or promise. The California equivalent of this section is codified at Section
8 2313(1)(a) of the California Commercial Code.

9 152. Under Section 2-313 of the UCC, affirmations of fact or promise
10 made by the seller to the buyer, which relate to the goods and are a basis of the
11 bargain, create an express warranty that the goods shall conform to the affirmation
12 or promise.

13 153. In connection with the sale of the Active Wow Charcoal
14 Toothpouders, Defendant issued written express warranties concerning the Active
15 Wow Charcoal Toothpouders. These express warranties concerning the Charcoal
16 Toothpouders included, but were not limited to:

- 17 • “Safe to use”
- 18 • “Gentle and Effective”
- 19 • “3rd Party Tested for Enamel Safety”⁹⁴
- 20 • “Active Wow’s activated charcoal formula is safe to use for
21 whitening your teeth, while being easy on your gums.”
- 22 • “Active Wow naturally whitens your teeth, not through harsh dental-
23 grade whitening peroxides, but through the power of Activated
24 Charcoal, nature’s best purifiers and detoxifiers.”
- 25 • “The natural way to whitening your teeth”
- 26 • “Purifies and Detoxifies”

27
28 ⁹⁴ Active Wow prints this express warranty on the 24K White Charcoal Toothpowder
product purchased by Plaintiff Schnurer.

- 1 • “Activated charcoal works by pulling stains off your teeth through a
2 process called ‘adsorption’.”
- 3 • “Activated charcoal works by drawing out stains from your teeth
4 while detoxifying the mouth.”
- 5 • “Enamel safe”
- 6 • “Whitens over time – removes stains from coffee, wine, cigarettes
7 without bleach”
- 8 • “Activated Coconut Formula – derived from premium sources, easy
9 on gums, gentle on enamel”
- 10 • “Detoxifies Your Mouth – You can use activated charcoal in place of
11 your regular toothpaste or as a supplement to regular toothpaste”
- 12 • “The Best Natural Teeth Whitening Solution on the Market”
- 13 • “It’s your new best friend for detoxifying the mouth, removing bad
14 breath, and gently polishing away stains quickly and easily.”
- 15 • “Our naturally brilliant formula eliminates stains caused by coffee,
16 wine, and other foods you can’t live without. With as little as one dab
17 and a brush stroke, our powder leaves your teeth whiter without the
18 sensitivity associated with standard kits and strips.”
- 19 • “It is a natural treatment used to absorb toxins and chemicals to clean
20 and purify your teeth.”
- 21 • “It is produced from natural materials that undergo a specific
22 treatment to make it more porous and adsorbent, while being safe for
23 your body.”
- 24 • “activated charcoal works by pulling stains off your teeth through a
25 process ‘adsorption’”
- 26 • “activated charcoal works by drawing stains out from your teeth
27 while detoxifying the mouth”
- 28

154. Defendant’s affirmations of fact or promise were made to Plaintiff and members of the Nationwide Class on the product labeling and packaging of the Active Wow Charcoal Toothpowders, on Active Wow’s website, and other online sites and print advertising. These affirmations of fact or promise, made on the physical products themselves as well as online and in print, were disseminated

1 throughout the United States, and were seen by Plaintiff and members of the
2 Class, during the purchase process.

3 155. These affirmations of fact or promise were material, and informative
4 to the product and the purchase decision, and Active Wow made them in order to
5 induce the purchase. Defendant knew that Plaintiff and Class members were
6 ignorant of the veracity of these promises and assertions of fact.

7 156. Plaintiff and Class members reasonably and justifiably relied upon
8 the express warranties, believing that the products would conform to Defendant's
9 affirmations of fact, representations, and promises.

10 157. These affirmations of fact or promise were material and became part
11 of the basis of the bargain between the Defendant on one hand, and Plaintiff and
12 Class members on the other, thereby creating express warranties that the Active
13 Wow Charcoal Toothpowders would conform to Defendant's affirmations of fact,
14 representations, and promises.

15 158. Plaintiff and Class members were in direct privity with Defendant
16 and/or its agents, or were intended third-party beneficiaries of the warranties
17 breached herein to the extent required by law.

18 159. Defendant breached its express warranties because the Active Wow
19 Charcoal Toothpowders do not, in fact, conform to the affirmations of fact or
20 promise, and the Active Wow Charcoal Toothpowders do not perform as
21 expressly warranted.

22 160. Plaintiff and the Nationwide Class members were injured as a direct
23 and proximate result of Defendant's breach because the Plaintiff and the Class
24 members did not receive goods as warranted by Defendant, and thus did not
25 receive the benefit of the bargain, as the Active Wow Charcoal Toothpowders did
26 not have the promised benefits, effectiveness, safety or value as represented. The
27 Plaintiff and members of the Nationwide Class suffered injuries because, had they
28 known the true facts, they would not have purchased the Active Wow Charcoal

1 Toothpowders, as compared to similar products that did conform as warranted and
2 represented.

3 161. As a direct and proximate result of Defendant's breaches of express
4 warranty, Plaintiff and the Nationwide Class members have been damaged by the
5 difference in value between the Active Wow Charcoal Toothpowders as
6 advertised and the Active Wow Charcoal Toothpowders as actually sold, in an
7 amount to be proven at trial.

8
9 **COUNT TWO**
10 *Nationwide Class*
11 **Implied Warranty of Merchantability**
Uniform Commercial Code § 2-314

12 162. Plaintiff re-asserts and references the allegations in this Complaint,
13 and incorporates as if fully set forth herein.

14 163. Plaintiff brings this claim under Article 2 of the UCC (as adopted and
15 applied by the states), and does so individually on behalf of herself and on behalf
16 of the members of the Nationwide Class.

17 164. Under Section 2-314 of the UCC, a warranty that the goods shall be
18 merchantable is implied in the contract for their sale, if the seller is a merchant
19 with respect to goods of that kind. To be considered merchantable, the good must
20 be safe and fit for the intended use, and conform to the promise or affirmations of
21 fact made on the label or packaging. The California equivalent of this section is
22 Section 2314 of the California Commercial Code.

23 165. In this case, Defendant qualifies as a merchant, and a warranty of
24 merchantability was implied in the sale of Active Wow Charcoal Toothpowders to
25 the Plaintiff and Class members. Defendant sold the Active Wow Charcoal
26 Toothpowders clearly labeled as having certain characteristics. Defendant knew
27 the use for which the Active Wow Charcoal Toothpowders were intended, and
28 impliedly warranted them to be of merchantable quality, safe and fit for use.

1 166. With each sale of falsely labeled Active Wow Charcoal
2 Toothpowers to the Plaintiff and Class members, Defendant has breached the
3 implied warranty of merchantability.

4 167. Plaintiff and Class members reasonably relied on Defendant's
5 affirmations, as well as the projected trustworthiness of the brand and the
6 company. Had the Plaintiff and Class members known of the true nature of the
7 Active Wow Charcoal Toothpowers and that they were not of merchantable
8 quality, not safe or fit for their intended use, and not in conformance with
9 Defendant's representations, they would not have purchased them, or they would
10 not have been willing to pay the inflated price.

11 168. As a direct and proximate result of Defendant's breaches of implied
12 warranty of merchantability, Plaintiff and the Class members have been damaged
13 by the difference in value between the Active Wow Charcoal Toothpowers as
14 advertised and the Active Wow Charcoal Toothpowers as actually sold, in an
15 amount to be proven at trial.

16
17 **COUNT THREE**

CA Subclass

18 **Violation of the California Unfair Competition Law ("UCL")**

19 **Cal. Bus. & Prof. Code § 17200**

20 169. Plaintiff re-asserts and references the allegations in this Complaint,
21 and incorporates them as if fully set forth herein.

22 170. Plaintiff brings this Count individually and on behalf of the members
23 of the CA Subclass.

24 171. Plaintiff is a person within the meaning of the UCL and she has
25 suffered economic injury as a result of Active Wow's unlawful and unfair
26 misconduct, and otherwise meets requirements for statutory standing to sue under
27 the UCL. Cal. Bus. & Prof. Code §§ 17201, 17204.
28

1 172. The UCL prohibits any “unlawful, unfair, or fraudulent business act
2 or practice” as well as any “unfair, deceptive, untrue or misleading” advertising,
3 and any act prohibited by Sections 17500 through 17577.5. Cal. Bus. & Prof.
4 Code § 17200.

5 173. By the acts and conduct alleged herein, Defendant committed unfair,
6 unlawful and/or fraudulent acts and practices and employed deceptive, misleading,
7 and/or untrue advertising, as well as other prohibited acts and practices.
8 Defendant’s deceptive acts and practices were likely to deceive or mislead
9 reasonable consumers. Defendant’s deceptive acts and practices are misleading in
10 a material way because they fundamentally misrepresent the characteristics and
11 benefits of the Active Wow Charcoal Toothpowders. They are likely to mislead,
12 and did mislead, consumers who are reasonable members of the general public
13 acting reasonably under the circumstances, and induced them to purchase the
14 Active Wow Charcoal Toothpowders.

15 174. Defendant’s misconduct included misleading and deceptive claims
16 that the Active Wow Charcoal Toothpowders: (i) naturally whiten teeth and does
17 so in a safe, healthy and/or gentle manner; (ii) are recognized as safe and effective
18 for long-term daily use; (iii) are safe for enamel and gums; (iv) are third-party
19 tested for enamel safety; (v) detoxify and purify; (vi) adsorb, draw, or lift stains
20 off of teeth by operation of the adsorptive properties of charcoal; (vii) are
21 excellent for gum health; (viii) fight cavities and tooth decay, by merit of the
22 inclusion of xylitol; (ix) have re-mineralizing properties by merit of the inclusion
23 of bentonite; (x) have anti-inflammatory and antiseptic properties, by merit of the
24 inclusion of orange seed oil; and (xi) are generally beneficial to oral health and
25 provide adequate dental hygiene for use as a replacement for toothpaste.

26 175. Defendant also omitted material facts. Defendant’s omissions were
27 contrary to the representations it actually made. Additionally, Defendant was
28 under a duty to disclose certain such omissions. Defendant’s omissions include

1 that: (i) its safety and efficacy claims lacked a reasonable basis and/or credible and
2 competent scientific substantiation; (ii) the safety for long-term use had not been
3 evaluated; (iii) available scientific literature counter-indicated the safety and
4 effectiveness of charcoal for use in dentifrice; and (iv) the products may in fact be
5 detrimental to cosmetic aesthetics, deficient for dental hygiene, and/or and
6 harmful to tooth enamel and gums and to overall oral health.

7 **Unlawful**

8 176. Defendant violated, and continues to violate, the UCL’s prohibition
9 against engaging in unlawful conduct. A business act or practice is “unlawful”
10 under the UCL if it violates established state or federal law. Defendant’s conduct
11 falls under the unlawful prong of the UCL, by virtue of the allegations previously
12 asserted herein, and also by virtue of its violations of the following:

- 13 a. The FTC Act and FTC regulations;
- 14 b. The FD&C Act and FDA regulations;
- 15 c. California’s Sherman Law (Cal. Health & Safety Code §§ 109875
16 *et seq.*), as alleged herein, by its act of misbranding and its act of
17 falsely advertising a cosmetic, as well as: the unlawful
18 dissemination of falsely advertised cosmetics (110390), the
19 unlawful manufacture, sale, delivery, holding and offer for sale of
20 a falsely advertised cosmetic (110395), the unlawful advertising of
21 a misbranded cosmetic (110398), the unlawful delivery, proffer
22 for delivery and/or receipt in commerce of a falsely advertised
23 cosmetic (110400);
- 24 d. The CLRA, Cal. Civ. Code §§ 1750, *et seq.*, including §§
25 1770(a)(2), (3), (5), (7), and (9), as pled below and as alleged
26 herein; and
- 27 e. The FAL, Cal. Bus. & Prof. Code §§ 17500, *et seq.*, as pled below
28 and as alleged herein.

1 **Unfair**

2 177. Defendant has also violated, and continues to violate, the UCL’s
3 prohibition against engaging in unfair conduct. Defendant has violated the unfair
4 prong of section 17200 of the UCL because the acts and practices alleged herein –
5 including the omission of its lack of substantiation for its claims, and other facts
6 that would detract from its claims, as well as the existence of safety concerns over
7 the use of charcoal in dentifrice – offend established public policy (included but
8 not limited to the policies reflected by the statutory and regulatory provisions cited
9 above), and are immoral, unethical, unscrupulous, as well as substantially
10 injurious to consumers.

11 178. Its conduct presents no utility or benefit to consumers or to
12 competition. To the extent any purported benefit is associated with Defendant’s
13 acts and practices, any such benefit is greatly outweighed by the gravity of the
14 harm caused to consumers by Defendant’s conduct.

15 179. Substantial consumer injury could not have reasonably been avoided.
16 Typical and reasonable consumers are not in a position to know and understand
17 the safety concerns posed by the use of charcoal in dentifrice generally or the use
18 of the Charcoal Toothpowder sold by Active Wow, or the lack of controlled safety
19 studies for such products.

20 180. It also impairs competition within the market for similar dentifrices,
21 and prevents Plaintiff and the CA Subclass members from making fully informed
22 decisions about the oral care products to purchase or the price to pay for such
23 products.

24 **Fraudulent**

25 181. Defendant has violated the fraudulent prong of section 17200 of the
26 UCL because it misrepresentation and its omissions and failure to disclose safety
27 concerns and the lack of controlled safety studies were likely to deceive a
28

1 reasonable consumer, and the true facts would be material to a reasonable
2 consumer.

3 182. Had Plaintiff and the CA Subclass members been aware of the
4 Defendant's deceptive practices and marketing tactics, and the truth about the
5 misbranded and falsely advertised Charcoal Toothpowders (including the safety
6 concerns; the lack of controlled safety studies; the lack of required substantiation;
7 the misleading and deceptive nature of claims on whitening, detoxifying and other
8 purported properties of the products; and other facts), they would not have
9 purchased the product(s) or would have paid less for the product(s).

10 183. Defendant's deceptive and unconscionable conduct is compounded
11 by its continued representation that its Active Wow Charcoal Toothpowders are
12 safe, as well as its failure to take remedial action.

13 184. All of the wrongful conduct alleged herein occurred, and continues to
14 occur, in the conduct of Active Wow's business, and is part of a general practice
15 that is still being perpetuated and repeated throughout the state of California and
16 nationwide. The misbranded products and misleading and deceptive marketing
17 claims continue to be disseminated.

18 185. As a direct and proximate result of Defendant's unlawful misconduct,
19 including but not limited to its specific statutory and regulatory violations,
20 Plaintiff and the CA Subclass members have been harmed. That harm will
21 continue unless Defendant is enjoined from using the misleading marketing,
22 packaging and labeling described herein in connection with the advertising and
23 sale of its Charcoal Toothpowders.

24 186. In accordance with Section 17203 of the UCL, Plaintiff seeks an
25 order enjoining Defendant from continuing to conduct business through its
26 unlawful, unfair, and deceptive practices, and to commence a corrective
27 advertising campaign. Cal. Bus. & Prof. Code § 17203. Defendant's conduct is
28 ongoing and continuing, such that prospective injunctive relief is necessary.

1 187. Defendant has been unjustly enriched and its monies wrongfully
2 earned should be disgorged, and required to be paid in restitution to Plaintiff and
3 CA Subclass members any money that Defendant acquired by unfair competition,
4 as provided under the UCL and/or as otherwise statutorily permitted. Cal. Bus. &
5 Prof. Code § 17204; Cal. Com. Code § 2721.

6 188. Plaintiff and the CA Subclass members are also entitled to restitution
7 on the basis of quasi-contract or equity, and should be restored with the monies
8 they paid for the falsely advertised misbranded products.

9
10 **COUNT FOUR**
11 ***CA Subclass***
12 **Violations of the California Consumers Legal Remedies Act (“CLRA”)**
13 **Cal. Civ. Code § 1750, *et seq.***

14 189. Plaintiff re-asserts and references the allegations in this Complaint,
15 and incorporates as if fully set forth herein.

16 190. Plaintiff brings this Count individually and on behalf of the members
17 of the CA Subclass.

18 191. Defendant is a “person” as defined under Cal. Civ. Code § 1761(c).

19 192. The Charcoal Toothpowders constitute “goods” as defined under Cal.
20 Civ. Code § 1761(a).

21 193. Plaintiff and each of the putative Class members are each a
22 “consumer” as defined under Cal. Civ. Code § 1761(d).

23 194. Each of their respective purchases of the Charcoal Toothpowders that
24 were made, marketed, and/or sold by Defendant constitute “transactions” within
25 the meaning of Cal. Civ. Code § 1761(e).

26 195. The CLRA prohibits various deceptive practices in connection with
27 the conduct of a business providing goods, property, or services primarily for
28 personal, family, or household purposes.

1 196. By its conduct, as alleged herein, Defendant engaged in unlawful
2 deceptive business practices. Defendant violated, and continues to violate, the
3 CLRA, including the following specific prohibitions of the CLRA:

- 4 a. Section 1770(a)(2), which prohibits “[m]isrepresenting the source,
5 sponsorship, approval, or certification of goods or services” (Cal.
6 Civ. Code § 1770(a)(2));
- 7 b. Section 1770(a)(3), which prohibits “[m]isrepresenting the
8 affiliation, connection, or association with, or certification by,
9 another” (Cal. Civ. Code § 1770(a)(3));
- 10 c. Section 1770(a)(5), which prohibits “[r]epresenting that goods or
11 services have sponsorship, approval, characteristics, ingredients,
12 uses, benefits, or quantities which they do not have” (Cal. Civ.
13 Code § 1770(a)(5));
- 14 d. Section 1770(a)(7), which prohibits “[r]epresenting that goods or
15 services are of a particular standard, quality, or grade, or that
16 goods are of a particular style or model, if they are of another”
17 (Cal. Civ. Code § 1770(a)(7));
- 18 e. Section 1770(a)(9), which prohibits “[a]dvertising goods or
19 services with intent not to sell them as advertised” (Cal Civ. Code
20 § 1770(a)(9));

21 197. As a direct and proximate result of Defendant’s CLRA violations,
22 Plaintiff and the CA Subclass members have been harmed. That harm will
23 continue unless Defendant is enjoined from the current, ongoing and future
24 employment of its deceptive business practices and unlawful misrepresentations
25 concerning the Charcoal Toothpowders.

26 198. Pursuant to Section 1780 of the California Civil Code, which
27 provides the basis of remedies for violations of the CLRA under Section 1770,
28 Plaintiff seeks an order of this Court enjoining Defendant from continuing to

1 engage in its unlawful and deceptive practices. She also seeks an order that the
2 Defendant take corrective action as to its material omissions and
3 misrepresentations. Plaintiff and the CA Subclass members will be irreparably
4 harmed and/or denied an effective and complete remedy if such an order is not
5 granted.

6 199. Plaintiff would purchase a Charcoal Toothpowder again in the future,
7 should the product be shown to have the attributes that were advertised and
8 labeled. She also might purchase again if its advertising and labeling is corrected
9 to accurately reflect the true properties, benefits, safety and other properties of the
10 products.

11 200. However, she continues to suffer ongoing concrete harm and
12 imminent injury because she is unable to rely on the veracity of Defendant's
13 product labeling and advertising, and will be unable to rely in the future because,
14 as a previously misled consumer, she will lack confidence in the representations
15 made. Alternatively, when considering a purchase decision in the future, she will
16 be injured if she believes the claims have been substantiated or corrected, and, as
17 any reasonable consumer would, thinks she can rely on the labeling and marketing
18 to be truthful and non-misleading and be confident in the representations
19 concerning the products.

20 201. In addition to injunctive relief, Plaintiff seeks damages as provided
21 for under the CLRA, on behalf of herself and the CA Subclass – including actual,
22 statutory and punitive damages. Plaintiff and CA Subclass members have suffered,
23 and continue to suffer, injuries caused by Defendant and as a result of their
24 purchase of falsely advertised and misbranded products and of Defendant's
25 unlawful conduct and statutory violations. Had the consumers known the truth
26 about the Defendant's marketing tactics and practices, and about the true
27 attributes, benefits, safety, the lack of substantiation, certification, value, and other
28

1 properties of the products themselves, they would not have purchased the
2 Charcoal Toothpowders, or they would have paid significantly less.

3 202. In compliance with Section 1782 of the CLRA, Plaintiff has given
4 Defendant written notice of her allegations and the claimed CLRA violations, and
5 has demanded that Defendant take appropriate actions to rectify and remedy its
6 misconduct. On November 22, 2019, Plaintiff sent notice and demand by certified
7 mail, return receipt requested, to the address believed to be Defendant's principal
8 place of business in California. The letter was returned to Plaintiff's counsel on
9 December 3, 2019, for insufficient address. The same day, Plaintiff's counsel sent
10 another CLRA demand letter to Defendant's registered agent in Florida.
11 Defendant is headquartered in Florida.⁹⁵ There has been no response since the
12 issuance of the second demand letter on December 3, 2019.

13 203. Defendant failed to respond to Plaintiff's demand within 30 days of
14 notice, as it was required to do under Section 1782(b) of the California Civil Code.
15 Defendant has not responded or communicated with Plaintiff's counsel at all.
16 Defendant has not taken any action to correct the problems with its labeling,
17 marketing, or other business practices, nor has it refunded the money paid by
18 Plaintiff and the CA Subclass members, or take any other action or made promises
19 to repair, rectify, and/or provide relief.

20 204. Defendant's misrepresentations and material omissions were made on
21 the product packaging materials as well as in other print and digital ads and online
22 sales platforms, and were presented by Defendant to Plaintiff and the CA Subclass
23 at the time of purchase. Defendant's unlawful misrepresentations and misleading
24 claims include but are not limited to claims that the Active Wow Charcoal
25 Toothpowders: (i) naturally whiten teeth and does so in a safe, healthy and/or
26 gentle manner; (ii) are recognized as safe and effective for long-term daily use;

27 _____
28 ⁹⁵ See, e.g., *Shein v. Canon USA, Inc.*, 2009 WL 3109721 (C.D. Cal. Sep. 22, 2009)
(concluding that plaintiffs' demand, which was sent to defendant's headquarters in New York,
complied with CLRA notice requirements).

1 (iii) are safe for enamel and gums; (iv) are third-party tested for enamel safety; (v)
2 detoxify and purify; (vi) adsorb, draw, or lift stains off of teeth by operation of the
3 adsorptive properties of charcoal; (vii) are excellent for gum health; (viii) fight
4 cavities and tooth decay, by merit of the inclusion of xylitol; (ix) have re-
5 mineralizing properties by merit of the inclusion of bentonite; (x) have anti-
6 inflammatory and antiseptic properties, by merit of the inclusion of orange seed
7 oil; and (xi) are generally beneficial to oral health and provide adequate dental
8 hygiene for use as a replacement for toothpaste.

9 205. Defendant also omitted material facts. Defendant's omissions were
10 contrary to the representations it actually made. Additionally, Defendant was
11 under a duty to disclose certain such omissions. Defendant's unlawful and
12 material omissions include that: (i) its safety and efficacy claims lacked a
13 reasonable basis and/or credible and competent scientific substantiation; (ii) the
14 safety for long-term use had not been evaluated; (iii) available scientific literature
15 counter-indicated the safety and effectiveness of charcoal for use in dentifrice; and
16 (iv) the products may in fact be detrimental to cosmetic aesthetics, deficient for
17 dental hygiene, and/or and harmful to tooth enamel and gums and to overall oral
18 health.

19 206. Plaintiff and the CA Subclass members would not have purchased the
20 Charcoal Toothpowders but-for Defendant's misrepresentations and material
21 omissions. They have, and continue to, suffer injury and damages, including but
22 not limited to the difference between the amount paid and the true value of the
23 Charcoal Toothpowders, the price premiums Defendants charged as a result of the
24 misrepresentations it exposed to consumers, and/or their entire out-of-pocket loss
25 for the total amounts paid for the Active Wow Charcoal Toothpowders.

26 207. Pursuant to Section 1780(a)(2) of the CLRA, Plaintiff, on behalf of
27 herself and members of the CA Subclass, requests that this Court enjoin
28 Defendant from continuing to engage in the unlawful and deceptive methods, acts

1 and practices alleged above. Cal. Civ. Code § 1780(a)(2). Plaintiff also requests
2 that Defendant be required to provide public notice of the true facts of the
3 Charcoal Toothpowders’ safety, oral health and cosmetic benefits and other
4 properties, and to take corrective action on its existing advertising campaign and
5 labeling. Plaintiff further requests that this Court enjoin Defendant from engaging
6 in such unlawful and deceptive practices in the future.

7 208. In addition to injunctive relief under the CLRA, Plaintiff, on behalf of
8 herself and the members of the CA Subclass, seeks to recover actual damages
9 under Section 1780(a)(1); restitution of property under Section 1780(a)(3);
10 punitive damages under Section 1780(a)(4) and because Defendant has engaged in
11 fraud, malic, or oppression; and any other relief the Court deems proper under
12 Section 1780(a)(5).

13 209. Plaintiff also seeks an award of attorneys’ fees and costs pursuant to,
14 *inter alia*, Section 1780(e) of the California Civil Code and Section 1021.5 of the
15 California Code of Civil Procedure.

16
17 **COUNT FIVE**
18 ***CA Subclass***
19 **Violation of California False Advertising Law (“FAL”)**
20 **Calif. Bus. and Prof. Code § 17500 *et seq.***

21 210. Plaintiff re-asserts and references the allegations in this Complaint,
22 and incorporates as if fully set forth herein.

23 211. Plaintiff brings this Count individually, and on behalf of the CA
24 Subclass.

25 212. Section 17500 of the California Business and Professions Code, or
26 the FAL, prohibits making false or misleading advertising claims.

27 213. The Defendant’s acts, conduct, misrepresentations, and non-
28 disclosures of the material facts, as previously alleged herein, constitute false and
misleading advertising and therefore are in violation of the FAL and are unlawful.

1 214. Defendant's misleading marketing, advertising, packaging and
2 labeling of the Active Wow Charcoal Toothpowders is false advertising likely to
3 deceive a reasonable consumer. Defendant's marketing, advertising, packaging
4 and labeling of the Active Wow Charcoal Toothpowders misrepresents the true
5 benefits, effectiveness, safety and other properties of the Active Wow Charcoal
6 Toothpowders, including but not limited to its claims that the Active Wow
7 Charcoal Toothpowders: (i) naturally whiten teeth and does so in a safe, healthy
8 and/or gentle manner; (ii) are recognized as safe and effective for long-term daily
9 use; (iii) are safe for enamel and gums; (iv) are third-party tested for enamel
10 safety; (v) detoxify and purify; (vi) adsorb, draw, or lift stains off of teeth by
11 operation of the adsorptive properties of charcoal; (vii) are excellent for gum
12 health; (viii) fight cavities and tooth decay, by merit of the inclusion of xylitol;
13 (ix) have re-mineralizing properties by merit of the inclusion of bentonite; (x)
14 have anti-inflammatory and antiseptic properties, by merit of the inclusion of
15 orange seed oil; and (xi) are generally beneficial to oral health and provide
16 adequate dental hygiene for use as a replacement for toothpaste.

17 215. Plaintiff and members of the CA Subclass were indeed deceived
18 regarding the characteristics of the Active Wow Charcoal Toothpowders. Plaintiff
19 and members of the CA Subclass who purchased the falsely labeled Active Wow
20 Charcoal Toothpowders were reasonable under the circumstances and could not
21 have known the Active Wow Charcoal Toothpowders they purchased did not in
22 fact bear the properties and qualities as advertised, marketed, packaged, and/or
23 labeled.

24 216. Defendant knew, or reasonably should have known, that the claims
25 were untrue or misleading.

26 217. Defendant has been unjustly enriched and should be required to make
27 restitution to Plaintiff and to the Class. Pursuant to Section 17535 of the Business
28 and Professions Code, Plaintiff seeks an order for the disgorgement of the

1 improperly acquired funds by which Defendant was unjustly enriched. Plaintiff
2 and the CA Subclass also seek restitution in the amount they spent on the Charcoal
3 Toothpowders.

4 218. Plaintiff and the CA Subclass members seek injunctive and equitable
5 relief. Plaintiff and the Class members are entitled to injunctive relief, and seek
6 orders to enjoin Defendant from ongoing and future conduct as well as to take
7 corrective action, and orders for any other equitable relief. Defendant's
8 misconduct is ongoing and continuing, such that prospective injunctive relief is
9 necessary.

10 219. Plaintiff is entitled to an award of attorneys' fees and costs in
11 prosecuting this action against Defendant under California's Code of Civil
12 Procedure Section 1021.5 and other applicable law, in part because:

- 13 a. a successful outcome in this action will result in the enforcement
14 of important rights affecting the public interest by maintaining the
15 integrity of representations made concerning Active Wow's
16 Charcoal Toothpowders;
- 17 b. this action will result in a significant benefit to consumers or a
18 large class of persons by bringing unlawful, unfair and deceptive
19 conduct to a halt, and by causing the return of ill-gotten gains
20 obtained by Defendant;
- 21 c. unless this action is prosecuted, members of a large class of
22 persons will not recover those monies, and many consumers
23 would not be aware that they were victimized by Defendant's
24 wrongful acts and practices;
- 25 d. unless this action is prosecuted, Defendant will continue to
26 mislead consumers about the true nature of its Charcoal
27 Toothpowders;
- 28

1 e. and an award of attorneys' fees and costs is necessary for the
2 prosecution of this action and will result in a benefit to each
3 member of the Class(es), and consumers in general.

4 **COUNT SIX**
5 ***Nationwide Class***
6 **Negligent Misrepresentation**

7 220. Plaintiff re-asserts and references the allegations in this Complaint,
8 and incorporates as if fully set forth herein.

9 221. Defendant had a duty to provide a non-deceptive and lawful
10 description of the benefits, properties, and qualities of the Active Wow Charcoal
11 Toothpowers and to not conduct itself in contravention of public policy. It also
12 had a duty to substantiate its claims and to make certain disclosures.

13 222. Defendant owed Plaintiff and the Class a duty to disclose the health
14 and safety risk of the Charcoal Toothpowers. Instead it promoted false,
15 misleading and/or unsubstantiated curative health claims. It possessed exclusive
16 knowledge of the health and safety dangers and risks posed by its Charcoal
17 Toothpowers and yet made incomplete representations about them.

18 223. Despite the duties it owed, Defendant negligently asserted false
19 statements and made material omissions on its product packaging and labeling and
20 in its advertising and online marketing and advertising.

21 224. Defendant made misrepresentations and misleading claims that the
22 Active Wow Charcoal Toothpowers: (i) naturally whiten teeth and does so in a
23 safe, healthy and/or gentle manner; (ii) are recognized as safe and effective for
24 long-term daily use; (iii) are safe for enamel and gums; (iv) are third-party tested
25 for enamel safety; (v) detoxify and purify; (vi) adsorb, draw, or lift stains off of
26 teeth by operation of the adsorptive properties of charcoal; (vii) are excellent for
27 gum health; (viii) fight cavities and tooth decay, by merit of the inclusion of
28 xylitol; (ix) have re-mineralizing properties by merit of the inclusion of bentonite;

1 (x) have anti-inflammatory and antiseptic properties, by merit of the inclusion of
2 orange seed oil; and (xi) are generally beneficial to oral health and provide
3 adequate dental hygiene for use as a replacement for toothpaste.

4 225. Defendant also omitted material facts. Defendant's omissions were
5 contrary to the representations it actually made. Additionally, Defendant was
6 under a duty to disclose certain such omissions. Defendant's unlawful and
7 material omissions include that: (i) its safety and efficacy claims lacked a
8 reasonable basis and/or credible and competent scientific substantiation; (ii) the
9 safety for long-term use had not been evaluated; (iii) available scientific literature
10 counter-indicated the safety and effectiveness of charcoal for use in dentifrice; and
11 (iv) the products may in fact be detrimental to cosmetic aesthetics, deficient for
12 dental hygiene, and/or and harmful to tooth enamel and gums and to overall oral
13 health.

14 226. Defendant made its false and misleading representations to Plaintiff
15 and to each member of the Nationwide Class.

16 227. Defendant knew or should have known its representations and
17 omissions rendered its claims on the Active Wow Charcoal Toothpowders false or
18 misleading. Defendant acted without reasonable grounds for believing the
19 representations were true.

20 228. Defendant intended that its negligent misrepresentations be acted
21 upon by Plaintiff and the Class members, and that it induce reliance. Defendant
22 knew that Plaintiff, the Class members, and reasonable consumers in the general
23 public would probably rely on their representations and, if they erroneous, that
24 reliance would cause loss or injury to them.

25 229. Plaintiff and members of the Nationwide Class reasonably and
26 justifiably relied upon the Defendant's representations and omissions, which were
27 in violation of Defendant's duties to them, and they took action in reliance
28 thereon.

1 j. Are safe and effective for long-term daily use;

2 k. Are generally beneficial to oral health; and

3 l. Provide adequate dental hygiene for use as a replacement for
4 toothpaste.

5 (c) Injunctive relief, including an order enjoining Defendant from
6 continuing with its misleading advertising and labeling, and an order
7 requiring Defendant to issue appropriate corrective advertisements, and
8 to retract its prior false and misleading claims;

9 (d) Restitution, disgorgement, refund and/or return of all monies, revenues
10 and profits obtained by Defendant by means of misleading, deceptive
11 and unlawful acts or practices;

12 (e) Actual damages in an amount to be determined at trial;

13 (f) Statutory damages in the maximum amount provided by law;

14 (g) Punitive damages;

15 (h) Costs, expenses, and reasonable attorneys' fees pursuant to applicable
16 statutes;

17 (i) Pre-judgment and post-judgment interest; and

18 (j) All such other and further relief as this Court may deem just and proper.

19 **JURY TRIAL DEMAND**

20 Plaintiff and the Classes hereby demand a jury trial of the claims asserted in
21 this Complaint.

22 Dated: June 30, 2020

Respectfully submitted,

23 **GREEN & NOBLIN, P.C.**

24
25 **By:** /s/ Robert S. Green
26 Robert S. Green

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(pro hac vice to be filed)

*Attorneys for Plaintiff Mary Schnurer and
the Proposed Classes*

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

MARY SCHNURER, on behalf of herself and all similarly situated individuals

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Green & Noblin, P.C.
2200 Larkspur Landing Circle, Suite 101
Larkspur, CA 94939

DEFENDANTS

MATHERSON ORGANICS, LLC

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

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

Attorneys (If Known)

'20CV1223 LAB LL

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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
Click here for: Nature of Suit Code Descriptions.				

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 USC 1332(d)(2)

Brief description of cause:
misrepresentations and omissions in the sale of charcoal teeth cleaning products

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE: 06/30/2020 SIGNATURE OF ATTORNEY OF RECORD: /s/ Robert S. Green

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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.
 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 1

AMAZON.COM – ACTIVE WOW 24K WHITE ACTIVATED COCONUT TEETH WHITENING CHARCOAL POWDER

Amazon listing by Active Wow¹

(Sold by Active Wow and Fulfilled by Amazon)

\$15.99

- Active Wow 24K White Charcoal Powder whitens your teeth with the power of activated coconut charcoal. It's your new best friend for detoxifying the mouth, removing bad breath, and gently polishing away stains quickly and easily. Best of all, it's free from chemicals, artificial flavors and colors.
- Our naturally brilliant formula eliminates stains caused by coffee, wine, and other foods you can't live without. With as little as one dab and a brush stroke, our powder leaves your teeth whiter without the sensitivity associated with standard kits and strips.
- A little bit goes a long way - our powder can last 100 uses, so don't be fooled by the small appearance of the jar.
- Using our charcoal powder to whiten your teeth is easy. Wet a toothbrush and dip it in the powder. Gently brush teeth for 1-2 minutes. Rinse thoroughly and spit close to the drain with water running. Use once or twice daily. Enjoy a whiter, healthier smile, the natural way! :)
- You're looking for more, aren't you? So are we. We're looking for better alternatives, better ingredients, and to create better experiences. We believe in sharing what makes us smile, and that means products that don't just follow a trend. Beneath the surface is something better. Don't just "like" the things you love, or swipe past the things worth sharing. Live life with no filter and share your smile with the world.

¹ https://www.amazon.com/Active-Wow-Whitening-Charcoal-Natural/dp/B01N8XF244/ref=pd_rhf_dp_p_img_2?encoding=UTF8&psc=1&refRID=N63SR1VTNHGHHDS9P

(last accessed May 20, 2020).



ACTIVE
WOW
24K WHITE

ACTIVATED COCONUT
TEETH WHITENING
CHARCOAL POWDER
ALL NATURAL
20 GRAMS | ACTIVEWOW.COM

DIRECTIONS

Wet a toothbrush and dip it in the powder (a little goes a long way - it can last 100 uses). Gently brush teeth for 1-2 minutes. Rinse thoroughly and spit close to the drain with water running. Use once or twice daily. Enjoy a whiter, healthier smile, the natural way! 😊

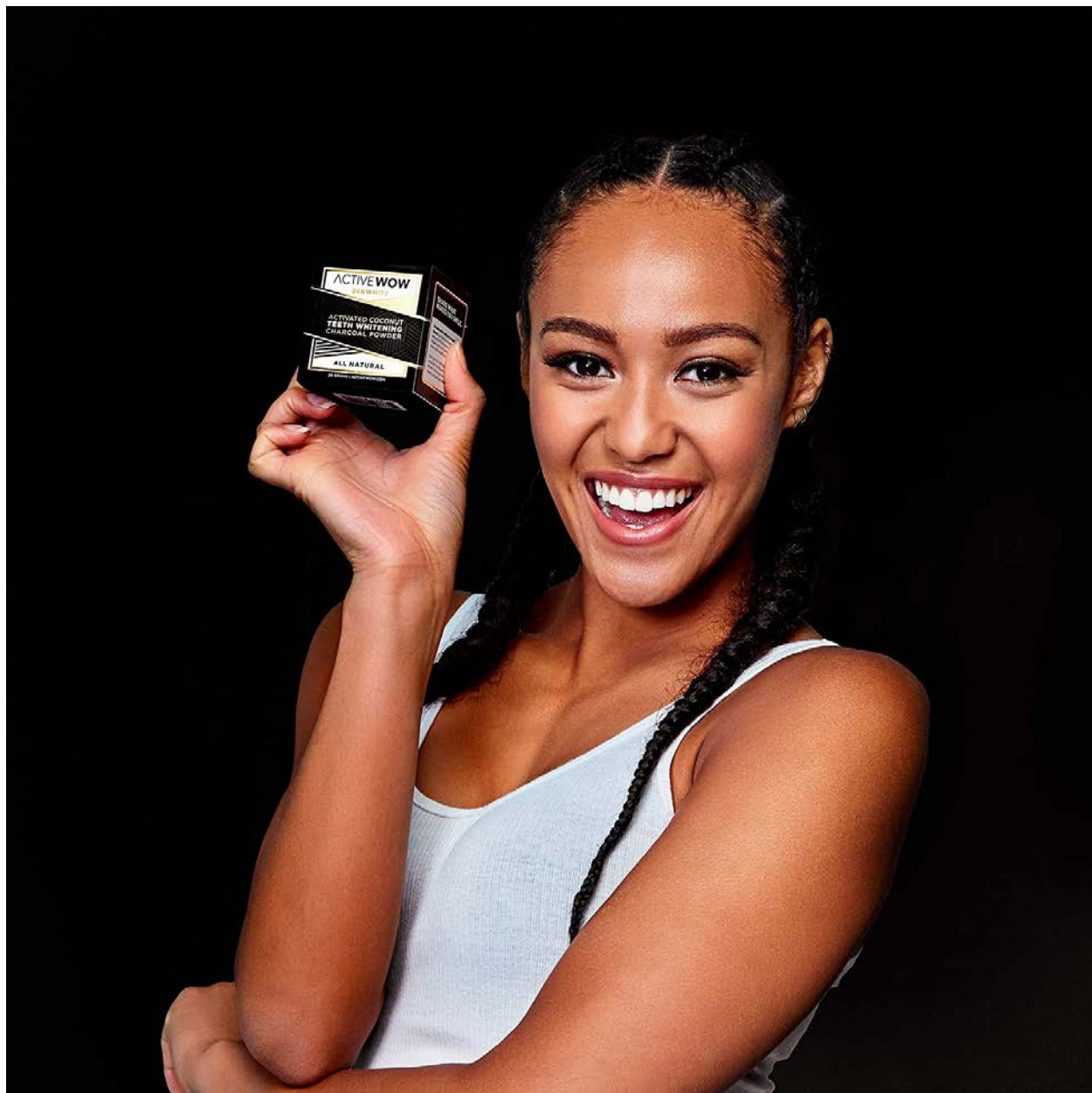
 ALL NATURAL

 PEROXIDE-FREE

 MADE IN USA

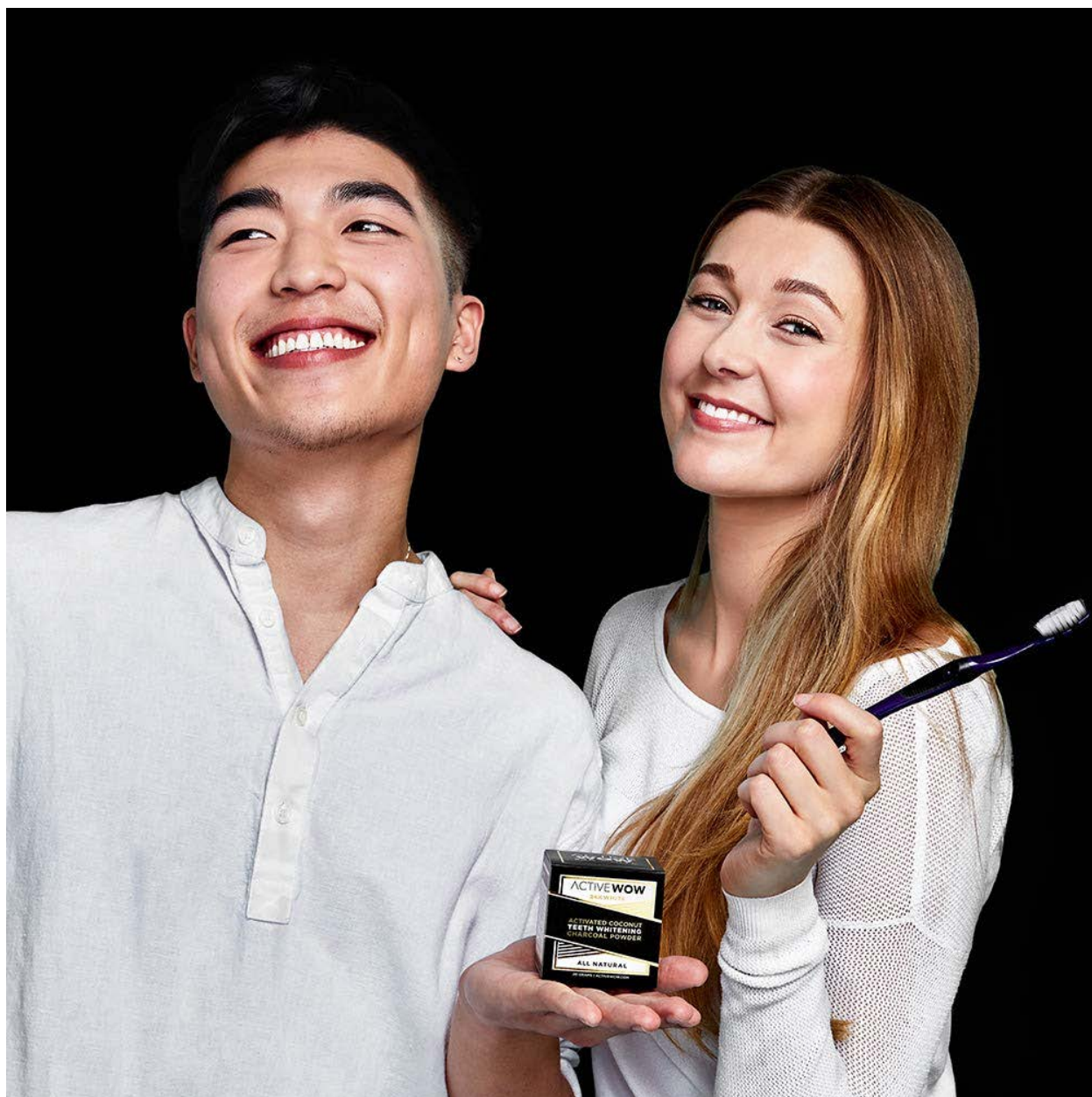
 GENTLE & EFFECTIVE

 3RD PARTY TESTED FOR ENAMEL SAFETY









EXPERIENCE POWDER-FUL WHITENING.

Our naturally brilliant formula whitens your teeth with the power of activated coconut charcoal. It's your new best friend for detoxifying the mouth, removing bad breath, and gently polishing away stains quickly and easily. Best of all, it's free from chemicals, artificial flavors and colors.

INGREDIENTS: Organic Activated Coconut Charcoal, Bentonite, Sodium Bicarbonate, Coconut Oil, Mint Flavor, Orange Seed Oil

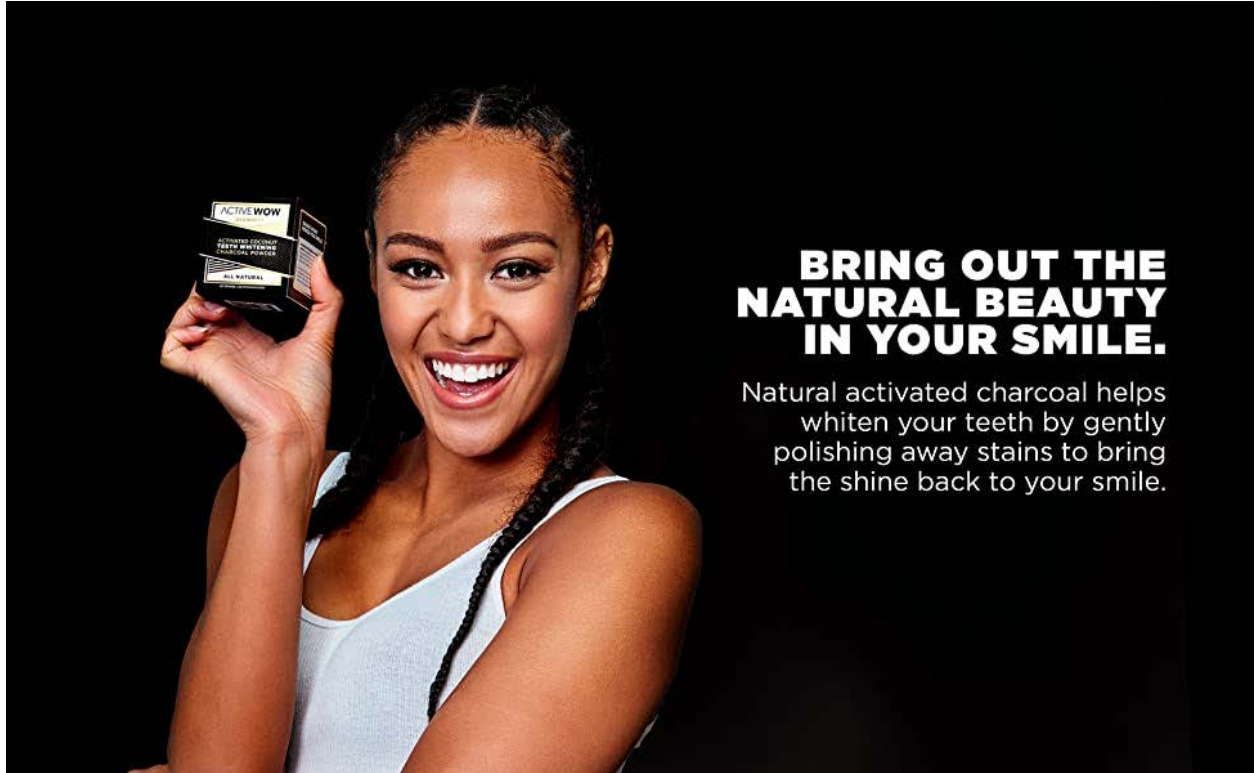


20 GRAMS | ACTIVEWOW.COM

Product Description

ACTIVE WOW





BRING OUT THE NATURAL BEAUTY IN YOUR SMILE.

Natural activated charcoal helps whiten your teeth by gently polishing away stains to bring the shine back to your smile.


ORANGE SEED OIL
Helps to smooth your teeth whitening experience. It has numerous anti-inflammatory and antiseptic ingredients.

BENTONITE
Bentonite is great for remineralizing your teeth due to its high mineral content. It also absorbs toxins naturally, and is easy on your gums.


ORGANIC COCONUT ACTIVATED CHARCOAL
Activated charcoal works by drawing out stains from your teeth while detoxifying the mouth.

**EXPERIENCE
POWDER-FUL
WHITENING.**

1 **WET A TOOTHBRUSH,
DIP IT IN THE POWDER**
A little goes a long way -
it can last 100 uses.



2 **GENTLY BRUSH FOR
1-2 MINUTES, THEN
RINSE AND SMILE!**
Rinse thoroughly and spit close to
the drain with water running.
Use once or twice daily.
Enjoy a whiter, healthier smile,
the natural way! 😊



2
**SIMPLE
STEPS**

**SHARE YOUR
SMILE WITH
THE WORLD.**

Enjoy the moments
that make you
happy with a smile,
and spread that
happiness with the
world around you.



Active Wow: Share What Makes You Smile

Active Wow 24K White Charcoal Teeth Whitening Powder contains a naturally brilliant formula that whitens your teeth with the power of activated coconut charcoal. It's your new best friend for detoxifying the mouth, removing bad breath, and gently polishing away stains quickly and easily. Best of all, it's free from chemicals, artificial flavors and colors.

Thanks to our natural and chemical-free formula, you are only a few steps away from a dazzling new smile. Easy to use, affordable, and enamel safe, our charcoal will make you shine like never before. Uncover what you already have, show your smile to the people you love, and share what makes you smile.

Two Simple Steps To Whiten Your Smile

1. Wet a toothbrush and dip it in the powder
2. Gently brush for 1-2 minutes, then rinse and smile!

Made With Natural Ingredients

- Organic Coconut Activated Charcoal - Activated charcoal works by pulling stains off your teeth through a process called "adsorption".
- Bentonite - Bentonite is great for the remineralizing your teeth due to it's high mineral content. It also absorbs toxins naturally, and is easy on your gums.
- Orange Seed Oil - Helps to smooth your teeth whitening experience. It has numerous anti-inflammatory and antiseptic qualities.

Share Your Smile With the World

Enjoy the moments that make you happy with a smile, and spread that happiness with the world around you.

Exhibit 2

**ACTIVEWOW.COM – ACTIVE WOW 24K WHITE ACTIVATED COCONUT TEETH
WHITENING CHARCOAL POWDER – ALL NATURAL ¹**

¹ <https://www.activowow.com/collections/shop/products/charcoal-powder-natural-teeth-whitening> (last accessed May 20, 2020).



ACTIVE **WOW**



24K White Charcoal Teeth Whitening Powder



A Beautiful Mess, Just Like You.

Take your beauty routine to the next level with our unique activated charcoal formula.

All Natural Formula

\$19.99



ADD TO BAG

DETAILS

The Power of Activated Coconut Charcoal

Active Wow 24K White Charcoal Teeth Whitening Powder contains a naturally brilliant formula that helps to whiten your teeth with the power of activated coconut charcoal. It's your new best friend for detoxifying the mouth, removing bad breath, and gently polishing away stains quickly and easily.

It's a Beautiful Mess

Charcoal Powder isn't exactly the cleanest teeth whitening product, but it's definitely one of the most effective! So who cares about the mess, right? Embrace it, because the results are worth it!

Chemicals? Yuk!

What's the best thing about our Charcoal Powder? It's 100% free from chemicals, artificial flavors and colors! Thanks to our natural and chemical-free formula, you are only a few steps away from a dazzling new smile. Easy to use, affordable, and enamel safe, our charcoal will make you shine like never before.

Uncover what you already have, and share what makes you smile.

Our All-Natural Charcoal Teeth Whitening Powder Comes With:

1 x 20 g organic activated coconut teeth whitening

INGREDIENTS

Active Ingredients:

Organic Coconut Activated Charcoal: Activated charcoal works by drawing stains out from your teeth while detoxifying the mouth.

Bentonite: This clay is great for re-mineralizing your teeth due to its high mineral content. It also absorbs toxins naturally, and is easy on your gums.

Orange Seed Oil: Has numerous anti-inflammatory and antiseptic qualities for a smoother teeth whitening experience.

Full Ingredient List:

Organic activated coconut charcoal, bentonite, sodium bicarbonate, coconut oil, mint flavor, orange seed oil

HOW TO USE

Wet a Toothbrush, Dip It in the Powder

A little goes a long way - it can last 100 uses.

Gently Brush for 1-2 Minutes, Then Rinse and Smile!

Rinse thoroughly and spit close to the drain with water running. Use once or twice daily. Enjoy a whiter, healthier smile, the natural way!

PS. If it gets messy, take a picture, and share it on insta with #BeautifulMess!

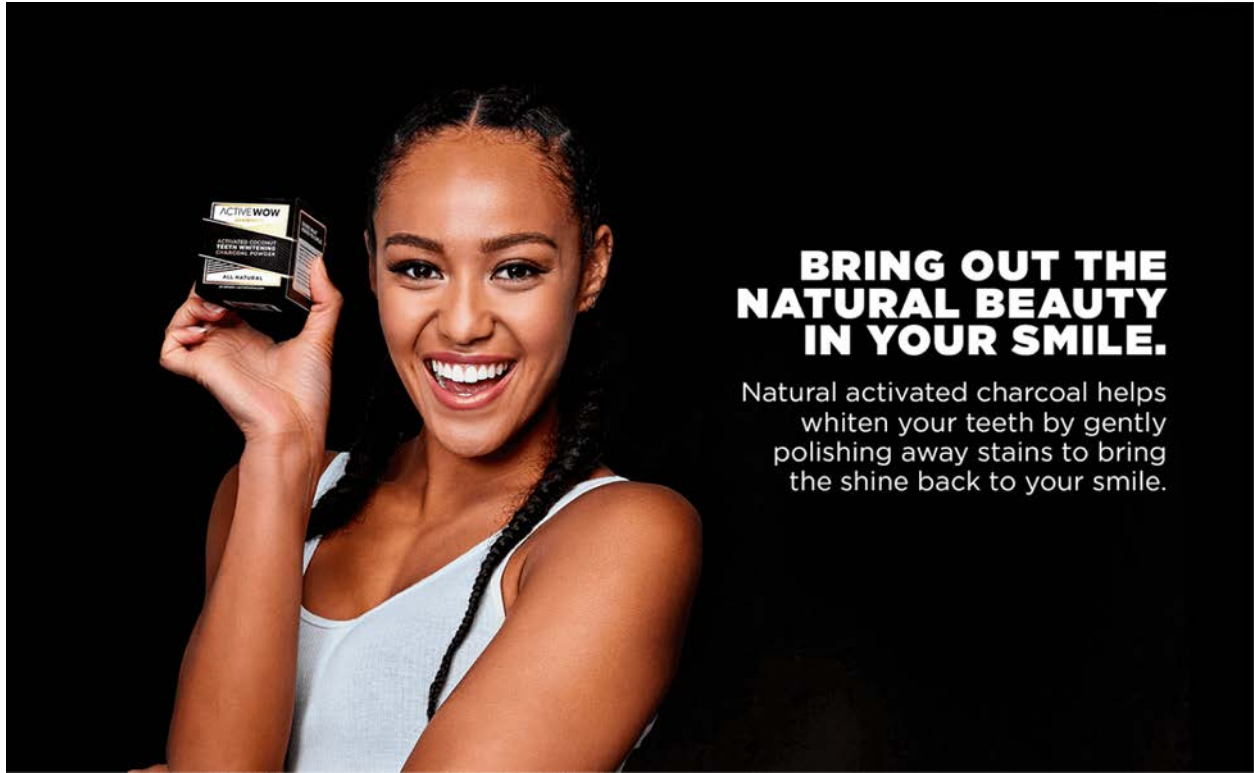




ACTIVE
WOW
24K WHITE

TEETH WHITENING
ACTIVATED COCONUT
CHARCOAL POWDER
ALL NATURAL
20 GRAMS | ACTIVEWOW.COM





BRING OUT THE NATURAL BEAUTY IN YOUR SMILE.

Natural activated charcoal helps whiten your teeth by gently polishing away stains to bring the shine back to your smile.

ORANGE SEED OIL
Helps to smooth your teeth whitening experience. It has numerous anti-inflammatory and antiseptic ingredients.

BENTONITE
Bentonite is great for remineralizing your teeth due to its high mineral content. It also absorbs toxins naturally, and is easy on your gums.

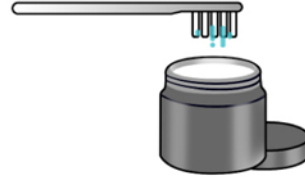
ORGANIC COCONUT ACTIVATED CHARCOAL
Activated charcoal works by drawing out stains from your teeth while detoxifying the mouth.

**EXPERIENCE
POWDER-FUL
WHITENING.**

2
**SIMPLE
STEPS**

**1 WET A TOOTHBRUSH,
DIP IT IN THE POWDER**

A little goes a long way -
it can last 100 uses.



**2 GENTLY BRUSH FOR
1-2 MINUTES, THEN
RINSE AND SMILE!**

Rinse thoroughly and spit close to
the drain with water running.
Use once or twice daily.
Enjoy a whiter, healthier smile,
the natural way! 😊





**SHARE YOUR
SMILE WITH
THE WORLD.**

Enjoy the moments
that make you
happy with a smile,
and spread that
happiness with the
world around you.

Exhibit 3

ACTIVE WOW ACTIVATED COCONUT CHARCOAL POWDER – PEPPERMINT

Amazon Listing by Active Wow¹

(Sold by Active Wow and Fulfilled by Amazon)

\$14.99

- Be careful when opening lid for the first time
- Whiten with no sensitivity - premium ingredients, excellent for gum health
- Refined charcoal powder from the purest sources

¹ <https://www.amazon.com/Active-Wow-Whitening-Charcoal-Peppermint/dp/B06XP1GWXZ> (last accessed May 20, 2020).



active
WOW

ACTIVATED COCONUT
CHARCOAL POWDER

peppermint

20g | ACTIVEWOW.COM





Ingredients:

Coconut Charcoal Powder,
Natural Flavors, Xylitol



Made in the USA





ACTIVATED CHARCOAL

The natural way to whitening your teeth

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums.

Naturally Derived Whitening Ingredients

-  Organic Coconut
-  Bentonite
-  Orange Seed Oil



active WOW

ACTIVATED COCONUT CHARCOAL POWDER
peppermint

20g | ACTIVEWOW.COM





The **natural** way to **whitening** your **teeth**

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums.

ACTIVATED CHARCOAL

TEETH WHITENING REDEFINED
SIMPLE, NATURAL INGREDIENTS

NATURALLY DERIVED
WHITENING INGREDIENTS



Organic Coconut

Bentonite

Orange Seed Oil



Product Description

Teeth Whitening Redefined - Simple, Natural Ingredients



DISCOVER THE SECRET PEOPLE ACROSS THE COUNTRY ARE USING TO ACHIEVE NATURAL, BEAUTIFUL WHITE TEETH

Active Wow - Activated Coconut Powder – Peppermint Flavor - The natural way to whitening your teeth

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums. Active Wow naturally whitens your teeth, not through harsh dental-grade whitening peroxides, but through the power of Activated Charcoal, nature's best purifies and detoxifiers.

Active Wow's unique formula whitens your teeth over time, and helps remove stains from a number of causes: coffee-stains, wine, cigarettes, and more - all without harsh chemicals or bleach.

A refreshing taste while whitening your teeth



- Naturally Derived
- Made in the USA
- Highest quality ingredients
- Coconut charcoal, not hardwood
- Hassle Free, brush like normal
- Purifies and Detoxifies
- Peppermint Flavor

Easy-to-Follow Instructions For Active Wow Teeth Whitening



BEFORE

AFTER

- Make toothbrush slightly wet.
- Remove excess water from brush.
- Dip brush into the charcoal powder.
- Dab off excess powder (a little goes a long way).
- Brush teeth like normal, for 1-2 minutes.
- Rinse mouth thoroughly to remove the charcoal. Spit directly into the sink and use water to keep the sink clean.

Active Wow Uses Naturally Derived Whitening Ingredients



Organic Coconut Activated Charcoal Powder

Activated charcoal works by pulling stains off your teeth through a process 'adsorption'. Coconut is the purest form of food-grade charcoal.



Xylitol - A Powerful & Tasty Tooth Protector

Xylitol, a sugar alcohol, is used as one of our three ingredients in our flavored line because of its tooth-decay and cavity-fighting properties.



Natural Cinammon Flavor

Enjoy our signature line of activated charcoal with the added flavor of fresh peppermint to leave your mouth feeling fresh.

Exhibit 4

ACTIVE WOW ACTIVATED COCONUT CHARCOAL POWDER – SPEARMINT

Amazon Listing by Active Wow¹

(Sold by Active Wow and Fulfilled by Amazon)

\$9.99

- Be careful when opening lid for the first time
- Whiten with no sensitivity - premium ingredients, excellent for gum health
- Refined charcoal powder from the purest sources

¹ https://www.amazon.com/Active-Wow-Whitening-Charcoal-Natural/dp/B01N8XF244/ref=pd_rhf_dp_p_img_2?encoding=UTF8&psc=1&refRID=N63SR1VTNHGHHDS9P

XW
(last accessed May 20, 2020).



active
WOW

ACTIVATED COCONUT
CHARCOAL POWDER

spearmint

20g | ACTIVEWOW.COM



NUT
DER

Ingredients:

Coconut Charcoal Powder,
Natural Flavors, Xylitol



Made in the USA





5

BENEFITS OF USING ACTIVE WOW CHARCOAL TEETH WHITENING

- 1 Natural teeth whitening** - for people who don't want to use gels and peroxides
- 2 Whitens over time** - removes stains from coffee, wine, cigarettes without bleach
- 3 Activated Coconut Formula** - derived from premium sources, easy on gums, gentle on enamel
- 4 Long Lasting** - One jar goes a long way! Should last 2-3 months depending upon usage
- 5 Detoxifies Your Mouth** - You can use activated charcoal in place of your regular toothpaste or as a supplement to regular toothpaste



Activated Coconut Formula
Is derived from premium sources, easy on gums, and gentle on enamel. It whitens over time, stains ranging from coffee, wine, to cigarettes, all without bleach.



BEFORE

AFTER



active WOW
CHARCOAL POWDER

**THE BEST
NATURAL
TEETH
WHITENING
SOLUTION
ON THE MARKET**



active WOW
ACTIVATED COCONUT
CHARCOAL POWDER
NATURAL TEETH WHITENING
2 FL OZ 1.69 ML ACTIVE WOW.COM

Product Description

Teeth Whitening Redefined - Simple, Natural Ingredients



DISCOVER THE SECRET PEOPLE ACROSS THE COUNTRY ARE USING TO ACHIEVE NATURAL, BEAUTIFUL WHITE TEETH

Active Wow - Activated Coconut Powder – Spearmint Flavor - The natural way to whitening your teeth

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums. Active Wow naturally whitens your teeth, not through harsh dental-grade whitening peroxides, but through the power of Activated Charcoal, nature's best purifies and detoxifiers.

Active Wow's unique formula whitens your teeth over time, and helps remove stains from a number of causes: coffee-stains, wine, cigarettes, and more - all without harsh chemicals or bleach.

A refreshing taste while whitening your teeth



- Naturally Derived
- Made in the USA
- Highest quality ingredients
- Coconut charcoal, not hardwood
- Hassle Free, brush like normal
- Purifies and Detoxifies
- Spearmint Flavor

Easy-to-Follow Instructions For Active Wow Teeth Whitening



BEFORE

AFTER

- Make toothbrush slightly wet.
- Remove excess water from brush.
- Dip brush into the charcoal powder.
- Dab off excess powder (a little goes a long way).
- Brush teeth like normal, for 1-2 minutes.
- Rinse mouth thoroughly to remove the charcoal. Spit directly into the sink and use water to keep the sink clean.

Active Wow Uses Naturally Derived Whitening Ingredients



Organic Coconut Activated Charcoal Powder

Activated charcoal works by pulling stains off your teeth through a process 'adsorption'. Coconut is the purest form of food-grade charcoal.



Xylitol - A Powerful & Tasty Tooth Protector

Xylitol, a sugar alcohol, is used as one of our three ingredients in our flavored line because of its tooth-decay and cavity-fighting properties.



Natural Spearmint Flavor

Enjoy our signature line of activated charcoal with the added flavor of fresh spearmint to leave your mouth feeling fresh.

Exhibit 5

ACTIVE WOW ACTIVATED COCONUT CHARCOAL POWDER - VANILLA

Amazon Listing by Active Wow¹

(Sold by Active Wow and Fulfilled by Amazon)

\$9.99

- Be careful when opening lid for the first time, as the charcoal powder can shift during transportation!
- Teeth whitening without sensitivity - premium ingredients, excellent for gum health.
- Refined activated charcoal powder from the purest coconut sources. Amazing for stain removal, and will safely polish your teeth.
- Active wow charcoal powder is a great replacement for regular toothpaste. Its all natural, and has organic ingredients!
- The perfect tooth whitener, active wow is a fluoride free way to get white teeth without the strips

¹ https://www.amazon.com/Active-Wow-Whitening-Charcoal-Natural/dp/B01N8XF244/ref=pd_rhf_dp_p_img_2?encoding=UTF8&psc=1&refRID=N63SR1VTNHGHHDS9P
XW
(last accessed May 20, 2020).



active
WOW

ACTIVATED COCONUT
CHARCOAL POWDER

vanilla

20g | ACTIVEWOW.COM





COCONUT
POWDER

Ingredients:
Coconut Charcoal Powder,
Natural Flavors, Xylitol



Made in the USA





Whiten your teeth naturally with
Activated Charcoal Powder



Vanilla
Flavor

- ✓ Naturally Derived
- ✓ Made in the USA
- ✓ Highest quality ingredients
- ✓ Coconut charcoal, not hardwood
- ✓ Hassle Free, brush like normal
- ✓ Purifies and Detoxifies

Product Description

Teeth Whitening Redefined - Simple, Natural Ingredients



DISCOVER THE SECRET PEOPLE ACROSS THE COUNTRY ARE USING TO ACHIEVE NATURAL, BEAUTIFUL WHITE TEETH

Active Wow - Activated Coconut Powder – Vanilla Mint Flavor - The natural way to whitening your teeth

Derived from the highest-quality coconut sources, Active Wow's activated charcoal formula is safe to use for whitening your teeth, while being easy on your gums. Active Wow naturally whitens your teeth, not through harsh dental-grade whitening peroxides, but through the power of Activated Charcoal, nature's best purifies and detoxifiers.

Active Wow's unique formula whitens your teeth over time, and helps remove stains from a number of causes: coffee-stains, wine, cigarettes, and more - all without harsh chemicals or bleach.

A refreshing taste while whitening your teeth



- Naturally Derived
- Made in the USA
- Highest quality ingredients
- Coconut charcoal, not hardwood
- Hassle Free, brush like normal
- Purifies and Detoxifies
- Vanilla Mint Flavor

Easy-to-Follow Instructions For Active Wow Teeth Whitening



BEFORE

AFTER

- Make toothbrush slightly wet.
- Remove excess water from brush.
- Dip brush into the charcoal powder.
- Dab off excess powder (a little goes a long way).
- Brush teeth like normal, for 1-2 minutes.
- Rinse mouth thoroughly to remove the charcoal. Spit directly into the sink and use water to keep the sink clean.

Active Wow Uses Naturally Derived Whitening Ingredients



Organic Coconut Activated Charcoal Powder

Activated charcoal works by pulling stains off your teeth through a process 'adsorption'. Coconut is the purest form of food-grade charcoal.



Xylitol - A Powerful & Tasty Tooth Protector

Xylitol, a sugar alcohol, is used as one of our three ingredients in our flavored line because of its tooth-decay and cavity-fighting properties.



Natural Vanilla Flavor

Enjoy our signature line of activated charcoal with the added flavor of fresh vanilla to leave your mouth feeling fresh.

Exhibit 6

ACTIVEWOW.COM¹

¹ <https://www.activewow.com/pages/about-us> (last accessed May 20, 2020), <https://www.activewow.com/pages/help> (last accessed May 20, 2020), and <https://www.activewow.com/pages/lifestyle> (last accessed May 20, 2020).



ACTIVE **WOW**



JUST *Keep* **SMILING**

ABOUT US

THE TEAM

Active Wow started with one goal in mind – to help spread happiness through smiles. We believe that when you smile, you spread joy and positivity with the world. We believe that when you smile, the world smiles back at you.

We exist to help give you the confidence you need to show-off that naturally beautiful smile.

**CELEBRATING THE MOMENTS
THAT MAKE YOU HAPPIEST**

with a smile.

**CELEBRATING THE MOMENTS
THAT MAKE YOU HAPPIEST**

with a smile.



We're on a mission to make
the world a **happier** place.



We're a new kind of beauty company, created by a small team **that cares.**



We're **for real**, and so are our products.

WHAT IS ACTIVATED CHARCOAL?

GREAT QUESTION!

Our activated charcoal is made from 100% natural sources, which means we do not use any artificial solutions or chemicals. It is a natural treatment used to absorb toxins and chemicals to clean and purify your teeth. Activated charcoal is not the same as the coal and charcoal bricks that are used in a backyard barbecue. It is produced from natural materials that undergo a specific treatment to make it more porous and adsorbent, while being safe for your body.

WILL I EXPERIENCE ANY SENSITIVITY?

NOT AT ALL!

Our teeth whitening kit uses a carbamide peroxide formula that is gentle on the enamel to avoid any sensitivity. Our formula dives into the surface layers of your teeth, gently lifting stains without causing any harm to your enamel.

WHERE CAN I BUY ACTIVE WOW PRODUCTS?

ONLINE, AND RETAIL!

Active Wow is sold through our website activewow.com, Amazon.com, Walmart.com and Walmart stores across the United States. Active Wow is also coming soon to H.E.B stores in the U.S! All other vendors are not authorized to sell our products. Be sure you are purchasing directly from us to ensure you receive a quality product!

DO I STILL NEED TO BRUSH MY TEETH?

YES!

It is best to follow up the use of charcoal with your regular tooth brushing/flossing routine.

WHAT ARE THE INGREDIENTS USED?

POWERFUL AF INGREDIENTS ;)

In our charcoal and natural line, we use a mix of Organic Coconut Charcoal, Bentonite, Orange Seed Oil, Sodium Bicarbonate, Coconut Oil, Mint Flavor. Our premium line of teeth whitening products use a dental grade formula that is a strong collaboration between carbamide peroxide and peppermint oil. Together, they bring out your best smile, while adding a refreshing kick to the whitening process! The ingredients are Propylene, Glycol USP, Hydrogen Peroxide, Carbomer, Triethalanomine, Peppermint Essential Oils.

WHY ACTIVATED COCONUT CHARCOAL?

‘CAUSE WHY NOT!

Activated coconut charcoal is quite sticky which is perfect for teeth whitening since it sticks to particles that are responsible for staining your teeth and removes them. If you happen to accidentally swallow it, know that it is perfectly safe to eat! Charcoal is very effective for not only detoxifying your mouth, but also for cleansing your stomach, and it poses no threat when ingested.

IS IT SAFE TO USE WHILE PREGNANT/NURSING?

ABSOLUTELY!

We only use all-natural and organic ingredients in our products so that they are suited for anyone to use them without any ill-effects.

HOW DO ACTIVE WOW PRODUCTS TASTE?

MINTY FRESH

Our original, all-natural product has very little taste. Most of our customers say it has no flavor and nobody has said it tastes bad. We are now offering 5 different flavors: Peppermint, Spearmint, Cinnamon, Vanilla, and Orange in addition to our original.



does it really work?

THE POWDER THAT STARTED IT ALL

Black powder that whitens your teeth? For real? ... It's no secret that activated charcoal has gone viral. It's popping up everywhere - food, drinks, and even beauty products! So it's no surprise that activated charcoal is now being used as the latest solution for whiter teeth. But does it really work? That's a question we get asked A LOT! So we decided to take the time to fill you in on all the deets that is charcoal teeth whitening, and why it should be your new go-to for whiter teeth.

[Read More →](#)

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Says Matherson Organics Has No Evidence to Back Up Safety, Efficacy Claims for Active Wow Charcoal Tooth Powders](#)
