

1 AMY E. DAVIS (*pro hac vice* pending)
2 Email: adavis@cdbfirm.com
3 CHRISTIANSEN DAVIS, LLC
4 4100 Spring Valley Road, Suite 450
5 Dallas, TX 75244
6 Telephone: (214) 838-3501
7 Facsimile: (972) 332-2306

8 DAVID E. ROSEN (SBN 155385)
9 Email: drosen@murphyrosen.com
10 MURPHY ROSEN LLP
11 100 Wilshire Boulevard, Suite 1300
12 Santa Monica, California 90401-1142
13 Telephone: (310) 899-3300
14 Facsimile: (310) 399-7201

15 Attorneys for the Plaintiffs

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 CARYN COLLAZO, KYM HALL, KRIS
19 THORSEN MICHELS, CINDY
20 PETERSON, CAROL SAUER, and
21 AMANDA TAPSCOTT

22 Plaintiffs,

23 v.

24 WEN BY CHAZ DEAN, INC., GUTHY-
25 RENKER LTD. and
26 GUTHY-RENKER PARTNERS, INC.,

27 Defendants.

CASE NO.

COMPLAINT FOR:

1. **BREACH OF WARRANTY**
2. **VIOLATION OF CALIFORNIA UNFAIR COMPETITION STATUTE, BUS. & PROF. CODE § 17200 et seq.**
3. **VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, BUS. & PROF. CODE § 17500 et seq.**
4. **NEGLIGENCE – FAILURE TO WARN**
5. **NEGLIGENCE – FAILURE TO TEST**
6. **STRICT PRODUCT LIABILITY**

DEMAND FOR JURY TRIAL

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 Plaintiffs Caryn Collazo, Kym Hall, Kris Thorsen Michels, Cindy
2 Peterson, Carol Sauer and Amanda Tapscott (collectively, “Plaintiffs”), through
3 counsel, files this Original Complaint against Defendant Wen by Chaz Dean,
4 Inc. (“Wen”), Defendant Guthy-Renker Ltd. and Defendant Guthy Renker
5 Partners, Inc. (Guthy-Renker Defendants, collectively, “Guthy-Renker”)
6 (Defendants collectively, “Defendants”) and respectfully state as follows:

7 **NATURE OF THE ACTION**

8 1. Plaintiffs seek redress for misrepresentations and severe injuries to
9 their hair and scalp in connection with their purchase and use of
10 WEN® Cleansing Conditioner hair care products in various varieties (the
11 “Products”), including, but not limited to, Coconut Mango, Cranberry, Fig,
12 Lavender, Pomegranate, Sweet Mint Almond and Tea Tree, designed,
13 manufactured, marketed, sold and distributed by Defendants.

14 2. The Products remain available for sale to the general public despite
15 Defendants’ knowledge they cause serious injuries. Plaintiffs purchased the
16 Products because of Defendants’ false representations that they would clean and
17 condition their hair, leaving their hair smoother, shinier, stronger, fuller, more
18 manageable with no frizz and that the Products would limit or repair damage or
19 potential damage to their as the result of other hair treatments, such as coloring
20 or bleaching, or regular heat-based styling. Defendants failed to disclose to
21 Plaintiffs and other consumers that the Products contain an ingredient or
22 combination of ingredients that cause significant hair loss, damage and other
23 injuries upon proper application.

24 3. One or more of the Products’ active ingredients act as a depilatory
25 and caustic agent, either by causing a chemical reaction that damages the hair
26 strand and/or follicle. The effect of this ingredient(s) render the Products
27 dangerous and unsafe for sale as an over-the-counter hair product.
28

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 4. Defendants failed to properly warn consumers, including
2 Plaintiffs, of the risks and dangers attendant to the use of the Products on their
3 hair and scalp even well after Defendants knew or should have known of their
4 hazards. Defendant continued to conceal the dangers of the Products by failing
5 to appropriately and fully discontinue and recall the Products, by continuing
6 to claim the Products are safe when properly applied, by offering more of the
7 Products to the market and by failing to warn consumers, including Plaintiffs,
8 of the dangers attendant to their use.

9 5. Defendants' acts and omissions in connection with the
10 development, marketing, sales and delivery of the Products, and their failure to
11 discontinue and recall and/or discontinue sale of the Products after learning of
12 their hazards, violates the consumer protection and deceptive trade practices
13 laws of California, breaches Defendants' express and implied warranties to
14 Plaintiffs and other consumers, and constitutes negligence and strict liability by
15 the Defendants.

16 6. Defendants labeled, advertised, promoted and sold the Products,
17 targeting women who wanted smoother, shinier, stronger, more manageable hair
18 with no frizz or who sought to limit or repair damage or potential damage to the
19 hair caused by other hair treatments, such as coloring or bleaching, or regular
20 heat-based styling. Through an extensive marketing campaign, including use of
21 ubiquitous infomercials and television advertising with celebrity testimonials,
22 the Internet and widely circulated popular style and fashion magazines,
23 Defendants made a number of express warranties to the effect that the Products
24 would clean and condition hair gently, without causing damage to hair and, in
25 fact, would limit or repair damage or potential damage to hair caused by other
26 hair treatments and regular heat-based styling and that the Products were
27 superior to other products available on the market. More particularly,
28 Defendants represented that, "[The Products are] gentle enough to use every day

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 and “[aren’t] like an ordinary shampoo so you want to use more of it, not less.
2 You can never use too much! The more you use, the better the results.”

3 7. Defendants failed to warn Plaintiffs, either in their extensive
4 television, print and online marketing of the Products or on the package
5 labeling, that they were at risk of significant hair loss, damage and/or other
6 injuries upon proper application of the Products.

7 8. Defendants failed to warn Plaintiffs of the risks, despite their
8 knowledge shortly after introduction of the Products to the market that
9 consumers were complaining that the Products caused significant hair loss,
10 burning of the scalp and other adverse effects, such as dryness and breaking of
11 the hair. Not only did Defendants fail to properly warn consumers, including
12 Plaintiffs, before they purchased the Products but also failed to discontinue and
13 recall the Products upon learning that they were unsafe for use by consumers,
14 including Plaintiffs.

15 9. As of the date of the filing of this Complaint, Defendants continue
16 to sell the Products. Moreover, Defendants continue to falsely claim to
17 consumers that the Products are safe, and continue to fail to warn consumers of
18 the dangers of the Products even upon proper use.

19 10. United States consumers, including Plaintiffs, reasonably expect
20 that their hair care products will not cause significant hair loss, damage and
21 other injuries because of defective design and manufacturing, inadequate
22 research and/or due diligence. In addition, United States consumers expect that
23 the Products will not cause their hair to fall out, break, become dry, change in
24 texture or cause other injuries to their hair and scalp. Further, United States
25 consumers, including Plaintiffs, reasonably expect that if Defendants, the
26 companies primarily responsible for developing, manufacturing, marketing,
27 distributing and selling the Products, knew that the Products would or could
28 cause hair loss and other injuries (whether by proper application or by

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 misapplication), they would disclose those risks to consumers immediately,
2 rather than continuing to market and sell the Products.

3 11. Defendants failed in their duty to provide consumers, including
4 Plaintiffs, with accurate, adequate information, and continued even after
5 learning of the unreasonable risks and hazards of the Products to perpetuate and
6 create a false public perception that there was little or no risk from the use of the
7 Products.

8 **JURISDICTION AND VENUE**

9 12. The Court has jurisdiction over the state law claims pursuant to 28
10 U.S.C. § 1332(a) because this is a lawsuit in which over \$75,000 is at issue and
11 Plaintiffs are citizens of states other than Defendants' state of citizenship. The
12 Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to
13 28 U.S.C. § 1367.

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

21 **PARTIES**

22 14. Plaintiff Caryn Collazo is a citizen of Florida, residing in Orlando,
23 Florida.

24 15. Plaintiff Kym Hall is a citizen of New Jersey, residing in North
25 Plainfield, New Jersey.

26 16. Plaintiff Kris Thorsen Michels is a citizen of Hawaii, residing in
27 Kailua-Kona, Hawaii.

28 17. Plaintiff Cindy Peterson is a citizen of Minnesota, residing in

1 Grand Meadow, Minnesota.

2 18. Plaintiff Carol Sauer is citizen of North Carolina, residing in
3 Knightdale, North Carolina.

4 19. Plaintiff Amanda Tapscott is a resident of Indiana, residing in
5 Indianapolis, Indiana.

6 20. Defendant Wen by Chaz Dean, Inc. is a California corporation with
7 its principal place of business in Los Angeles, California. Defendant may be
8 served through its registered agent, Jeffrey Alan Deane, 6444 Fountain Ave.,
9 Los Angeles, CA 90028.

10 21. Defendant Guthy-Renker Ltd. is a Delaware corporation with its
11 principal place of business in Santa Monica, California. Defendant may be
12 served through its registered agent, Corporation Service Company d/b/a CSC—
13 Lawyers Incorporating Service, 2210 Gateway Oaks Dr., Ste. 150N, Santa
14 Monica, CA 95833.

15 22. Defendant Guthy-Renker Partners, Inc. is a Delaware corporation
16 with its principal place of business in Santa Monica, California. Defendant may
17 be served through its registered agent, Corporation Service Company d/b/a
18 CSC—Lawyers Incorporating Service, 2210 Gateway Oaks Dr., Ste. 150N,
19 Santa Monica, CA 95833.

20 **FACTUAL BACKGROUND**

21 23. Defendants designed, manufactured, marketed, sold and distributed
22 the Products throughout the United States at all times relevant to this Complaint.

23 24. According to his website, Chaz Dean, the founder of Wen, is a Los
24 Angeles-based hair care stylist who “has a celebrity clientele list that reads like
25 a who’s who in Hollywood” and “believes in a natural, healthy lifestyle,”
26 “dedicate[ed] to harmony and holistic methods.”¹ Dean creates hair care
27 products, such as and including the Products. His website touts Dean’s products
28

¹ See <http://chazdean.com/aboutChaz/>.

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 as “groundbreaking” and “a spectacular shift in the way we protect and style our
2 hair.”² On the website, Dean describes his development of the concept of which
3 the Products are a part:

4 I was becoming known for healthy hair. I developed the cleansing
5 conditioner concept, and it worked. My very first celebrity client was
6 Nicollette Sheridan, and I worked with several actors from the Aaron Spelling
7 shows of the time—Beverly Hills 90210 and Melrose Place. I was able to
8 dramatically improve the condition of their hair, to restore the body, shine and
9 bounce. Everybody took notice [and] wanted that.

10 See <http://chazdean.com/aboutChaz/about/> (internal references and quotations
11 omitted).

12 25. Dean’s website further explains that, “[w]ith the success of WEN,
13 [he] became a fixture on television shows . . . speaking about healthy hair and
14 hair transformations. Viewers may also know him from his award winning
15 WEN Hair Care infomercial.”³

16 26. Dean, through Wen, at all times relevant to this Complaint
17 designed, manufactured, marketed, sold and distributed the Products jointly with
18 Guthy-Renker. According to its website, Guthy-Renker is “one of the largest
19 and most respected direct marketing companies in the world” and “since 1988 []
20 has discovered and developed dozens of well-loved, high quality consumer
21 products in the beauty, skincare, entertainment and wellness categories.”⁴
22 Guthy-Renker credits itself for “moving, award-winning production and
23 marketing campaigns featuring some of today’s leading celebrities.”⁵

24 27. Defendants use these types of direct marketing techniques, among
25 others, to market the Products as natural, safe, strengthening and repairing hair
26

27 ² See <http://chazdean.com/aboutChaz/about/>.

28 ³ See *id.*

⁴ See <http://www.guthy-renker.com/about/>.

⁵ See *id.*

1 care products. By way of the Wen website, magazine advertising, infomercials,
2 television ads, QVC and other direct marketing channels, Defendants'
3 promotion of the Products includes multiple false and/or misleading
4 representations, including, but not limited to:

5 It seems like I'm using a lot of product. Can I use too much?

6 WEN® isn't like an ordinary shampoo so you want to use more of it, not
7 less. You can never use too much! The more you use, the better the results.

8 Should I use the Cleansing Conditioner every day?

9 That's up to you. Some people like to wash their hair daily. Others will go
10 a day or two between washings. Although WEN® is gentle enough to use every
11 day, if you don't, you can combine 4-6 pumps of Cleansing Conditioner with a
12 quarter-size amount of Styling Creme in a spray bottle with water. Shake
13 vigorously to mix completely. Spritz it on 12-18 inches above hair to provide a
14 light mist. Shake out and restyle or fluff up your hair!

15 Rinse hair thoroughly. Apply WEN® into your palms and rub together.
16 Use 10-16 pumps for short hair, 16-24 for medium length hair and 24-32 pumps
17 for long hair. If your hair is longer/thicker you may need to increase the amount
18 of pumps.

19 Apply to scalp and hair, adding a splash of water to evenly distribute.
20 WEN® has no harsh detergents or sodium lauryl sulfate, so it won't lather.
21 Massage thoroughly into hair and leave on for the remainder of your shower.

22 “WEN® Cleansing Conditioner is a revolutionary new concept in hair
23 care. A 5-in-1 formula, this one product takes the place of your shampoo,
24 conditioner, deep conditioner, detangler and leave-in conditioner. It cleanses
25 hair thoroughly without lathering or harsh ingredients. It's designed not to strip
26 your hair and scalp of natural oils, leaving your hair with more strength,
27 moisture, manageability and better color retention.”

28 See www.wen.com.

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1
2 28. The Products vary only in scent. Each variety lists the same “Key
3 Ingredients.”

4 **KEY INGREDIENTS**

5 Glycerin: A humectant that provides moisturizing benefits to the hair.

6 Chamomile Extract: Used for its soothing and calming properties.

7 Wild Cherry Bark: Formulated to help condition the hair.

8 Rosemary Extract: Designed to soothe hair.

9 Panthenol: Designed to help strengthen hair and restore resilience.

10 29. Defendants offer the same instructions for use the Products no
11 matter the variety/scent:

12 **CLEANSING YOUR HAIR IN 3 EASY STEPS:**

13 **Step 1:**

14 Rinse hair thoroughly. Apply WEN® into your palms and rub together.

15 Use 10-16 pumps for short hair, 16-24 for medium length hair and 24-32
16 pumps for long hair. If your hair is longer/thicker you may need to
17 increase the amount of pumps.

18 **Step 2:**

19 Apply to scalp and hair, adding a splash of water to evenly distribute.

20 WEN® has no harsh detergents or sodium lauryl sulfate, so it won't
21 lather. Massage thoroughly into hair and leave on for the remainder of
22 your shower.

23 **Step 3:**

24 Rinse thoroughly and completely, massaging scalp and running fingers
25 through to the ends.

26 **ADDITIONAL USAGE TIPS:**

27 Apply 1/2 to 1 pump depending on hair length and texture as a leave-in
28 conditioner to soaking wet hair. For best results, we highly suggest you

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 cleanse, rinse and repeat, using half the recommended pumps for the first
2 cleanse, and the remaining half for the second cleanse. Unlike many
3 ordinary shampoos, you may find you don't need to cleanse as often.

4 30. Defendants further promote the Products with the summary of a so-
5 called "3-week study" in which 100% of the participants purportedly found their
6 "hair was more moisturized!," "97% noticed that WEN® added more shine!"
7 and "95% reported that hair became more manageable." Defendants admit— in
8 much smaller print— that the results are "not typical." See www.wen.com
9 ("Features").

10 31. By these representations and instructions, Defendants represent and
11 warrant that the Products will produce smoother, shinier, stronger, more
12 manageable hair with no frizz and are particularly helpful to consumers who
13 seek to limit or repair damage or potential damage to hair caused by other hair
14 treatments, such as coloring or bleaching, or regular heat-based styling.

15 32. Contrary to these express and implied representations, the Products
16 contain one or more active ingredients that act as a depilatory or caustic agent,
17 causing a chemical reaction that damages the hair strand and/or follicle.

18 33. An average consumer, Plaintiffs included, understand these
19 representations to mean the Products are gentle, natural, free from harsh or
20 damaging chemicals, conditioning and safe, and will not cause hair loss and
21 other injury upon proper (or improper) application.

22 34. Instead, Plaintiffs and other consumers reasonably expect a
23 warning regarding any potential hazard to consumers, especially because the
24 Food, Drug and Cosmetic Act regulations provide that cosmetics that may be
25 hazardous to consumers must bear appropriate warnings. See
26 <http://www.fda.gov/Cosmetics/CosmeticLabelingLabelClaims/default.htm>.

27 35. Contrary to the Food, Drug and Cosmetic Act regulations, the
28 Products failed to provide adequate directions for safe use, although Defendants

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 knew or should have known the Products were unsafe even if used correctly.

2 36. In fact, many consumers who suffered hair loss and other serious
3 injuries as a result of the Products complained to Defendants directly and online
4 about their experience. Many more did not initially associate their injuries with
5 use of the Products, it being so unexpected that a product sold over-the-counter
6 by Wen, a company that claims to have a “holistic” and “healthy” focus, could
7 be dangerous. Many of these victims assumed their hair loss was the result of a
8 serious illness and sought medical treatment. The situation caused them and
9 their loved ones terrible concern and expense.

10 37. Online reviews for the Products—known and/or available to
11 Defendants as early as 2012, included but were certainly not limited to the
12 following:

- 13 • [http://community.qvc.com/forums/wen/topic/305237/hair-loss-after-](http://community.qvc.com/forums/wen/topic/305237/hair-loss-after-using-wen-products.aspx)
14 [using-wen-products.aspx](http://community.qvc.com/forums/wen/topic/305237/hair-loss-after-using-wen-products.aspx)

15 **Hair Loss After Using Wen Products**

16 Started 07/08/2012 at 10:26 AM in WEN | Last reply 11/15/2013 at 4:03

17 AM by [racern](#)

18 I'm posting this note after losing massive amounts of hair in patches mostly at
19 the crown of my head, with smaller bald patches all over my scalp. Early this
20 year (2012) I purchased the Wen introductory package (cleanser, deep
21 conditioner, styling creme, styling balm [stick] and a comb) with the auto 30-
22 day refill. Almost immediately after using the product I noticed huge amounts of
23 hair caught in the drain (the water in my shower built up to my ankles so I
24 checked the drain and found a handful of hair -- much more than I've EVER lost
25 at one time). I didn't make the connection between the natural Wen product and
26 my hair loss and honestly didn't think anything of it until I went to get my long,
27 curly hair cut/shaped and was told by the stylist that I had 'alopecia.' I've never
28 had any problem with hair loss and only the regular 'shedding.' This loss of hair

1 was way behind the regular shedding. The stylist showed me a 2" patch at the
2 crown of my head with smaller patches in the area. I located an additional 5
3 patches around my scalp. After a tugging feeling that the Wen could be the root
4 of my problem, I checked the internet for 'hair loss after using wen' and found
5 many reports of hair loss similar to mine. And the majority of them sound like
6 my experience. For the record, I haven't had any medical issues, dietary
7 changes, lifestyle changes since the onset of hair loss and the only behavioral
8 change I've made is adding Wen to my hair care routine.

9 A word of warning to those of you about to purchase WEN Cleansing
10 Conditioner: Wen is a dangerous product.

- 11 • <http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/DO-NOT-BUY-WEN-Made-My-Hair-Fall-Out-With-One-Use.htm>

14 My Review

15 My husband bought this as a birthday gift for me after he overheard me talking
16 to about a friend about it. I only used it once, but that was enough for me. In my
17 first use I lost 100x's the amount of hair than I do in an average shower. I was
18 literally pulling clumps of hair out of my head and I had hair balls running down
19 my legs into the shower drain.

20 I look online and found horror stories about people losing so much hair that they
21 were balding and lawsuits of people trying to recup costs from dermatology
22 appointments to try and get there hair back.I called the mall kiosk where I
23 bought it and the cashier said, "I've got to tell you, this isn't the first time
24 someone's returned the product and complained that their hair was falling out.
25 I would NEVER recommend this product and I wonder how these people can
26 sleep at night with so many people complaining about this problem.

- 27 • <http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/Very-Angry-About-Hairloss-from-WEN.htm>

1 **My Review**

2 I used Wen hair care for the first time and it was good till the next week. I
3 washed my hair and it was coming out. Wen hair thinned my hair and made it
4 frizzy. I noticed it right away. I'm so upset! I am African American with long
5 hair, until I used this mess and thinned my hair!

- 6 • [http://womenshair.about.com/u/reviews/products/Wen-Haircare-
7 Products/My-Hair-is-Lifeless-and-Thinning-After-Using-WEN.htm](http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/My-Hair-is-Lifeless-and-Thinning-After-Using-WEN.htm)

8 **My Review**

9 At first I really liked this product. Then I noticed my hair was feeling greasy and
10 heavy. Now my hair is falling out in gobs daily. I would not recommend this
11 product. My hair is now thinning so bad you can see my scalp. It is lifeless and
12 lusterless.

- 13 • [http://womenshair.about.com/u/reviews/products/Wen-Haircare-
14 Products/WEN-Caused-Immeidate-Hair-Loss-for-Me.htm](http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/WEN-Caused-Immeidate-Hair-Loss-for-Me.htm)

15 **My Review**

16 Note: I have very delicate hair!

17 The first wash was amazing! Then the next 3 times (without using any other
18 products) there was massive hair loss. I would put in the conditioner and when I
19 ran my fingers through it to distribute it took me a full minute to get all the hair
20 that had fallen out off my fingers. Then I would see random FULL LENGTH
21 hair floating around my car, my desk, and in my eyes. I stopped using it after the
22 4th day. Today I received an email asking how I like the product.

23 After reading other reviews I will be on the phone with them first thing in the
24 morning for a FULL refund. And if they dare try to charge me for the
25 membership....don't get me started.

26 **mish 1 year ago**

27 Craig,

28 YOU can contact me about my hair loss after using WEN! I have suffered hair

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 loss and breakage! I have been using WEN for about 8 months.
2 Thought I was using a safe & healthy product! Saw my Drs. and all tests are
3 normal, nothing in my recent blood work or physical that would point to hair
4 loss!
5 Never made the connection to WEN until I MADE my POOR husband use it,
6 thinking I was doing a good thing! THEN, he suffered hair loss!!!!!!
7 So TODAY, I googled WEN & Hair loss! I was floored when I saw the MANY
8 complaints of Hair Loss and WEN! Many were told by dermatologists that
9 WEN causes blocked hair follicles. What is most alarming is that people have
10 reported that their hair still has not returned to normal even after stopping the
11 use of WEN! I find that disturbing! They also said that reported that to the FDA
12 snucif@aol.com 1 year ago
13 Started using Wen cleansing Conditioner about 6 or 7 months ago, I bought a
14 package deal on QVC now my thin hair is even thinner and my son says you can
15 see a bald spot in the back! I am going to stop using it
16 • **[http://wen-haircare.pissedconsumer.com/beware-using-wen-](http://wen-haircare.pissedconsumer.com/beware-using-wen-shampoo-hair-loss-20120818340078.html)**
17 **[shampoo- hair-loss-20120818340078.html](http://wen-haircare.pissedconsumer.com/beware-using-wen-shampoo-hair-loss-20120818340078.html)**
18 sunshine2da I've seen the commercials and thought why not try it try it because
19 it seems to have a nice effect on hair and felt that my hair could even look
20 better. I was shocked to see after the first wash SO MUCH HAIR IN THE
21 SHOWER.
22 I have never experienced that in my life. I immediately called company and gal I
23 spoke with advised to keep using with the conditioner as she had lost hair too
24 the first time as it was just kicking out old stuff. I wanted to believe and used
25 again with the conditioner and gobs of hair falling out. I stopped and it has been
26 a month and shedding, shedding, shedding.
27 I hate to wash my hair as there is so much fall out and now I'm stressed which
28 doesn't help. I only wish I would have read all the other people that are losing

1 their hair with this horrible product.

2 **HumbleOpinion Jun 02**

3 I have very thick, healthy, never-colored hair. My overall health is excellent and
4 I am not on any medications. I can confirm that Wen causes hair loss! Just
5 Friday, after a limited trial of Wen, I had hair falling out in the shower. I have
6 never experienced anything like this in my life. I have not washed my hair since
7 Friday and am frankly fearful of showering! Wen is an awful product - do not
8 tell someone with handfuls of lost hair how much you love Wen!!!

9 **Thinning Jan 09**

10 Loved the product at first, but after 8 months, I have lost hair in two spots as
11 well as at the front hairline. I am sad, my hair has always been thick and pretty. I
12 can only pray that after discontinuing usage, maybe it will grow back. Be aware,
13 not a good thing to use.

14 **hate deception Oct 20, 2013Winston Salem, North Carolina**

15 I used Wen on the advice of a family member. I started getting sores on my
16 scalp and my hair came out. There is something in it that causes an infection of
17 the hair follicles, thus the hair falls out. stop using and see a dermatologist.

- 18 • **<http://www.consumeraffairs.com/cosmetics/wen.html>**

19 **Sherry of Sumter, SC on July 5, 2014**

20 I have tried two different types (mint, fig) and the first couple of days my hair
21 was soft, and after a week, my hair was falling out in clumps. My husband
22 always would ask me "are you okay, I keep finding your hair in the bathroom"..
23 I promise you as I was washing my hair, clumps would come out in my hands. I
24 called and cancelled and even told them I didn't want a refund (didn't want to go
25 through the hassle of refunds with them after reading reviews). I still had to pay
26 for the next shipment and called American express and they had any new
27 payments after my initial shipment stopped. I am the type of person that I don't
28 believe everything I read without proof and I am telling you the reader this is the

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 honest truth.

2 This was my experience with Wen and the last. I hope this will help somebody
3 even if it's just one. Thank You for your attention...

4 • <http://www.consumeraffairs.com/cosmetics/wen.html>

5 **Nancy of Dunsford, ON**

6 I started using the WEN Sweet Almond Cleansing Conditioner about 6 weeks
7 ago. I have naturally curly hair that is very fine, just past my shoulders. I used
8 the conditioner as directed 3-4 times a week. Soon after I noticed considerable
9 hair loss. I comb my hair when wet in shower which was filled with hair. My
10 drain full. I thought maybe it was a nutritional imbalance. However, I
11 supplement with Biotin for hair growth and never had a problem with hair loss
12 in past. I spoke to a friend who mentioned she heard that Wen users were
13 complaining of the same. Coincidence? I think not.

14 • <http://www.consumeraffairs.com/cosmetics/wen.html>

15 **cheryl of Youngstown, OH**

16 I order 5 bottles of wen cleansing conditioners because my aunt got me one for
17 Christmas and at first it worked great so I got more. Then my hair started just
18 falling out. I mean bad. I'm bald in spots. I stopped using it and hair still not
19 quite right. There's got to be something done. My hair was so nice and long now
20 it looks like **. I'm going to talk to a lawyer because I don't even want to leave
21 the house anymore. Thanks to wen by Chaz Dean.

22 • [http://www.complaintsboard.com/complaints/wen-hair-care-
23 c523263.html](http://www.complaintsboard.com/complaints/wen-hair-care-c523263.html)

24 I purchased this product and after 2 weeks my hair started falling out, let me
25 first say I have no medical issues and this is not normal hair shedding, I didn't
26 connect the hair loss to the wen at first, until a friend said do you think it's the
27 wen, so I googled wen hair loss and there are many women that have had the
28 same reaction, and before some of you wen lovers comment, some women after

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 several months are now having the same results (hair loss), I have contacted the
2 fda and you need to call this number to report it 1-800- 332-1088, I went to the
3 wen facebook page and women posting they have hair loss was removed and
4 blocked from commenting, if I would of seen some of these comments my hair
5 would be on my head and not in the trash, it was healthy now it's like straw and
6 brittle, I have stopped using wen over a week now, the hair loss is not as bad,
7 but the damage is done and over half my hair is gone ...please report to the fda
8 and the BBB, don't let them keep selling this to others, save someone from this,
9 wish I had found web sites before I started using it!!!

10 • **<http://katieelizabethchicago.blogspot.com/2013/12/back-wen.html>**
11 Until... my hair started falling out. At first, I had no idea what it was from. It
12 wasn't alarmingly falling out so I just figured I was just "shedding" more than
13 normal. When it continued for quite a while, I decided it had to be something I
14 was using. I'm always trying new products so I cut out every single styling
15 product that I was using to see if that made a difference. When it didn't and all I
16 was using was the Wen, I decided to do some research. All you have to do is
17 Google Wen and you'll find tons of articles on Wen + hair loss. And sadly, it's
18 true for me. As soon as I stopped using my beloved Wen, the hair stopped
19 coming out in handfuls.

20 So this is my warning to women - it's NOT worth it!! I know not everyone has
21 this problem when they use Wen, but why risk it? There are so many other
22 great options out there that WON'T possibly make your hair fall out!! Check out
23 these articles on Wen hair loss if you're considering trying it:

- 24 [Wen Shampoo Causes Hair Loss. Do Not Use!](#)
- 25 [QVC Community on Wen Hair Loss](#)
- 26 [Wen Products Caused Hair Loss and Damage](#)

27 ///
28 ///

1 ///

- 2 • <http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693.html>

3
4 I used it for a while, and it did make my hair feel soft. However, I SWEAR it
5 felt like I was loseing hair. I know we all lose a certain amount through out the
6 day, but this felt like a lot. I was in the shower rinseing (keep in mind you have
7 to do a TON of rinseing with this stuff) and I felt something hit my thigh. I
8 looked down, and I kid you not, it was a HUGE wad of my hair!!! I FREAKED
9 after that, and have not touched it since!

- 10 • <http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693.html>

11
12 OK - SAME for me. I was using the fig. At first it was great. My hair was softer,
13 color held longer (I have fairly thick red color-treated past shoulder length hair).
14 Then I noticed tons of hair by the drain, clumps of it on my skin, just like the
15 quote above. My hair was definitely thinner around my bangs - I freaked out. I
16 wrote to WEN, they answered me with some bs quote - you lose up to 100 hairs
17 a day, medication use (I don't), ageing (I'm not that old). I told them I wasn't
18 looking for compensation, just giving them information and they should quite
19 defending themselves. I was using the Fig because I really like that smell. I am
20 back to my Pureology and am hoping my hair will be restored to its original
21 awesomeness before the Wen.

- 22 • <http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-2.html>

23
24 I've been scouring my life and focusing on staying calm while I try to figure out
25 why I, someone with thick hair who has to get it thinned (and my mother still
26 does at the age of 67!), have lost 50% of my hair in the past two weeks! I'm a bit
27 baffled as I am, in general, feeling pretty good.

28 Out of my research, it says to consider what medication and actions one has

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 done in the past four months. Well, one thing is I started using this all "Natural"
2 WEN Cleansing Conditioner almost exactly four months ago! I come here and
3 see that some others are also describing the same kinds of sudden, significant
4 and scary amounts of hair falling out.

5 Two weeks ago, I was using the stuff, combing it through my hair in the shower
6 and was shocked to see how much hair I saw in the drain and in the comb and
7 for the past two weeks have been trying to figure out this miserable corundum.
8 Unfortunately I had just ordered a new supply, but I will never use the stuff
9 again! This has been an unnecessary and very stressful experience. And I'm
10 going to submit this to the FDA as this is a very rough side effect for women.

11 • **<http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-3.html>**

12
13 I started using Wen a few months ago and started noticing my hair falling out
14 out in handfuls. I also started noticing a significant amount of hair breakage. I
15 have a lot of hair normally and the amount of hair loss is quite noticeable. I
16 stopped using the product when I suspected that it was what might be causing
17 the thinning hair and hair loss. As soon as I stopped the Wen the hair stopped
18 falling. I am waiting to see when hair will start growing back.

19 It also happened to my daughter, and when she stopped using it it started
20 growing back.

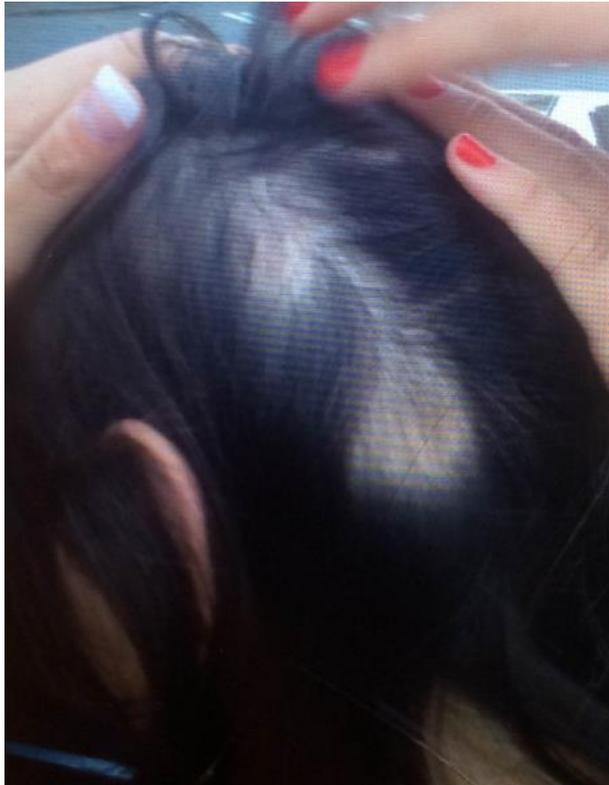
21 • **<http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-3.html>**

22
23 I tried it also and at first loved it, but then my hair started falling out as well. I
24 didnt realize until the second time that, that was what was making my hair fall
25 out. Stopped using it and my hair has stopped falling out. I am glad I googled
26 my hunch and found this forum, because I thought something was wrong with
27 me! I also had a painful to the touch lump on my head.

28 38. The injuries sustained by these victims are strikingly similar to

1 those suffered by Plaintiffs. Victims believed the Products would clean and/or
2 condition their hair and would limit and/or repair damage caused by other hair
3 treatments but found the Products to cause hair loss, dryness, breakage and other
4 injuries and adverse effects.

5
6 39. The following photographs depict the type of damage caused by
7 the Products.



MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

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



40. One or more of the Products' active ingredients act as a depilatory or caustic agent, either by causing a chemical reaction that damages the hair

1 strand and/or follicle. The effect of this ingredient(s) render the Products
2 dangerous and unsafe for sale as an over-the-counter hair product.

3 41. Designing, manufacturing and providing a direct-to-consumer hair
4 conditioning/care products with these ingredient(s) is unreasonably dangerous
5 and unsafe to consumers, especially when marketed as gentle and safe to use
6 every day and given Defendants' instructions to consumers to use large amounts
7 of the Products and to leave the Products in their hair for long, even indefinite,
8 periods of time.

9 42. Prior to Plaintiffs' purchase of the Products, Defendants were
10 aware or should have been aware that the Products contained an inherent
11 defect(s) that caused significant hair loss and other injury upon proper
12 application and that any instructions and warnings provided with the Products
13 were wholly insufficient. Defendants were unaware of this because they failed
14 to perform pre- and post-marketing safety testing as required by industry
15 standards and best practices.

16 43. Defendants knew, or but for their reckless indifference would have
17 known, prior to Plaintiffs' purchases of the Products that they would continue to
18 receive complaints of hair loss and other injuries attributed to the Products.
19 Based on their experience, Defendants knew or should have known that even if
20 they diligently investigated the problem, it would be difficult if not impossible
21 to remediate the problem.

22 44. Defendants knew, or but for their reckless indifference would have
23 known, that: (a) the risk of hair loss and other injury was substantial, (b) users
24 of the Products were unaware of that substantial risk, and (c) those users had a
25 reasonable expectation that Defendants would disclose the risks and discontinue
26 sell of the Products.

27 45. Despite such knowledge, Defendants did not disclose to
28 prospective purchasers, before or after learning of the Products' hazards, that

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 there was a substantial risk of hair loss and other injury associated with use of
2 the Products. Defendants instead continued to claim the Products were safe,
3 while concealing or attempting to conceal or control all the adverse reports filed
4 by consumers.

5 **FACTS RELATING TO PLAINTIFFS**

6 46. Plaintiff Caryn Collazo learned of the Products through
7 Defendants' various advertisements. She purchased the Products in the Tea
8 Tree and Wen 613 varieties in mid- to late 2014 based on representations by the
9 Defendants that the Products would produce smoother, shinier, stronger, more
10 manageable hair with no frizz and were particularly helpful to consumers who
11 sought to limit or repair damage or potential damage to the hair caused by other
12 hair treatments, such as coloring or bleaching, or regular heat-based styling.
13 Ms. Collazo used the Products as instructed. Nevertheless, she has suffered
14 extreme hair loss and damage.

15 47. Plaintiff Kym Hall learned of the Products through Defendants'
16 various advertisements. She purchased the Products in the Sweet Almond Mint
17 variety online prior to January 2014 based on representations by the Defendants
18 that the Products would produce smoother, shinier, stronger, more manageable
19 hair with no frizz and were particularly helpful to consumers who sought to
20 limit or repair damage or potential damage to the hair caused by other hair
21 treatments, such as coloring or bleaching, or regular heat-based styling. Ms.
22 Hall used the Products as instructed. Nevertheless, she has suffered burning of
23 her scalp as well as extreme hair loss and damage.

24 48. Plaintiff Kris Thorsen Michels learned of the Products through
25 Defendants' infomercials. She purchased the Products in the Sweet Almond
26 Mint, Coconut Mango, Lavender and Pomegranate varieties by phone based on
27 representations by the Defendants that the Products would produce smoother,
28 shinier, stronger, more manageable hair with no frizz and were particularly

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 helpful to consumers who sought to limit or repair damage or potential damage
2 to the hair caused by other hair treatments, such as coloring or bleaching, or
3 regular heat-based styling. Ms. Michels used the Products as instructed.
4 Nevertheless, she has suffered extreme hair loss and damage.

5 49. Plaintiff Cindy Peterson learned of the Products through
6 Defendants' various advertisements. She purchased the Products in the Sweet
7 Almond Mint varieties in 2014 based on representations by the Defendants that
8 the Products would produce smoother, shinier, stronger, more manageable hair
9 with no frizz and were particularly helpful to consumers who sought to limit or
10 repair damage or potential damage to the hair caused by other hair treatments,
11 such as coloring or bleaching, or regular heat-based styling. Ms. Peterson used
12 the Products as instructed. Nevertheless, she has suffered extreme hair loss and
13 damage.

14 50. Plaintiff Sauer learned of the Products through Defendants' various
15 advertisements. She purchased the Products in the Sweet Almond Mint and
16 Lavender varieties by phone in 2013-2014 based on representations by the
17 Defendants that the Products would produce smoother, shinier, stronger, more
18 manageable hair with no frizz and were particularly helpful to consumers who
19 sought to limit or repair damage or potential damage to the hair caused by other
20 hair treatments, such as coloring or bleaching, or regular heat-based styling.
21 Ms. Sauer used the Products as instructed. Nevertheless, she has suffered
22 extreme hair loss and damage.

23 51. Plaintiff Amanda Tapscott learned of the Products through
24 Defendants' infomercials. She purchased the Products in the Sweet Almond
25 Mint variety by phone between approximately January and November 2014
26 based on representations by the Defendants that the Products would produce
27 smoother, shinier, stronger, more manageable hair with no frizz and were
28 particularly helpful to consumers who sought to limit or repair damage or

1 potential damage to the hair caused by other hair treatments, such as coloring or
2 bleaching, or regular heat-based styling. Ms. Tapscott used the Products as
3 instructed. Nevertheless, she has suffered extreme hair loss and damage.

4 **FIRST CAUSE OF ACTION**

5 **(Breach of Express Warranty)**

6 **(By all Plaintiffs against all Defendants)**

7 52. Plaintiffs hereby incorporate the above allegations by reference as
8 though fully set forth herein.

9 53. Plaintiffs formed a contract with Defendants at the time they
10 purchased the Products. The terms of that contract include the promises and
11 affirmations of fact made by Defendants on the Products' packaging and
12 through marketing and advertising. This marketing and advertising constitute
13 express warranties and became part of the basis of the bargain, and are part of
14 the standardized contract between Plaintiffs and Defendants.

15 54. Defendants, through their advertising and packaging, create express
16 warranties that the Products were safe, effective, more effective than other
17 products on the market, sulfate-free hair cleansing and/or conditioning
18 treatments that limit or repair damage caused by other hair treatments.

19 55. All conditions precedent to Defendants' liability under this contract
20 were performed by Plaintiffs when they purchased and used the Products.

21 56. Defendants breached express warranties about the Products and
22 their qualities because their statements about the Products were false and the
23 Products do not conform to their affirmations and promises. Plaintiffs would not
24 have purchased the Products had they known the true nature of the Products and
25 the misstatements regarding what the Products are and what they contained.

26 57. As a result of Defendants' breach of warranty, Plaintiffs have been
27 damaged in the amount of the purchase price of the Products and any
28 consequential damages resulting from the purchases, including the cost to repair

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 their hair loss and damage.

2 **SECOND CAUSE OF ACTION**

3 **(Breach of Implied Warranty)**

4 **(By all Plaintiffs against all Defendants)**

5 58. Plaintiffs hereby incorporate the above allegations by reference as
6 though fully set forth herein.

7 59. At all times relevant hereto, there was a duty imposed by law
8 which requires that a manufacturer or seller’s product be reasonably fit for the
9 purposes for which such products are used, and that product be acceptable in
10 trade for the product description.

11 60. Notwithstanding the aforementioned duty, at the time of delivery,
12 the Products sold to Plaintiffs were not merchantable because they contain
13 defect(s) that cause hair loss and other injuries upon proper application and do
14 not otherwise perform as represented.

15 61. Defendants were notified that the Products were not merchantable
16 within a reasonable time after the defect manifested to Plaintiffs and other
17 consumers.

18 62. As a result of the non-merchantability of the Products, Plaintiffs
19 and other consumers sustained damages.

20 **THIRD CAUSE OF ACTION**

21 **(Violation of California Unfair Competition Statute (“CUCS”))**

22 **Cal. Bus. & Prof. Code § 17200 et seq.**

23 **(By all Plaintiffs against all Defendants)**

24 63. Plaintiffs hereby incorporate the above allegations by reference as
25 though fully set forth herein.

26 64. Plaintiffs, as purchasers of the Products, are consumers within the
27 meaning of the CUCS given that Defendants’ business activities involve trade or
28 commerce, are addressed to the market generally and otherwise implicate

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 consumer protection concerns.

2 65. As detailed above, Defendants, through its advertisements and
3 packaging, used unconscionable commercial practices, deception, fraud, false
4 promise and misrepresentation in connection with the marketing of the Products,
5 as alleged.

6 66. Defendants also knowingly concealed, suppressed, and consciously
7 omitted material facts to Plaintiffs and other consumers knowing that consumers
8 would rely on the advertisements and packaging and Defendants' uniform
9 representations to purchase the Products.

10 67. Once the defects in the Products and their tendency to cause hair
11 loss and other injuries despite proper application (or based upon foreseeable
12 misapplication) became apparent to Defendants, consumers (Plaintiffs) were
13 entitled to disclosure of that fact because a significant risk of hair loss and
14 damage would be a material fact in a consumer's decision-making process, and,
15 without Defendants' disclosure consumers would not necessarily know that
16 there is such a risk.

17 68. Defendants intended that Plaintiffs and other consumers would rely
18 on the continued deception by purchasing the Products, unaware of these
19 material facts and omissions. They knew that customers would continue to rely
20 on the representations and their silence as to any known risk of hair loss and
21 other injuries as evidence that the Products were safe and would perform as
22 represented. This conduct, and Defendants' breaches of express and implied
23 warranties, constitutes consumer fraud within the meaning of the CUCS.

24 69. Defendants' material non-disclosure constitutes an unconscionable
25 commercial practice, deception, fraud, false promise, misrepresentation and/or
26 omission of material facts as to the nature of the goods in violation of the
27 CUCS.

28 70. In addition, upon information and belief, Defendants removed from

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 the Internet and social media sites unfavorable reviews of the Products that
2 would have warned consumers that the Products are dangerous. Similarly, also
3 upon information and belief, Defendants paid for false and misleading blogging
4 about the Products on the Internet and social media sites but failed to attribute
5 the false and misleading statements to Defendants or as advertising. These acts
6 also constitute a violation of the CUCS.

7 71. Defendants are the producing and proximate cause of Plaintiffs’
8 injuries.

9 **FOURTH CAUSE OF ACTION**

10 **(Violation of California False Advertising Law (“CFAL”)**

11 **Bus. & Prof. Code § 17500 et seq.)**

12 **(By all Plaintiffs against all Defendants)**

13 72. Plaintiffs hereby incorporate the above allegations by reference as
14 though fully set forth herein.

15 73. Plaintiffs, as purchasers of the Products, are consumers within the
16 meaning of the CFAL given that Defendants’ business activities involve trade or
17 commerce, are addressed to the market generally and otherwise implicate
18 consumer protection concerns.

19 74. As detailed above, Defendants, through its advertisements and
20 packaging, used deception, fraud, false promise and misrepresentation in
21 connection with the marketing of the Products, as alleged.

22 75. Defendants also knowingly concealed, suppressed, and consciously
23 omitted material facts to Plaintiffs and other consumers knowing that consumers
24 would rely on the advertisements and packaging and Defendants’ uniform
25 representations to purchase the Products.

26 76. Once the defects in the Products and their tendency to cause hair
27 loss and other injuries despite proper application (or based upon foreseeable
28 misapplication) became apparent to Defendants, consumers (Plaintiffs) were

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 entitled to disclosure of that fact because a significant risk of hair loss and
2 damage would be a material fact in a consumer’s decision-making process, and,
3 without Defendants’ disclosure consumers would not necessarily know that
4 there is such a risk.

5 77. Defendants intended that Plaintiffs and other consumers would rely
6 on the continued deception by purchasing the Products, unaware of these
7 material facts and omissions. They knew that customers would continue to rely
8 on the representations and their silence as to any known risk of hair loss and
9 other injuries as evidence that the Products were safe and would perform as
10 represented. This conduct constitutes false advertising within the meaning of the
11 CFAL.

12 78. Defendants’ material non-disclosure constitutes deception, fraud,
13 false promise, misrepresentation and/or omission of material facts as to the
14 nature of the goods in violation of the CFAL.

15 79. In addition, upon information and belief, Defendants removed from
16 the Internet and social media sites unfavorable reviews of the Products that
17 would have warned consumers that the Products are dangerous. Similarly, also
18 upon information and belief, Defendants paid for false and misleading blogging
19 about the Products on the Internet and social media sites but failed to attribute
20 the false and misleading statements to Defendants or as advertising. These acts
21 also constitute a violation of the CFAL.

22 80. Defendants are the producing and proximate cause of Plaintiffs’
23 injuries.

24 **FIFTH CAUSE OF ACTION**

25 **(Negligence and/or Gross Negligence)**

26 **(By all Plaintiffs against all Defendants)**

27 81. Plaintiffs hereby incorporate the above allegations by reference as
28 though fully set forth herein.

1 82. Defendants owed Plaintiffs a duty to use due care in their
2 development, testing, planning, design, marketing and sale of the Products
3 offered for use by consumers.

4 83. Through their failure to exercise due care, Defendants breached
5 this duty by producing, processing, manufacturing, distributing and/or offering
6 for sale the Products in a defective condition that was unsafe for unsupervised
7 use at home by consumers.

8 84. Defendants breached their duty of care to Plaintiffs by failing to
9 use sufficient quality control, perform adequate research or testing, proper
10 manufacturing, production or processing, and failing to take sufficient
11 measures to prevent the Products from being offered for sale in an unsafe and
12 hazardous form.

13 85. Defendants further breached their duty of due care by failing to
14 properly and adequately inform consumers once safety concerns, including hair
15 loss and other injuries, were brought to the Defendants' attention, and further
16 breached their duty of care by failing to fully and appropriately discontinue the
17 sale of and recall the Products.

18 86. Defendants knew, or in the exercise of reasonable care should have
19 known, that the Products present an unacceptable risk to consumers, and would
20 result in damages that were foreseeable and reasonably avoidable.

21 87. As a direct and proximate result of Defendants' above-referenced
22 negligence and/or gross negligence, Plaintiffs have suffered and are entitled to
23 recover damages, both compensatory and punitive.

24 **SIXTH CAUSE OF ACTION**

25 **(Strict Liability)**

26 **(By all Plaintiffs against all Defendants)**

27 88. Plaintiffs hereby incorporate the above allegations by reference as
28 though fully set forth herein.

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

1 89. Defendants are producers, manufacturers, marketers, distributors
2 and/or sellers of the Products.

3 90. Defendants produced, manufactured, designed, marketed,
4 distributed and/or sold the Products that were defective in design or formulation
5 in that the Products are unreasonably dangerous and the foreseeable risks of
6 harm exceed the benefits associated with the design or formulation.

7 91. Defendants researched, produced, manufactured, designed,
8 marketed, distributed and/or sold the Products that were defective due to
9 inadequate warning, testing, study and/or reporting regarding the results of such
10 efforts.

11 92. Defendants produced, manufactured, designed, marketed,
12 distributed and/or sold the Products that are defective due to inadequate post-
13 market warning or instruction because, after Defendants knew or should have
14 known of the risk of injury from the Products, Defendants failed to immediately
15 provide adequate warnings to Plaintiffs and the public.

16 93. As the direct and legal result of the defective condition of the
17 Products as produced, manufactured, designed, marketed, distributed and/or
18 sold by Defendants, and of the negligence, carelessness, other wrongdoing and
19 actions of Defendants described herein, Plaintiffs suffered damages.

20 **ATTORNEYS' FEES, EXPENSES AND COSTS**

21 94. The foregoing paragraphs are incorporated by reference.

22 95. Plaintiffs have been forced to secure the assistance of counsel to
23 protect their legal rights and mitigate their damages as a result of the
24 Defendants' wrongful conduct.

25 96. Having made proper presentment and provided actual and sufficient
26 notice of their claims to Defendants, Plaintiffs seek recovery of their reasonable
27 attorneys' fees, expenses and costs pursuant to all applicable statutes, regulations
28 and agreements.

MURPHY KOSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

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

PRAYER

WHEREFORE Plaintiffs pray for Judgment against Defendants as follows:

- 1. For an award of actual and consequential damages according to proof;
- 2. For an award of punitive damages according to proof;
- 3. For an award of reasonable attorneys’ fees and costs incurred herein;
and;
- 4. For all other relief to which they may be justly entitled.

Respectfully submitted,

CHRISTIANSEN DAVIS, LLC
MURPHY ROSEN LLP

By: /s/ David E. Rosen

Amy E. Davis

David E. Rosen

Attorneys for Plaintiffs

CARON COLLAZO, KYM HALL,

CINDY PETERSON and CROL

SUAER

MURPHY ROSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand trial by jury.

Respectfully submitted,

CHRISTIANSEN DAVIS, LLC
MURPHY ROSEN LLP

By: /s/ David E. Rosen

Amy E. Davis

David E. Rosen

Attorneys for Plaintiffs

CARON COLLAZO, KYM HALL,

CINDY PETERSON and CROL

SUAER

MURPHY ROSEN LLP
100 WILSHIRE BOULEVARD, SUITE 1300
SANTA MONICA, CA 90401-1142
TELEPHONE 310-899-3300; FACSIMILE 310-399-7201

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