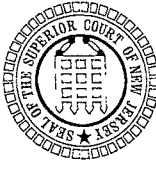

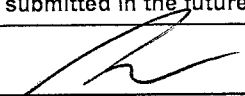


ACCEPTED AT COUNTER  
 "UNDER REVIEW"  
 COPY GIVEN AT COUNTER (7/11)

 <b>CIVIL CASE INFORMATION STATEMENT (CIS)</b> Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b>		FOR USE BY CLERK'S OFFICE ONLY	
		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA	CHG/CK NO.
ATTORNEY / PRO SE NAME Michael A. Galpern		TELEPHONE NUMBER (856) 663-8200	COUNTY OF VENUE Middlesex
FIRM NAME (if applicable) Locks Law Firm LLC		DOCKET NUMBER (when available)	
OFFICE ADDRESS 801 N. Kings Highway, Cherry Hill, NJ 08034		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Mary Restaino, Plaintiff		CAPTION Mary Restaino, et al. v. Mario Badescu, Inc., et al	
CASE TYPE NUMBER (See reverse side for listing) 606	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: 			

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# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

**Track I - 150 days' discovery**

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

**Track II - 300 days' discovery**

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE – PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE – PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT – OTHER

**Track III - 450 days' discovery**

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

**Track IV - Active Case Management by Individual Judge / 450 days' discovery**

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

**Multicounty Litigation (Track IV)**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>266 HORMONE REPLACEMENT THERAPY (HRT)</li> <li>271 ACCUTANE/ISOTRETINOIN</li> <li>274 RISPERDAL/SEROQUEL/ZYPREXA</li> <li>278 ZOMETA/AREDIA</li> <li>279 GADOLINIUM</li> <li>281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL</li> <li>282 FOSAMAX</li> <li>284 NUVARING</li> <li>285 STRYKER TRIDENT HIP IMPLANTS</li> <li>286 LEVAQUIN</li> <li>287 YAZ/YASMIN/OCELLA</li> </ul> | <ul style="list-style-type: none"> <li>288 PRUDENTIAL TORT LITIGATION</li> <li>289 REGLAN</li> <li>290 POMPTON LAKES ENVIRONMENTAL LITIGATION</li> <li>291 PELVIC MESH/GYNECARE</li> <li>292 PELVIC MESH/BARD</li> <li>293 DEPUY ASR HIP IMPLANT LITIGATION</li> <li>295 ALLODERM REGENERATIVE TISSUE MATRIX</li> <li>296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS</li> <li>297 MIRENA CONTRACEPTIVE DEVICE</li> <li>601 ASBESTOS</li> <li>623 PROPECIA</li> </ul> |
|---|---|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category  Putative Class Action  Title 59

Michael A. Galpern  
Andrew P. Bell  
Janet Walsh  
LOCKS LAW FIRM, LLC  
800 North Kings Highway  
Cherry Hill, New Jersey 08034

Gary E. Mason (to be admitted *pro hac vice*)  
Esfand Y. Nafisi (to be admitted *pro hac vice*)  
WHITFIELD BRYSON & MASON LLP  
1625 Massachusetts Ave., NW, Suite 605  
Washington, D.C. 20036

John C. Whitfield (to be admitted *pro hac vice*)  
Caroline Ramsey Taylor (to be admitted *pro hac vice*)  
WHITFIELD BRYSON & MASON LLP  
19 N. Main Street  
Madisonville, KY 42431

Attorneys for Plaintiffs

**MARY RESTAINO, JESSICA VAL ANG, : SUPERIOR COURT OF**  
**GARY SHAYNE BRESHEARS, JULIE : NEW JERSEY**  
**CARPENITO, LUZ XIMENA : MIDDLESEX COUNTY**  
**COLLAZOS-DELGADO, STEPHANIE : :**  
**GORDON-GLASSFORD, JOHN : Law Division**  
**MEZZINA HANNIGAN, BETTY : :**  
**HUANG, COURTNEY LAVOLPICELO, : Civil Action No. \_\_\_\_\_**  
**HEIDI LEE, ANDREW LOSINGER, : :**  
**JESSICA LOUISE LYNN, TONY : COMPLAINT**  
**MALEK, KARI LYNN MARKEL, DANA : :**  
**MEZZINA, MELISSA ANNE MOORE, : Jury Trial Demanded**  
**NICOLE OUELLETTE, PAOLO : :**  
**PACORINI, SUSAN RAVIV, MARY : :**  
**DEAN FISHER RENAUD, SUZANNE : :**  
**SHOWS, PREZETTA SMITH, SAMUEL : :**  
**SMITH, LESLIE MARIAH THOMPSON, : :**  
**SARAH TREEM, KIRSTINE TRETTIN, : :**  
**THERESA STERN VALENTIC, : :**  
**KENYON WOOLLEY, THOMAS YANG, : :**  
**ANNIE YEH and GEOFFREY YU, : :**

Plaintiffs,

vs.

09-25-2014  
RECEIVED AND FILED  
2014 SEP 25 P 12 42  
CIVIL OFFICE  
MIDDLESEX VICINAGE

ACCEPTED AT COUNTER  
"UNDER REVIEW"  
COPY GIVEN AT COUNTER (Y/N)

**MARIO BADESCU, INC.**  
120 McGaw Dr.  
Edison, New Jersey 08837

and

**MARIO BADESCU SKIN CARE, INC.**  
320 E 52<sup>nd</sup> Street  
New York, New York 10022

and

**JOHN DOES 1-10** (fictitious parties  
responsible for the damages suffered by  
Plaintiffs),

Defendants.

---

Plaintiffs Mary Restaino, Jessica Val Ang, Shayne Breshears, Julie Carpenito, Luz Ximena Collazos-Delgado, Mary Dean Fisher, Stephanie Gordon-Glassford, John Mezzina Hannigan, Betty Huang, Courtney LaVolpicelo, Heidi Lee, Andrew Losinger, Jessica Louise Lynn, Tony Malek, Kari Lynn Markel, Dana Margo Mezzina, Melissa Anne Moore, Nicole Ouellette, Paolo Pacorini, Susan Raviv, Suzanne Shows, Samuel Smith, Prezetta Smith, Leslie Mariah Thompson, Sarah Treem, Kirstine Trettin, Theresa Stern Valentic, Kenyon Woolley, Thomas Yang, Annie Yeh and Geoffrey Yu (“Plaintiffs”) by way of Complaint say:

**NATURE OF THE CASE**

1. This case arises out of undisclosed and addictive prescription corticosteroids in Mario Badescu’s Control Cream (“Control Cream”) and Healing Cream (“Healing Cream”). Mario Badescu, Inc., Mario Badescu Skin Care, Inc., and John Does 1-10 (collectively, the “Defendants”), manufactured, marketed, and sold Control Cream as a facial moisturizer that was

suitable for daily use and as a treatment for rosacea, and which contained only “botanical” active ingredients. Defendants also manufactured, marketed, and sold Healing Cream, which was marketed as a product to “control redness, inflammation and other minor skin irritations associated with acne.” The undisclosed active ingredients of both purportedly botanical creams were corticosteroids: specifically, triamcinolone acetonide and hydrocortisone. Triamcinolone acetonide is a potent steroid, which is only available for use with a physician’s prescription and which is not safe for medium- or long-term use because of the damage it can do to the skin and to the body’s adrenal system. Hydrocortisone is a regulated steroid that is not suitable for medium- or long-term use. Both of these steroids are addictive and can have devastating side effects, and neither is suitable for use as a facial moisturizer or as a treatment for acne or rosacea.

2. Plaintiffs believed Mario Badescu’s representations about the “botanical” ingredients in Control Cream and Healing Cream and the products’ safety for daily use. Accordingly, Plaintiffs used the products routinely, in some cases for as long as 13 years. Prolonged exposure to the undisclosed steroids in the Control Cream and Healing Cream caused Plaintiffs a series of steroid-related injuries, including cataracts, Cushing’s Syndrome, glaucoma, hirsutism, hair loss, heart conditions, scarring, skin atrophy, skin discoloration, spider veins, severe psychological harm, and a devastating and long-lasting malady called topical steroid withdrawal. Because Plaintiffs did not know they were using steroids, they were improperly diagnosed by their physicians both during and after their use of Control Cream and Healing Cream, and were therefore unable to receive appropriate medical care.

3. When Defendants stopped manufacturing and selling Control Cream and Healing Cream in the United States in mid- to late 2013—months after a government-issued recall of Healing Cream in South Korea—Plaintiffs began experiencing topical steroid withdrawal, an

unbearably painful and disfiguring condition that can last for years. Because topical steroids cause blood vessels to constrict (“vasoconstriction”), cessation of topical steroids after prolonged use causes extreme dilation of the blood vessels (“vasodilation”). This vasodilation causes the skin to become extremely red and swollen, and causes fluid to leak through the skin. This condition is not only incredibly painful, but it causes capillaries near the skin’s surface to erupt and large weeping pustules to develop on the face, as well as fissuring of the skin, steroid acne, facial swelling and large hive-like rashes. During topical steroid withdrawal, a period of vasodilation is followed by one of vasoconstriction, in which the skin becomes extremely dry and brittle, causing the skin to crack, bleed and slough off dried skin in sheets. Steroid withdrawal sufferers can cycle through periods of vasodilation and vasoconstriction for years. As one of the first physicians to recognize steroid addiction and withdrawal has written, “the despair of these patients cannot be conveyed in words.”<sup>1</sup> Even after the wounds have healed, those who have gone through topical steroid withdrawal are left scarred and permanently sensitized to steroids such that even medically appropriate, short-term use of steroids can immediately trigger the steroid withdrawal process anew.

4. Defendants never disclosed to Plaintiffs that Control Cream and Healing Cream contained topical steroids, nor did Defendants disclose any of the dangers or potential side effects of topical steroids. This action seeks damages for the injuries caused by Defendants’ conduct.

#### **JURISDICTION AND VENUE**

5. Jurisdiction is proper in this Court because Defendant Mario Badescu, Inc. is headquartered in Middlesex County, Edison, New Jersey.

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<sup>1</sup> Albert M. Kligman & Peter J. Frosch, *Steroid Addiction*, 18 Int’l. J. of Dermatology 23-31 (1967).

6. Venue is proper in this Court as a substantial portion of the acts and transactions that constitute violations of law complained of herein occurred in Middlesex County, and Defendants conduct substantial business throughout Middlesex County.

### PARTIES

7. Plaintiff Mary Restaino is a resident of New Jersey who resides at 419 Sixth Avenue, Lyndhurst, New Jersey. Plaintiff Restaino used Defendants' Control Cream for approximately six years as a facial moisturizer. After cessation of Control Cream in March 2013, Plaintiff Restaino suffered from topical steroid withdrawal. In addition to withdrawal symptoms, her vision became blurred, she experienced significant stomach discomfort, and she became extremely depressed and anxious due to her steroid withdrawal symptoms.

8. Plaintiff Jessica Val Ang is a resident of Singapore. Ang used Control Cream and Healing Cream on her face and genital region for eczema twice daily from December 2011 until February 2014. Upon cessation, Plaintiff Ang suffered from an outbreak of steroid withdrawal symptoms on her face. She also developed a large eczema-like rash on her genitals which was also consistent with steroid withdrawal symptoms.

9. Plaintiff Gary Shayne Breshears is a resident of Oregon who resides at 4528 Indian Earth Court NE, Salem, Oregon. Plaintiff Breshears began using Control Cream in 2010 and used the cream multiple times per day until April 2014. While using Control Cream, Plaintiff Breshears developed heart palpitations and high blood pressure, and upon cessation, his face developed topical steroid withdrawal symptoms.

10. Plaintiff Julie Carpenito is a resident of New York who resides at 21 Parkview Place, Staten Island, New York. Plaintiff Carpenito used Control Cream on her face, hands, arms and feet as a moisturizer. She used Control Cream daily from September 2011 to July 2013.

During her usage she developed steroid-induced acne and rashes all over her face which worsened after cessation. Upon cessation she suffered from typical topical steroid withdrawal and steroid-induced acne.

11. Plaintiff Luz Ximena Collazos-Delgado is a resident of New York who resides at 8705 78<sup>th</sup> Street, Woodhaven, New York. She began using Control Cream in 2009 and continued daily use until November 2013. Upon cessation, Plaintiff Delgado developed topical steroid withdrawal symptoms. She was pregnant and nursing during her use of Control Cream.

12. Plaintiff Stephanie Gordon-Glassford is an individual resident of Arkansas who resides at 675 Valley View Road, Booneville, Arkansas. Plaintiff Gordon-Glassford used Control Cream intermittently between 2013 and 2014. She suffered from cycles of flare ups during her use of Control Cream, and intense steroid withdrawal symptoms after cessation of Control Cream in April 2014. She specifically suffered extensive symptoms on her eyelids and cheekbones.

13. Plaintiff John Mezzina Hannigan is a resident of New York who resides at 125 Court Street, Brooklyn, New York. Plaintiff Hannigan used Control Cream between August 2010 and October 2013. Upon cessation of Control Cream, Plaintiff Hannigan went through topical steroid withdrawal.

14. Plaintiff Betty Huang is an individual resident of California who resides at 2465 Encanto Way, Dublin, California. Plaintiff Huang used Healing Cream from 2003 until 2013. While using Healing Cream, Plaintiff Huang suffered from reproductive issues. Upon cessation of Healing Cream, Plaintiff Huang developed steroid withdrawal symptoms, skin discoloration and perioral dermatitis.



15. Plaintiff Courtney LaVolpicelo is a resident of Massachusetts who resides at 78 Tanglewood Lane, North Andover, Massachusetts. Plaintiff LaVolpicelo used Control Cream between August 2008 and March 2013. Upon cessation of Control Cream, she developed topical steroid withdrawal symptoms.

16. Plaintiff Heidi Lee is a resident of New York who resides at 14924 Hollywood Avenue, Flushing, New York. Plaintiff Lee used Control Cream daily between May 2009 and August 2013. Upon cessation of Control Cream, Plaintiff Lee's face and neck immediately developed steroid withdrawal symptoms. Additionally, Plaintiff Lee's hair fell out along her hairline during this time and she developed hyperpigmentation. Further, she developed eczematous lesions on her legs. Plaintiff Lee was pregnant with twins while using Control Cream.

17. Plaintiff Andrew Losinger is a resident of Minnesota who resides at 3040 Emerson Avenue South, Minneapolis, Minnesota. Plaintiff Losinger used Control Cream intermittently between October 2011 and February 2013. He developed topical steroid withdrawal symptoms both while intermittently using Control Cream and upon total cessation of use in February 2013. He also experienced blurred vision during withdrawals.

18. Plaintiff Jessica Louise Lynn is a resident of Illinois who resides at 98 Lavender Lane, Makanda, Illinois. Plaintiff Lynn began using Control Cream in October 2009 and continued her daily use until October 2013. Upon cessation of Control Cream, she immediately began experiencing topical steroid withdrawal symptoms. Plaintiff Lynn was pregnant and nursing while using Control Cream.

19. Plaintiff Tony Malek is a resident of New Jersey who resides at 98 Ridge Road, Little Falls, New Jersey. Plaintiff Malek used Control Cream between 2008 and early 2013.

Upon cessation of Control Cream, Plaintiff Malek developed topical steroid withdrawal symptoms.

20. Plaintiff Kari Lynn Markel is a resident of California who resides at 1146 Maugham Drive, Galt, California. Markel used Control Cream twice daily from 2000 until 2013. During her use of Control Cream, Plaintiff Markel suffered from Cushing's Syndrome, elevated cortisol levels, heart palpitations, sleeplessness and reproductive issues. After cessation of Control Cream, Plaintiff Markel developed topical steroid withdrawal.

21. Plaintiff Dana Mezzina is a resident of New York who resides at 190 Conselyea Street, Brooklyn, New York. She began using Control Cream in 2002 and continued use until mid-2013. Upon cessation, Plaintiff Mezzina went through topical steroid withdrawal. Plaintiff Mezzina was pregnant while using Control Cream.

22. Plaintiff Melissa Anne Moore is a resident of North Carolina who resides at 937 Granville Road, Charlotte, North Carolina. Plaintiff Moore used Control Cream between 2004 and April 2013. Upon cessation, she developed topical steroid withdrawal symptoms.

23. Plaintiff Nicole Ouellette is a resident of Indiana who resides at 909 Carlyle Lane, Indianapolis, Indiana. Plaintiff Ouellette used Control Cream daily from 2001 until May 2013. Upon cessation of Control Cream she developed topical steroid withdrawal symptoms.

24. Plaintiff Paolo Pacorini is a resident of Trieste, Italy, who purchased Control Cream while living in Baltimore, Maryland in September 2008. He continued using Control Cream until November 2013. Upon cessation of Control Cream, Plaintiff Pacorini developed topical steroid withdrawal symptoms on his face.

25. Plaintiff Susan Raviv is a resident of Massachusetts who resides at 43 Ruby Avenue, Marblehead, Massachusetts. Plaintiff Raviv began using Control Cream in September

2010 and continued her Control Cream use until January 2014. Within days of cessation, Plaintiff Raviv's face, neck and scalp developed topical steroid withdrawal symptoms. Plaintiff Raviv has also suffered from hair loss and steroid-induced glaucoma. Plaintiff Raviv's symptoms required an extended leave of absence from her job, as well as psychotherapy to deal with her withdrawal symptoms.

26. Plaintiff Mary Dean Fisher Renaud is a resident of Illinois who resides at 2471 N. Albany Avenue, Chicago, Illinois. Plaintiff Renaud used Control Cream from November 2010 until December 2013. Upon cessation of Control Cream, her face immediately developed topical steroid withdrawal symptoms. She also went through extensive psychotherapy treatment because of her withdrawal symptoms.

27. Plaintiff Suzanne Shows is a resident of Texas who resides at 2827 Quail Lane, Arlington, Texas. Plaintiff Shows began using Control Cream in the summer of 2010 and continued daily use until December 2013. Upon cessation of Control Cream, Plaintiff Shows developed steroid withdrawal symptoms.

28. Plaintiff Prezetta Smith is a resident of Illinois who resides at 479 N. Harlem Avenue, Oak Park, Illinois. She used Control Cream from October 2011 until March 2014. Upon cessation of Control Cream, Plaintiff Prezetta Smith developed topical steroid withdrawal symptoms on her face and neck.

29. Plaintiff Samuel Smith is a resident of California who resides at 4013 Wincanton Road, Salida, California. Plaintiff Samuel Smith began using Control Cream and Healing Cream in August 2009 and continued use of the cream until January 2014. Upon cessation of Control Cream, Plaintiff Samuel Smith developed topical steroid withdrawal.

30. Plaintiff Leslie Mariah Thompson is a resident of Tulsa, Oklahoma who resides at 1252 E Street NE, Washington D.C. Plaintiff Thompson used Control Cream multiple times per day from October 2011 until October 2013. Upon cessation, Plaintiff Thompson developed withdrawal symptoms. She also experienced blurred vision during this time.

31. Plaintiff Sarah Treem is a resident of California who resides at 533 Fernwood Pacific Drive, Topanga, California. Plaintiff Treem began using Control Cream in June 2004 and continued use of Control Cream until January 2014. Upon cessation of Control Cream, Plaintiff Treem developed topical steroid withdrawal. Plaintiff Treem was pregnant and nursing during her use of Control Cream.

32. Plaintiff Kirstine Trettin is a resident of Odense, Denmark, who purchased and used Control Cream in Colorado and Maryland. Plaintiff Trettin used Control Cream from 2009 until November 2013. Upon cessation of Control Cream, Plaintiff Trettin immediately developed topical steroid withdrawal symptoms.

33. Plaintiff Theresa Stern Valentic is an resident of California who receives mail at P.O. Box 1206, El Granada, California. Plaintiff Valentic used Control Cream from January 2009 until April 15, 2013. While using Control Cream, Plaintiff Valentic's cortisol levels were elevated and she developed symptoms consistent with Cushing's Syndrome. Upon cessation of Control Cream she immediately developed topical steroid withdrawal symptoms.

34. Plaintiff Kenyon Woolley is a resident of Illinois who resides at 2636 N. Orchard Street, Chicago, Illinois. Woolley began using Healing Cream in 2005 and continued her use until early 2014. Upon cessation, Woolley developed topical steroid withdrawal symptoms. She was also pregnant and nursing during her use of Healing Cream.

35. Plaintiff Thomas Yang is a resident of New York who resides at 452 57<sup>th</sup> Street, Brooklyn, New York. Plaintiff Yang used Control Cream between November 2011 and June 2013. Upon cessation of Control Cream, Plaintiff Yang developed topical steroid withdrawal symptoms on his neck, hands, wrists, torso, chest, back, ankles and knees.

36. Plaintiff Annie Yeh is a resident of New York who resides at 114 Troutman Street, Brooklyn, New York. Plaintiff Yeh used Control Cream twice daily from 2003 until April 2013. While using Control Cream she suffered numerous symptoms related to excessive exposure to steroids. Upon cessation, Plaintiff Yeh's face developed topical steroid withdrawal symptoms. During this time she was diagnosed with borderline glaucoma, which was caused by exposure to steroids. After cessation she also developed rashes on other parts of her body, her immune system suffered and she experienced hair loss on her head.

37. Plaintiff Geoffrey Yu is a resident of Illinois who resides at 1842 Grosse Pointe Circle, Hanover Park, Illinois. Plaintiff Yu used Healing Cream from May 2003 until January 2014. Upon cessation of Healing Cream, Plaintiff Yu developed topical steroid withdrawal symptoms on his face.

38. Defendant Mario Badescu, Inc., is a New Jersey Corporation, with its principal place of business in Edison, New Jersey. Mario Badescu is a manufacturer of skin care products, including Mario Badescu Control Cream and Mario Badescu Healing Cream. Mario Badescu's website provides that "our botanically-based skin care line remains as Mario crafted it so many years ago, expertly designed to keep your skin luscious and beautiful." Defendant's website also boasts that its "products are made with natural botanical and plant extracts which contain minimal preservatives."

39. Defendant Mario Badescu Skin Care, Inc., doing business under the trade name Mario Badescu Skin Care, is a New York Corporation, with its principal place of business in New York, New York. Mario Badescu Skin Care operates a skin care salon in New York, New York.

40. Defendants John Doe 1-10 are additional distributors, manufacturers, or designers of Control Cream and/or Healing Cream whose identities are not yet known to Plaintiffs despite due diligence, who manufactured, designed, distributed, promoted, and/or sold Control Cream and/or Healing Cream either directly or indirectly to Plaintiffs.

**FACTS COMMON TO PLAINTIFFS ANG,  
HUANG, SAMUEL SMITH, AND WOOLLEY**  
**(“HEALING CREAM PLAINTIFFS”)**

41. Plaintiffs incorporate by reference the allegations in paragraphs 1 – 40 of this Complaint as though fully set forth in this section.

42. The Healing Cream Plaintiffs’ cause of action arises from unlabeled steroids in Mario Badescu Healing Cream (“Healing Cream”), an acne treatment that was marketed as suitable for all skin types, and which purportedly contained only the following ingredients: Balsam (Myroxylon Pereirae Resin) Peru, Polyglycerylmethacrylate, Propylene Glycol, Herbal Extract, and Bismuth Subgallate. Defendants did not disclose that Healing Cream contained two steroids—triamcinolone acetonide and hydrocortisone.

43. Healing Cream was sold throughout the United States in retail stores, like Nordstrom, and through online vendors like mariobadescu.com and amazon.com.

44. In December 2012, the South Korean Ministry of Food and Drug Safety recalled Healing Cream after testing it and discovering that it contained two corticosteroids—hydrocortisone and triamcinolone acetonide.

45. Despite the government-initiated recall in South Korea, Defendants continued to manufacture and sell Healing Cream in the United States to Plaintiffs and the general public. Though Defendants were or should have been fully aware that they were exposing Plaintiffs and members of the public to regulated and dangerous steroids, they did nothing to warn Plaintiffs or the public, and instead put their corporate profits above the safety interest of Plaintiffs.

46. Upon information an belief, Defendants stopped manufacturing Healing Cream in early 2013 in the United States. However, even after Defendants stopped manufacturing Healing Cream, they continued to sell all existing stock to Plaintiffs and the public, eeking out every last possible cent of profits from the steroid-laden Healing Cream.

#### **FACTS COMMON TO THE CONTROL CREAM PLAINTIFFS**

47. Plaintiffs incorporate by reference the allegations in paragraphs 1 – 46 of this Complaint as though fully set forth in this section.

48. Plaintiffs' cause of action arises as a result of unlabeled corticosteroids in Mario Badescu Control Cream ("Control Cream"), a moisturizing cream manufactured, marketed and sold by Defendants throughout the United States directly by Defendants, through online vendors, and through retail outlets.

49. Defendants manufactured, distributed, promoted, and/or sold Control Cream as (1) an effective and safe daily facial moisturizer that was "gentle enough to use every day," and (2) a safe treatment for skin ailments, including dry skin and rosacea. Defendants affirmatively marketed and sold Control Cream as a treatment that "heals and calms blotchy, red, flaky, or problem skin."

50. Defendants were aware of the wide spread use of Control Cream as a daily moisturizer and in connection with skin ailments, including rosacea.

51. Defendants have always maintained and represented that the active ingredient or ingredient in Control Cream is Balsam Peru, a “soothing botanical that will make a visible difference immediately upon application.”

52. The Control Cream label listed the following “Ingredients: Deionized Water (Aqua), Carnation Oil, Polyglyceryl methacrylate (and) Propylene Glycol, Seamollient, Balsam (Myroxylon Pereirae Resin) Peru.”

**ALL**  
**BENEFITS:**  
 Our famous anti-redness cream is an effective treatment for red, rashy, flaky and irritated skin types and Rosacea sufferers. Balsam Peru is the active, soothing botanical ingredient that will make a visible difference immediately upon application. Non-greasy, low oil formula. May be used for troubled areas of the face or in place of a moisturizer. Works well with our Azulene Calming Mask.

**HOW TO USE:** Gently massage on red, irritated or flaky areas before moisturizer or night cream. May be used in place of a moisturizer for very sensitive skin.

**BEAUTY TIP:** For excessively flaky, dry skin apply Rose Hips Nourishing Oil all over the face and layer Control Cream on top. For a redness reducing mask treatment apply Control Cream all over the face and apply Calma mask or Azulene Mask over it for 20 minutes and rinse. May be used as a post-shave, soothing cream or to calm redness after face and body waxing.

**INGREDIENTS:** Water, Carnation Oil, Polyglyceryl methacrylate (and) Propylene Glycol, Seamollient, Balsam Peru

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**Control Cream**

Take control of your skin with Mario Badescu's Control Cream. Our famous anti-redness cream is rich with soothing botanicals like Balsam Peru to help soothe red, flaky and irritated skin on contact. It's non-greasy, low oil formula is gentle enough to use every day.

0.5 oz - \$15  
 1.0 oz - \$26

ORDER NOW

53. Defendants specifically recommended applying Control Cream directly to the eyelids on Defendants’ blog: “If you have a bit of dry, flaky skin on the upper eyelid area, you may apply a very small amount of the Control Cream on it.”



SO MANY OF THE PRODUCTS SAY AVOID THE EYE AREA. CAN YOU TELL ME WHICH PRODUCTS ARE SAFE AROUND THE EYES? MY UPPER EYELIDS ARE ONE OF MY BIGGEST PROBLEMS. THEY BECOME PUFFY AND SCALY SO I AM TEMPTED TO PUT A MOISTURIZER ON THEM....Close Response  
(ASKED BY MARTHA N. OF BELLINGHAM, WA)

All of the eye creams are safe to use around the eye area along with select items as the Cellufirm Drops which helps to diminish fine lines. If you have a bit of dry, flaky skin on the upper eyelid area, you may apply a very small amount of the Control Cream on it. It will help to moisturize, calm and soothe redness and flakiness. Balsam Peru is the active, soothing botanical ingredient that will make a visible difference immediately upon application.

54. Defendants also published “press” pieces on their website touting the effects of Control Cream as “Work[ing] better than a prescription.”

55. Control Cream worked better than a prescription because it *contained higher than prescription strength doses* of a corticosteroid called triamcinolone acetonide, which has numerous established side effects and is not suitable for use on the face. Control Cream contained a second corticosteroid, hydrocortisone, which should only be used under the supervision of a physician, and for no more than seven consecutive days.

56. Defendants also recommended Control Cream for use with rosacea, though the International Rosacea Foundation has warned that “**steroids should never ever be used as a rosacea treatment.**”

57. After the South Korean drug agency recalled Defendant’s Healing Cream, Defendants continued to manufacture and sell Control Cream in the United States, though it contained the same illegal and dangerous steroids as Healing Cream. Defendants surreptitiously reformulated a steroid-free version of Control Cream in early 2013, but continued to sell all existing stock of the steroid-laden Control Cream. The reformulated and steroid-free Control Cream caused Plaintiffs and members of the public who had become addicted to the steroids in the original formulation of Control Cream to begin experiencing topical steroid withdrawal, which they initially attributed to the reformulated product. As a result of an outpouring of complaints from Plaintiffs and the public, who mistakenly attributed their steroid withdrawal

symptoms to the reformulated Control Cream, Mario Badescu stopped manufacturing the steroid-free Control Cream in late 2013.

58. At no time did Mario Badescu disclose that Control Cream had been reformulated because the original formulation contained topical steroids, nor did Mario Badescu warn about the risks or potential side effects of prolonged steroid use or topical steroid withdrawal.

59. Indeed, when Plaintiffs and members of the public contacted Mario Badescu regarding the reformulation and discontinuation of Control Cream, Mario Badescu's employees repeatedly and falsely stated that a "South American" supplier of one of Control Cream's "natural ingredients" had gone out of business and that Mario Badescu would bring Control Cream back to the market once it located a new source of the "natural ingredient."

#### **FACTS COMMON TO ALL PLAINTIFFS**

60. Plaintiffs incorporate by reference the allegations in paragraphs 1 – 59 of this Complaint as though fully set forth in this section.

61. Plaintiffs were exposed to high levels of two undisclosed steroids in Control Cream and Healing Cream, triamcinolone acetonide and hydrocortisone. Plaintiffs unknowingly applied these steroids to their delicate facial skin, which is not only more susceptible to injury from steroids but is more absorptive, which can cause systemic absorption of the steroids.

62. Prescription drug website, RxList.com states that: "**Avoid using [triamcinolone acetonide] on your face, near your eyes or mouth, or on body areas where you have skin folds or thin skin.**"<sup>2</sup> RxList.com also advises patients to stop using triamcinolone if they experience any of the following symptoms, which suggest that triamcinolone is being absorbed

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<sup>2</sup> <http://www.rxlist.com/triamcinolone-cream-drug/patient-how-to-take.htm>

through the skin: blurred vision, or seeing halos around lights; uneven heartbeats; mood changes; sleep problems (insomnia); weight gain, puffiness in your face; or feeling tired.<sup>3</sup>

63. According to the National Institute of Health's National Library of Science, users of triamcinolone acetonide should not "apply cosmetics or other skin preparations on the treated area without talking with your doctor."<sup>4</sup> Upon information and belief, some side effects of triamcinolone acetonide include: drying or cracking of the skin; acne; itching; burning; change in skin color; severe skin rash; difficulty breathing or swallowing; wheezing; and skin infection (redness, swelling, or oozing of puss).<sup>5</sup>

64. Additional adverse side effects of corticosteroids include folliculitis (inflammation of the hair follicles), hypertrichosis (abnormal hair growth), hypopigmentation (loss of skin color), skin maceration (softening and breaking down of the skin), secondary infection, skin atrophy, striae (banding or striping of the skin), and telengectasia (spider veins).

65. In particular, the eyelids are highly sensitive to corticosteroids and susceptible to significant injuries from ophthalmic absorption. If applied to the eyelids daily for just a few weeks, topical corticosteroids can increase the likelihood and even cause the development of glaucoma or cataracts.<sup>6</sup>

66. After prolonged exposure to topical steroids, the user's skin can become acclimated or cutaneously addicted to the vasoconstrictive effects of topical steroids, which leads to a vicious cycle of increased steroid use and deepening addiction.<sup>7</sup>

<sup>3</sup> <http://www.rxlist.com/triamcinolone-cream-drug/patient-images-sideeffects.htm#whatis>

<sup>4</sup> <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a601124.html>

<sup>5</sup> *Id.*

<sup>6</sup> See B. Becker & KA Hahn, *Topical corticosteroids and heredity in primary open-angle glaucoma*, 54 Am J Ophthalmol 543 (1964); R Jones III, DJ Rhee, *Corticosteroid-induced ocular hypertension and glaucoma: a brief review and update of the literature*, 17 Curr Opin Ophthalmol 2, 163 (2006).

<sup>7</sup> See Albert M. Kligman & Peter J. Frosch, *Steroid Addiction*, 18 Int'l. J. of Dermatology 23-31 (1967).

67. Cessation of topical steroids by addicted users can cause topical steroid withdrawal or red-skin syndrome.<sup>8</sup> Topical steroid withdrawal is a hellish process that can cause all of the above-described symptoms, including acne-like pustules, dermatitis, broken blood vessels under the skin, stretch marks, loss of skin color, loss of hair, and steroid-induced rosacea. Additionally, topical steroid withdrawal causes excruciating burning and itching. Topical steroid withdrawal can last for years, and its duration largely depends on the victim's duration of steroid use.

68. Defendant Mario Badescu, Inc. and/or John Doe 1-10 manufactured, distributed, promoted, and sold Control Cream and Healing Cream as products safe for daily use when it knew or should have known that Control Cream and Healing Cream contained a potent combination of steroids that were not suitable for use and which should only be taken under the supervision of a physician. Defendant Mario Badescu Skin Care, Inc., distributed, promoted, and sold Control Cream and Healing Cream as products safe for use when it knew or should have known that Control Cream and Healing Cream contained a potent combination of steroids that were not suitable for use and which should only be taken under the supervision of a physician. Defendants also knew or should have known that triamcinolone acetonide is a prescription drug, which can only be dispensed with a physician's prescription.

69. Defendants withheld from Plaintiff and the public the fact that Control Cream and Healing Cream contained hydrocortisone and triamcinolone acetonide. Such information was withheld in order that Defendants might profit from the sale of the addictive yet purportedly "botanical" Control Cream and Healing Cream.

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<sup>8</sup> The medical community has long recognized the risks of addiction and significant injury from topical steroid addiction. See, e.g., Marvin J. Rapaport & Mark Lebwohl, *Corticosteroid Addiction and Withdrawal in the Atopic: The Red Burning Skin Syndrome*, 21 Clinics in Dermatology 201-214 (2003); Mary C. Smith et al, *Facing up to withdrawal from topical steroids*, Nursing2007, 60 (2007) (available at: [http://www.itsan.org/uploads/Facing\\_up\\_to\\_withdrawal\\_from\\_topical\\_steroids\\_1.pdf](http://www.itsan.org/uploads/Facing_up_to_withdrawal_from_topical_steroids_1.pdf));

70. Defendants fraudulently and/or negligently induced Plaintiff, and other similarly situated individuals, to purchase and use Control Cream or Healing Cream by withholding from Plaintiff and others information about the steroids in Control and Healing Cream.

71. Defendants made misrepresentations and omissions regarding Control Cream and Healing Cream. Specifically, Defendants represented, through sales staff, marketing, celebrity endorsements, packaging, labeling, and other forms of print and online advertising, that Control Cream and Healing Cream contained “botanical” active ingredients like Balsam Peru.

72. Defendants represented that Healing Cream was suitable for the treatment of acne.

73. Defendants represented that Control Cream was suitable for the use of rosacea or skin redness, could be “used in place of a moisturizer,” was safe enough to be applied “all over the face,” and was “gentle enough to use every day.”

74. Defendants intentionally withheld information from Plaintiffs and the public about the steroids in Control Cream and Healing Cream.

75. Defendants engaged in a campaign of misinformation and suppression of material information in order to conceal the steroids in Control Cream and Healing Cream. By failing to disclose information concerning the active ingredients, Defendants succeeded in concealing from the consuming public the truth about the nature and content of the products they manufactured, promoted, distributed, and sold under the name Control Cream and Healing Cream.

76. Defendants did not disclose that Control Cream and Healing Cream contained triamcinolone acetonide, hydrocortisone, and potentially other unlabeled and illegal substances, nor did Defendants warn about the side effects of corticosteroid use.

77. Despite the South Korean recall of Mario Badescu's Healing Cream, at no time did Mario Badescu inform consumers in the United States that Control Cream and Healing Cream contained topical steroids.

78. Had Control Cream been appropriately labeled, Defendants would not have been able to sell it, as triamcinolone acetonide cannot be sold without a prescription from a physician. Furthermore, hydrocortisone is a regulated "over the counter" drug and requires warnings about the risks of use for more than seven (7) consecutive days and the need for medical supervision.

**ASSERTION OF CLAIMS PURSUANT TO NEW JERSEY LAW**

**COUNT I**  
**PRODUCT LIABILITY ACT – DEFECTIVE MANUFACTURE AND DESIGN (N.J.S.A**  
**2A:58C-1, ET SEQ.)**  
**(All Plaintiffs)**

79. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

80. Defendants are the manufacturers, sellers, distributors, marketers, and/or suppliers of Defendants' Control Cream and Healing Cream, which are defective and unreasonably dangerous to consumers.

81. Defendants' Control Cream and Healing Cream were defectively and improperly designed, manufactured, sold, distributed, supplied, marketed, and/or promoted by Defendants, and were expected to reach and did reach consumers, including Plaintiff, without substantial change in the condition in which they were manufactured and sold by Defendants.

82. Defendants' Control Cream and Healing Cream were defective in their design and were unreasonably dangerous in that their foreseeable risks exceeded the benefits associated with its design or formulation rendering the products deficient and unreasonably dangerous and hazardous to Plaintiffs.

83. Defendants' Control Cream and Healing Cream were inherently dangerous and defective, unfit and unsafe for its intended and reasonably foreseeable uses, and did not meet or perform to the expectations of consumers.

84. Control Cream and Healing Cream created risks to the health and safety of consumers that are far more significant and devastating than the risks posed by other facial moisturizers, and which far outweigh the utility of Control Cream and Healing Cream.

85. Defendants intentionally, recklessly, and/or negligently designed, formulated, manufactured, marketed, labeled, sold, and distributed Control Cream and Healing Cream with wanton and willful disregard for the rights and health of Plaintiffs and others, and with malice, placing their economic interest above the health and safety of Plaintiffs and others.

86. Although Defendants actually knew of the defective nature of the Control Cream and Healing Cream, they continued to design, manufacture, market, and sell them so as to maximize sales and profits at the expense of the public health and safety, in knowing, conscious and deliberate disregard of the foreseeable harm caused by the subject products.

87. As a direct and proximate cause of the Defendants' design, formulation, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been severely and permanently injured, and sustained severe and permanent pain, suffering, impairment, loss of enjoyment of life, loss of comfort, and permanent disfigurement.

88. Defendants are strictly liable in tort to Plaintiffs for their wrongful conduct pursuant to the New Jersey Product Liability Act, N.J.S.A. 2A:58C-1, *et seq.*

WHEREFORE, Plaintiffs demand judgment against each Defendant jointly and severally, and seek compensatory and punitive damages plus cost of suit and any other relief this court deems to be just and proper.

**Count II**  
**PRODUCT LIABILITY ACT – FAILURE TO WARN**  
**(N.J.S.A. 2A:58C-1, ET SEQ.)**  
**(All Plaintiffs)**

89. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

90. Defendants designed, tested, manufactured, marketed, sold and/or distributed Control Cream and Healing Cream. As such, they had a duty to warn the using public, including Plaintiffs, of the health risks associated with using the subject products.

91. Defendants' Control Cream and Healing Cream were under the exclusive control of Defendants and were unaccompanied by any appropriate warnings regarding the health risks associated with their use. No warnings were given to accurately reflect the risk, incidence, symptoms, scope or severity of injuries to the consumer. The promotional activities of Defendant further diluted or minimized any warnings given with the product.

92. Defendants' Control Cream and Healing Cream were defective and unreasonably dangerous when they left the possession of the Defendants in that they contained warnings insufficient to alert Plaintiffs to the dangerous risks and reactions associated with it. Even though Defendants knew or should have known of the risks and reaction associated with the subject products, they still failed to provide warnings that accurately reflected the signs, symptoms, incidence, scope, or severity of these risks.

93. Defendants failed to properly and adequately warn and instruct Plaintiffs as to the safest and most effective methods of use of Defendants' Control Cream and Healing Cream.

94. Though there is effectively no safe way to use triamcinolone acetonide without medical supervision, Defendants failed to provide any of the warnings that accompany prescriptions of triamcinolone acetonide.



95. Defendants failed to properly and adequately warn and instruct the Plaintiffs as to the risks of hydrocortisone.

96. Defendants failed to properly and adequately warn and instruct the Plaintiffs as to the risks of triamcinolone acetonide.

97. Plaintiffs used the subject products for their intended purpose and as directed by Defendants.

98. Plaintiffs could not have discovered any defects in the subject products through the exercise of reasonable care.

99. Defendants, as the manufacturers of the Control Cream and Healing Cream, are held to the level of knowledge of an expert in the field, and further, Defendants had knowledge of the dangerous risks and side effects of the subject products.

100. Plaintiffs did not have the same knowledge as Defendants and no adequate warnings were communicated to them.

101. Defendants had a continuing duty to warn consumers, including Plaintiffs, of the dangers associated with the subject products. By negligently and/or wantonly failing to adequately warn of the dangers of use of the subject products, Defendants breached their duties.

102. Defendants intentionally, recklessly, maliciously and/or negligently misrepresented the contents of Control Cream and Healing Cream by failing to disclose that it contained hydrocortisone and triamcinolone acetonide, by stating in marketing and advertising materials that Control Cream and Healing Cream were suitable for daily use, and that Control Cream and Healing Cream contained only "botanical" active ingredients, thereby understating the significant risks of using Control Cream and Healing Cream and exaggerating the benefits in

order to advance their own financial interests, with wanton and willful disregard for the rights and health of Plaintiffs.

103. Although Defendants knew of the defective nature of the subject products, they continued to design, manufacture, market, and sell them without providing accurate, adequate, and complete warnings concerning their use so as to maximize sales and profits at the expense of the public health and safety, in knowing, conscious, and deliberate disregard for the foreseeable harm caused by the subject products.

104. As a direct and proximate cause of the Defendants' failure to adequately warn or other wrongdoing and actions of Defendants described herein, Plaintiffs have been severely and permanently injured, and sustained severe and permanent pain, suffering, impairment, loss of enjoyment of life, loss of comfort, and permanent disfigurement.

WHEREFORE, Plaintiffs demand judgment against each Defendant jointly and severally, and seek compensatory and punitive damages plus cost of suit and any other relief this court deems to be just and proper.

**Count III**  
**PUNITIVE DAMAGES UNDER COMMON LAW AND**  
**THE PRODUCTS LIABILITY ACT**  
**(N.J.S.A. 2A:58C-1, ET SEQ.)**  
**(All Plaintiffs)**

105. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

106. At all relevant times, Defendants knew, recklessly disregarded or should have known that Defendants' Control Cream and Healing Cream were inherently dangerous with respect to the risks of permanent scarring, pain and suffering, loss of life's enjoyment, remedial treatments in an effort to cure the conditions proximately related to the use of the product, as well as other severe and personal injuries which are permanent and lasting in nature.

107. At all relevant times, Defendants attempted to misrepresent and did misrepresent facts concerning the ingredients and safety of Defendants' Control Cream and Healing Cream.

108. Defendants' misrepresentation included knowingly withholding material information from the public, including Plaintiffs, concerning the unlabeled steroids in Defendants' Control Cream and Healing Cream and the safety and suitability of Defendants' Control Cream and Healing Cream for use as a facial moisturizer.

109. At all relevant times, Defendants knew, recklessly disregarded, and failed to disclose the fact that the unlabeled steroids in Defendants' Control Cream and Healing Cream were addictive and had the potential to cause significant and long-lasting injuries because of the well-known effects of topical steroid use and withdrawal.

110. At all relevant times, Defendants intentionally misstated and misrepresented the ingredients in Defendants' Control Cream and Healing Cream so as to lead consumers to believe that Control Cream and Healing Cream contained only "botanical" ingredients, when in fact they contained prescription steroids that are only suitable for use under close medical supervision and are under no circumstances suitable for long term use on the face.

111. Defendants knew of the unreasonably dangerous nature of Control Cream and Healing Cream, but continued to manufacture, produce, advertise, market, distribute, or sell Defendants' Control Cream and Healing Cream so as to maximize sales and profits at the expense of the health and safety of the Public, including Plaintiffs, in conscious and/or negligent disregard of the foreseeable harm caused by Defendants' Control Cream and Healing Cream.

112. Defendants continuously, intentionally, recklessly and/or gross negligently concealed and/or failed to disclose the actual ingredients in Control Cream and Healing Cream, the nature of Control Cream and Healing Cream, and/or the potentially injurious effects of the

subjects projects in order to ensure continued and increased sales, even after the South Korean drug agency recalled Healing Cream.

113. Defendants' willful and reckless and/or grossly negligent failure to disclose information deprived Plaintiffs of necessary information to enable them to weigh the true risks of using Defendants' Control Cream and Healing Cream against their benefits.

114. As a direct and proximate result of the foregoing acts and omissions, Plaintiffs have required and will require health care and services, and have incurred medical, health care, incidental, and other related expenses. Plaintiffs are informed and believe and further allege that Plaintiffs will in the future be required to obtain further medical care, hospital care and/or medical services.

115. Defendants' aforementioned conduct was committed with knowing, conscious, and deliberate disregard for the rights and safety of consumers such as Plaintiffs, thereby entitling Plaintiffs to punitive damages in an amount appropriate to punish Defendants and deter them from similar conduct in the future.

WHEREFORE, Plaintiffs demand judgment against each Defendant jointly and severally, and seek punitive damages plus any other relief this court deems to be just and proper.

**COUNT IV**  
**NEW JERSEY CONSUMER FRAUD ACT**  
**(N.J.S.A. 56:8-1, *ET SEQ.*)**  
**(All Plaintiffs)**

116. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

117. Plaintiffs bring this action pursuant to the New Jersey Consumer Fraud Act (the "CFA"), N.J.S.A. 56:8-1, *et seq.*, in that they purchased and used Control Cream or Healing Cream primarily for personal use and thereby suffered ascertainable loss including but not

limited to medical bills, prescription costs, over the counter therapies, lost wages, and the cost of the Control Cream and Healing Cream as a result of Defendants' actions in violation of the CFA.

118. At all relevant times, Defendants were merchants within the meaning of the CFA, providing goods governed by the CFA.

119. Control Cream and Healing Cream are "merchandise" as that term is defined in N.J.S.A. 57:8-1(c).

120. Unfair methods of competition and unfair or deceptive acts or practices are defined and declared unlawful in N.J.S.A. 56:8-1 *et seq.*

121. Defendants committed unlawful sales practice as proscribed by the CFA, specifically N.J.S.A. 56:8-2 *et seq.*, having done the following:

122. Defendants engaged in fraudulent and deceptive conduct in the marketing and sale of Control Cream and Healing Cream, tending to deceive or mislead consumers, including Plaintiff;

123. Defendants made oral and written statements that had the capacity, tendency, or effect of deceiving or misleading consumers, including Plaintiff;

124. Defendants failed to state material facts, including the existence of the defect, and this failure deceived or tended to deceive consumers, including Plaintiffs; and

125. Defendants engaged in deception, fraud, misrepresentation, knowing concealment, suppression, and the omission of material facts, with the intent that consumers including Plaintiffs would rely on the same in connection with Defendants' promotion and sale of Control Cream and Healing Cream

126. Defendants' action constitutes knowing omission, suppression, or concealment of material facts, made with the intent that others will rely upon such concealment, suppression, or

omission, in connection with the marketing and sale of Control Cream and Healing Cream in violation of the CFA.

127. Defendants' actions, as described above, evidence lack of good faith, honesty in fact, and observance of fair dealing so as to constitute an unconscionable commercial practice, in violation of the CFA.

128. Such unconscionable commercial practices make Defendants liable to Plaintiffs under N.J.S.A. 56:8-2.

129. As a direct and proximate result of Defendants' conduct, Plaintiffs purchased and used Control Cream or Healing Cream exposing themselves to an unreasonable risk of injury.

130. As a direct and proximate result of these violations of the CFA, Plaintiffs have suffered ascertainable loss including but not limited to medical bills, prescription costs, over the counter therapies, lost wages, and the cost of the Control Cream and Healing Cream for which Defendants, jointly and severally, are liable to Plaintiffs for treble and actual damages. N.J.S.A. 56:8-19.

131. As a direct and proximate result of these violations of the CFA, Plaintiffs have suffered ascertainable loss for which Defendants, jointly and severally, are liable to Plaintiffs for attorney's fees. N.J.S.A. 56:8-19.

132. N.J.S.A. 56:8-19 provides Plaintiffs with standing to commence this action.

WHEREFORE, Plaintiffs demand judgment against each Defendant jointly and severally, and seek compensatory and punitive damages plus cost of suit and any other relief this Court deems to be just and proper.

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**COUNT V**  
**NEW JERSEY FRAUDULENT CONCEALMENT**  
**(All Plaintiffs)**

133. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

134. Defendants, from the time that Defendants' Control Cream and Healing Cream were first tested, studied, researched, evaluated, endorsed, manufactured, marketed and distributed, and up to the present, willfully deceived Plaintiffs by concealing from the Plaintiffs and the general public, the true facts concerning the Control Cream and Healing Cream, which the Defendants had a duty to disclose. Although Defendants knew or recklessly disregarded the fact that the subject products can causes debilitating side effects and injuries, Defendants continued to market the subject products to consumers, including Plaintiffs, without disclosing these side effects or risks of injuries.

135. At all times relevant hereto, Defendants, and each of them, conducted a sales and marketing campaign to promote the sale of Defendants' Control Cream and Healing Cream and willfully deceived Plaintiffs and the general public as to the health risks and consequences of the use of the Control Cream and Healing Cream. Defendants, and each of them, were aware of the foregoing and that the Control Cream and Healing Cream were not safe, fit and effective for human use as directed by Defendants. Furthermore, Defendants were aware that the use of the Control Cream and Healing Cream as Defendants directed were hazardous to health and that the Control Cream and Healing Cream have a significant propensity to cause serious injuries to users including, but not limited to, the injuries suffered by Plaintiff as described herein.

136. Defendants intentionally concealed and suppressed the true facts concerning Defendants' Control Cream and Healing Cream with the intent to defraud Plaintiffs, in that Defendants knew that Plaintiff would not have used the Control Cream and Healing Cream as

Defendants directed if Plaintiff had known the true facts concerning the dangers of the Control Cream and Healing Cream. As a result, Plaintiffs justifiably relied upon the facts as misrepresented by Defendants concerning Control Cream and Healing Cream.

137. As a result of the foregoing fraudulent and deceitful conduct by Defendants, and each of them, Plaintiffs suffered injuries and damages as described above.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory and punitive damages, together with interest, costs of suit, attorney's fees and all such other relief as the Court deems proper.

**ASSERTION OF CLAIMS PURSUANT TO THE LAWS OF STATES OTHER THAN  
NEW JERSEY**

138. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

139. Certain Plaintiffs were injured by Defendants' Control Cream or Healing Cream outside of New Jersey. To the extent the Court chooses to apply the laws of states other than New Jersey for the non-New Jersey Plaintiffs, Plaintiffs hereby place Defendants on notice of their intention to plead and assert all claims available under the laws of foreign states.

**COUNT VI  
STRICT LIABILITY**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu,  
Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang,  
Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina,  
Moore, Ouellette, Breshears, Shows, Thompson)**

140. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

141. At the time of Plaintiffs' injuries, Defendants' Control Cream and Healing Cream were defective and unreasonably dangerous to foreseeable consumers, patients, and users, including Plaintiffs, contained no warnings labels, and contained instructions which were deficient.



142. Plaintiffs from Arkansas, California, District of Columbia, Illinois, Maryland, Massachusetts, Minnesota, New York, North Carolina, Ohio, Oregon, and Texas and such other states where the common law, the Restatement of Torts (Second) and/or the Restatement of Torts (Third) are adopted, bring strict product liability claims under the common law, Section 402A of the Restatement of Torts (Second), and/or the Restatement of Torts (Third) against Defendants.

143. Plaintiffs from jurisdictions that provide a statutory cause of action for strict liability assert each of these claims against Defendants.

144. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT VI**  
**NEGLIGENCE**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

145. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

146. Defendants had a duty to exercise reasonable and ordinary care in the design, manufacture, marketing, labeling, sale and distribution of Defendants' Control Cream and Healing Cream, including a duty to assure that Control Cream and Healing Cream did not cause unreasonable, dangerous side effects to users.

147. Defendants failed to exercise ordinary care in the design, manufacture, marketing, labeling, sale, distribution, and testing of Defendants' Control Cream and Healing Cream in that Defendants knew or should have known that Defendants' Control Cream and Healing Cream created an unreasonably high risk of harm.

148. As a direct and proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of the them, individually, jointly, severally and in the alternative, and request compensatory and punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT VIII**  
**GROSS NEGLIGENCE**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

149. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

150. The wrongs done by Defendants were aggravated by malice, fraud, and grossly negligent disregard for the rights of others, the public, and Plaintiffs for which the law would allow, and which Plaintiffs will seek at the appropriate time under governing law for the imposition of exemplary damages, in that Defendants' conduct was specifically intended to cause substantial injury to Plaintiffs; or when viewed objectively from Defendants' standpoint at the time of the conduct, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and Defendants were actually, subjectively aware of

the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of others; or included a material representation that was false, with Defendants, knowing that it was false or with reckless disregard as to its truth and as a positive assertion, with the intent that the representation is acted on by Plaintiffs.

151. Plaintiffs relied on the representation and suffered injury as a proximate result of this reliance.

152. Plaintiffs therefore will seek to assert claims for exemplary damages at the appropriate time under governing law in an amount within the jurisdictional limits of the Court.

153. Plaintiffs allege that the acts and omissions of named Defendants, whether taken singularly or in combination with others, constitute gross negligence that proximately caused the injuries to Plaintiffs. In that regard, Plaintiffs will seek exemplary damages in an amount that punishes Defendants for their conduct and will deter other manufacturers from engaging in such misconduct in the future.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT IX**  
**COMMON LAW FRAUD**

(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu,  
Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo,  
Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee,  
Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)

154. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

155. Defendants falsely and fraudulently represented to Plaintiffs and the public that the Control Cream and Healing Cream used botanical active ingredients and were found to be safe and effective for daily use.

156. The representations made by Defendants were, in fact, false. When Defendants made their representations, Defendants knew and/or had reason to know that those representations were false, and Defendants willfully, wantonly, recklessly, and/or negligently disregarded the inaccuracies in their representations and the dangers and health risks to users of the Control Cream and Healing Cream.

157. These representations were made by Defendants with the intent of defrauding and deceiving Plaintiffs and also inducing Plaintiffs, and the public, to recommend, dispense, and purchase the Control Cream and Healing Cream for use as a means of treatment for reddened skin and for daily use as a moisturizer, all of which evinced a callous, reckless, willful, depraved, and/or negligent indifference to the health, safety, and welfare of Plaintiffs.

158. In representations to Plaintiffs and to the public, Defendants fraudulently concealed and intentionally omitted the following material information:

- a) That Defendants' Control Cream and Healing Cream contained an addictive prescription steroid, triamcinolone acetonide;
- b) That triamcinolone acetonide is a regulated drug that can only be dispensed with a physician's prescription;
- c) That triamcinolone acetonide is not safe for daily use;
- d) That even short term use of triamcinolone acetonide can have dangerous and lasting side effects;

- e) That Defendants' Control Cream and Healing Cream contains an addictive and regulated steroid, hydrocortisone;
- f) That hydrocortisone is a regulated drug;
- g) That hydrocortisone is only to be used under the care of a physicians;
- h) That Defendants' Control Cream was not safe for use as a daily moisturizer;
- i) That Defendants' Control Cream was not safe for use as a rosacea treatment;
- j) That Defendants' Healing Cream was not safe for use as an acne treatment;
- k) That Defendants' Control Cream and Healing Cream were not safe for use without medical supervision;
- l) That the active ingredient in Control Cream and Healing Cream was not "botanical" Balsam Peru;
- m) That Defendants' Control Cream and Healing Cream was defective, and that they caused dangerous and adverse side effects, including but not limited to, steroid addiction, steroid withdrawal, cataracts, glaucoma, Cushing's Syndrome, elevated cortisol levels, red face syndrome, pimples, pustules, scarring, and skin atrophy;
- n) That Defendants deliberately removed posts from its Facebook page that raised questions about the steroid contents of Defendants' Control Cream and Healing Cream;
- o) That Defendants' Control Cream and Healing Cream were designed defectively and negligently; and

p) That Defendants' Control Cream and Healing Cream were manufactured defectively and negligently.

159. Defendants were under a duty to disclose to Plaintiffs and their physicians, the defective nature of Defendants' Control Cream and Healing Cream, including, but not limited to, the heightened risks of steroid addiction, withdrawal, and injury.

160. Defendants had sole access to material facts concerning the defective nature of the products and their propensity to cause serious and dangerous side effects and hence, cause dangerous injuries and damage to persons who used Defendants' Control Cream and Healing Cream.

161. Defendants' concealment and omissions of material facts concerning the safety of Control Cream and Healing Cream were made purposefully, willfully, wantonly, recklessly and/or negligently to cause Plaintiffs and resellers to purchase, and/or dispense the Control Cream or Healing Cream; and/or to mislead Plaintiffs into reliance and cause Plaintiffs to use Defendants' Control Cream or Healing Cream.

162. At the time these representations were made by Defendants, and at the time Plaintiffs used the Control Cream or Healing Cream, Plaintiffs were unaware of the falsehood of these representations, and reasonably believed them to be true.

163. Defendants knew and had reason to know that Defendants' Control Cream and Healing Cream could and would cause severe personal injury to users of Control Cream and Healing Cream, and that they were inherently dangerous in a manner that exceeded Defendants' non-existent warnings.

164. In reliance upon these false representations, Plaintiffs were induced to, and did use Control Cream and Healing Cream, thereby sustaining severe and permanent personal

injuries and damages. Defendants knew or had reason to know that Plaintiffs had no way to determine the truth behind Defendants' concealment and omissions, and that these included material omissions of facts surrounding the use of Defendants' Control Cream and Healing Cream, as described in detail herein.

165. Plaintiffs reasonably relied on revealed facts which foreseeably and purposefully suppressed and concealed facts that were critical to understanding the real dangers inherent in the use of Defendants' Control Cream and Healing Cream.

166. Having knowledge based upon Defendants' research and testing, or lack thereof, Defendants blatantly and intentionally distributed false information, including but not limited to assuring Plaintiffs and the public that Defendants' Control Cream and Healing Cream were safe for daily use and as a means of treating acne, rosacea or other skin maladies. As a result of Defendants' research and testing, or lack thereof, Defendants intentionally omitted, concealed and suppressed certain results of testing and research to Plaintiffs and the public at large.

167. Defendants had a duty when disseminating information to the public to disseminate truthful information and a parallel duty not to deceive the public and the Plaintiffs.

168. The information distributed to the public and Plaintiffs by Defendants included, but was not limited to websites, magazine advertisements, information disseminated by sales representatives to third-party resellers and other cosmetics resellers, reports, press releases, advertising campaigns, print advertisements, and other commercial media containing material information, which was false and misleading, and contained omissions and concealment of the truth about the dangers of use of Defendants' Control Cream and Healing Cream.

169. Defendants intentionally made material misrepresentations to the public, including Plaintiffs, regarding the safety of Defendants' Control Cream and Healing Cream.

Specifically, Defendants failed to warn that Control Cream and Healing Cream have dangerous and/or serious adverse health safety concerns, and that Defendants' Control Cream and Healing Cream were safe for use as a daily moisturizer on the face, that Defendants' Control Cream was suitable for use as a treatment for rosacea, and that Defendants' Healing Cream was suitable for use as an acne treatment.

170. Defendants intentionally failed to inform the public, including Plaintiffs, of the high risk of prescription steroids, and the risk of permanent injury.

171. Defendants intentionally failed to inform the FDA that Control Cream and Healing Cream contained prescription steroids and hydrocortisone, which must be labeled with FDA-approved warnings.

172. Defendants intentionally and knowingly over-promoted the purported safety, efficacy and benefits of Defendants' Control Cream and Healing Cream.

173. Defendants' intent and purpose in making these misrepresentations was to deceive and defraud the public and Plaintiffs; to gain the confidence of the public and Plaintiffs; to falsely assure them of the quality and fitness for use of the Products; and to induce Plaintiffs and the public to request, recommend, dispense, purchase, and continue to use Defendants' Control Cream and Healing Cream.

174. Defendants made claims and representations in its advertisements and marketing materials to the public that Defendants' Control Cream and Healing Cream had beneficial properties and did not present serious health risks.

175. These representations, and others made by Defendants, were false when made and/or were made with the pretense of actual knowledge when such knowledge did not actually exist, and were made recklessly and/or negligently and without regard to the true facts.



176. These representations, and others made by Defendants, were made with the intention of deceiving and defrauding Plaintiffs and the public, and were made in order to induce Plaintiffs to rely on misrepresentations, and caused Plaintiffs to purchase, rely, use, and request Defendants' Control Cream and Healing Cream and third-party resellers to dispense, recommend, or prescribe Defendants' Control Cream and Healing Cream.

177. Defendants intentionally, recklessly, and/or negligently falsely represented the dangerous and serious health and safety concerns inherent in the use of Defendants' Control Cream and Healing Cream to the public at large, for the purpose of influencing the sales of products known to be dangerous and defective, and/or not as safe as other alternatives.

178. Defendants willfully, intentionally, and/or negligently failed to disclose the truth, failed to disclose material facts and made false representations, for the purpose of deceiving and lulling Plaintiffs into a false sense of security, so that Plaintiffs would rely on Defendants' representations, and Plaintiffs would request and purchase Defendants' Control Cream and Healing Cream.

179. Defendants utilized direct-to-consumer advertising and the distribution of free samples to market, promote, and advertise Defendants' Control Cream and Healing Cream. At the time the representations were made, Plaintiffs did not know the truth about the dangers and serious health and/or safety risks inherent in the use of Defendants' Control Cream and Healing Cream. Plaintiffs did not discover the true facts about the dangers and serious health and safety risks, nor did Plaintiffs discover the false representations of Defendants, nor would Plaintiffs with reasonable diligence have discovered the true facts or Defendant's misrepresentations.

180. Had Plaintiffs known the true facts about the dangers and serious health and/or safety risks of Defendants' Control Cream and Healing Cream, Plaintiffs would not have purchased or used Defendants' Control Cream and Healing Cream.

181. Defendants' wrongful conduct constitutes fraud and deceit, and was committed and perpetrated willfully, wantonly, purposefully, and/or negligently on Plaintiffs.

182. As a proximate result of Defendants' conduct Plaintiffs have been injured, scarred, and sustained severe and lasting pain, suffering, disfigurement, impairment, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT X**  
**FRAUDULENT CONCEALMENT**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

183. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

184. Plaintiffs from California, Illinois, Maryland, New York, Oklahoma, Oregon and any other states that recognize such a cause of action bring this fraudulent concealment claim under the common law.

185. Throughout the relevant time period, Defendants knew of the defective nature of Control Cream and Healing Cream and that they were not reasonably safe for their intended purpose.

186. Defendants fraudulently concealed from and/or failed to disclose to or warn Plaintiffs that their Control Cream and Healing Cream was defective, unsafe, unfit for the purpose intended, and that it was not of merchantable quality.

187. Defendants were under a duty to Plaintiffs to disclose and warn of the defective nature of Control Cream and Healing Cream because:

a) Defendants were in a superior position to know the true quality, safety and efficacy of Defendants' Control Cream and Healing Cream;

b) Defendants knowingly made false claims about the safety and quality of Defendants' Control Cream and Healing Cream in the documents and marketing materials Defendants provided to Plaintiffs and the general public; and

c) Defendants fraudulently and affirmatively concealed the defective nature of Defendants' Control Cream and Healing Cream from Plaintiffs.

188. The facts concealed and/or not disclosed by Defendants to Plaintiffs were material facts that a reasonable person would have considered to be important in deciding whether or not to purchase and/or use Defendants' Control Cream and Healing Cream.

189. Defendants intentionally concealed and/or negligently failed to disclose the true defective nature of Control Cream and Healing Cream so that Plaintiffs would request and purchase Defendants' Control Cream and Healing Cream, and Plaintiffs justifiably acted or relied upon, to their detriment, the concealed and/or non-disclosed facts as evidenced by their purchase of Defendants' Control Cream and Healing Cream.

190. Defendants, by concealment or other action, intentionally and/or negligently prevented Plaintiffs and Plaintiffs' physicians and other healthcare providers from acquiring material information regarding the lack of safety and effectiveness of Defendants' Control

Cream and Healing Cream, and are subject to the same liability to Plaintiffs for Plaintiffs' pecuniary losses as though Defendants had stated the non-existence of such material information regarding Defendants' Control Cream and Healing Cream's lack of safety and effectiveness and dangers and defects, and as though Defendants had affirmatively stated the non-existence of such matters that Plaintiffs were thus prevented from discovering the truth. Defendants therefore have liability for fraudulent concealment under all applicable law, including, *inter alia*, Restatement (Second) of Torts § 550 (1977).

191. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XI**  
**CONSTRUCTIVE FRAUD**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

192. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

193. Defendants are in a unique position of knowledge concerning the quality, safety and efficacy of Defendants' Control Cream and Healing Cream, which knowledge is not possessed by Plaintiffs or their physicians, and Defendants thereby hold a position of superiority over Plaintiffs and their physicians.

194. Despite their unique and superior knowledge regarding the defective nature of Defendants' Control Cream and Healing Cream, Defendants continue to suppress, conceal, omit, and/or misrepresent information to Plaintiffs concerning the severity of risks and the dangers inherent in the intended use of Defendants' Control Cream and Healing Cream, as compared to other moisturizer and forms of treatment.

195. Defendants have concealed and suppressed material information, including the presence of prescription drugs, that would reveal that Defendants' Control Cream and Healing Cream had a high risk of adverse effects in addition to and exceeding those associated with alternative moisturizers. Instead, Defendants have misrepresented the safety and efficacy of Control Cream and Healing Cream.

196. Upon information and belief, Defendants' misrepresentations are designed to induce Plaintiffs to purchase Defendants' Control Cream and Healing Cream. Plaintiffs relied upon Defendants' representations.

197. Defendants took unconscionable advantage of their dominant position of knowledge with regard to Plaintiffs and engaged in constructive fraud in their relationship with Plaintiffs. Plaintiffs reasonably relied on Defendants' representations.

198. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as

the Court deems equitable and just.

**COUNT XII**

**NEGLIGENT MISREPRESENTATION**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

199. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

200. Defendants had a duty to accurately and truthfully represent to Plaintiffs, and the public, that Control Cream and Healing Cream had not been adequately tested and found to be safe and effective for the treatment of rosacea or as a daily moisturizer. The representations made by Defendants, in fact, were false.

201. Defendants failed to exercise ordinary care in the representations concerning Control Cream and Healing Cream while they were involved in their manufacture, sale, testing, quality assurance, quality control, and distribution in interstate commerce, because Defendants negligently misrepresented the high risk of unreasonable, dangerous, and adverse side effects from Control Cream and Healing Cream.

202. Defendants breached their duty in representing that Defendants' Control Cream and Healing Cream were suitable as a daily moisturizer and had no serious side effects.

203. As a foreseeable, direct and proximate result of the negligent misrepresentation of Defendants as set forth herein, Defendants knew, and had reason to know, that Control Cream and Healing Cream had been insufficiently tested, or had not been tested at all, and that they lacked adequate and accurate warnings, and that they created a high risk, and/or higher than acceptable risk, and/or higher than reported and represented risk, of adverse side effects, including, topical steroid addiction, topical steroid withdrawal, cataracts, Cushing's Syndrome, glaucoma, and red skin syndrome.

204. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XIII**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

205. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

206. Defendants intentionally, recklessly, and/or negligently manufactured, designed, developed, labeled, marketed and sold Defendants' Control Cream and Healing Cream to Plaintiffs, intentionally, recklessly, and/or negligently concealing the harmful ingredients and effects of Control Cream and Healing Cream from Plaintiffs, and intentionally, recklessly and/or negligently misrepresented the quality, safety and efficacy of the products.

207. Plaintiffs were directly impacted by Defendants' intentional, reckless, or negligent conduct, in that Plaintiffs have sustained and will continue to sustain emotional distress, severe physical injuries, disfigurement, economic losses, and other damages as a direct result of the decision to purchase and use Control Cream and Healing Cream sold and distributed by Defendants.

208. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XIV**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

209. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

210. Defendants carelessly and negligently manufactured, designed, developed, tested, labeled, marketed and sold Defendants' Control Cream and Healing Cream to Plaintiffs, carelessly and negligently concealing the harmful effects of Control Cream and Healing Cream from Plaintiffs, and carelessly and negligently misrepresented the quality, safety and efficacy of the products.

211. Plaintiffs were directly impacted by Defendants' carelessness and negligence in that Plaintiffs have sustained and will continue to sustain emotional distress, severe physical injuries, disfigurement, economic losses, and other damages as a direct result of the decision to purchase Control Cream and Healing Cream sold and distributed by Defendants.

212. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured



catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XV**  
**BREACH OF EXPRESS WARRANTY**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

213. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

214. At all relevant and material times, Defendants manufactured, distributed, advertised, promoted, and sold Defendants' Control Cream and Healing Cream.

215. At all relevant times, Defendants intended that Defendants' Control Cream and Healing Cream be used in the manner that Plaintiffs in fact used them and Defendants expressly warranted that each product was safe and fit for use by consumers, that Control Cream and Healing Cream was suitable for daily use, that Control Cream was suitable for use as a rosacea treatment, that Healing Cream was suitable for use as an acne treatment, and that both products were fit for their intended uses.

216. At all relevant times, Defendants were aware that consumers, including Plaintiffs, would use Control Cream and Healing Cream; which is to say that Plaintiffs were foreseeable users of the products.

217. Plaintiffs were at all relevant times in privity with Defendants.

218. Defendants' Control Cream and Healing Cream were expected to reach and did in fact reach consumers, including Plaintiffs, without substantial change in the condition in which it was manufactured and sold by Defendants.

219. Defendants breached various express warranties with respect to Control Cream and Healing Cream including the following particulars:

a) Defendants represented to Plaintiffs through its labeling, advertising, and marketing materials that Defendants' Control Cream and Healing Cream were safe and fraudulently withheld and concealed information about the steroid ingredients and the substantial risks of serious injury associated with using Defendants' Control Cream and Healing Cream.

b) Defendants represented to Plaintiffs that Defendants' Control Cream and Healing Cream were safe for daily use;

c) Defendants represented to Plaintiffs that Defendants' Control Cream was safe for the treatment of rosacea and reddened or irritated skin;

d) Defendants represented to Plaintiffs that Healing Cream was safe for the treatment of acne;

e) Defendants represented that the active ingredients in Defendants' Control Cream and Healing Cream was "botanical" Balsam Peru;

f) Defendants represented that Defendants' Control Cream was safe for use on the eyelids; and

g) Defendants represented that Defendants' Control Cream and Healing Cream contained only the ingredients listed on their respective labels.

220. In reliance on Defendants' express warranties, Plaintiffs used Defendants' Control Cream and Healing Cream as directed, and therefore, in the foreseeable manner normally intended, recommended, promoted, advised, and recommended by Defendants.

221. At the time of making such express warranties, Defendants knew or should have known that Defendants' Control Cream and Healing Cream did not conform to these express representations because Control Cream was not safe and contained prescription steroids which have numerous side effects, all of which Defendants failed to warn about, thus making Defendants' Control Cream and Healing unreasonably safe for their intended purposes.

222. Plaintiffs and the public relied on the representations and warranties of Defendants in connection with the use of Defendants' Control Cream and Healing Cream.

223. Defendants breached their express warranties to Plaintiffs in that Defendants' Control Cream and Healing Cream were not of merchantable quality, safe and fit for their ordinary intended uses, nor were they adequately tested.

224. Defendants' breaches constitute violations of common law principles and the following statutory provisions:

- Ark. Code Ann. § 4-2-313;
- Cal. U. Com. Code § 2313(1); Cal. Civ. Code § 1791.2(a);
- D.C. Code Ann. § 28:2-313;
- Ill. Comp. Stat. Ann. Ch. 810, 5/2-313;
- Md. Code Ann., Com. Law § 2-318;
- Mass. ; M.G.L. c. 106, § 2-313;
- Minn. Stat. Ann. § 336.2-313 through 315;
- N.Y. U.C.C. Law 2-313, *et seq.*;

- N.C. Gen. Stat. Ann. § 25-2-313, *et seq.*;
- Ohio Rev. Code Ann. § 1302.26, *et seq.*;
- Or. Rev. Stat. § 72.3130, *et seq.*; and
- Tex. Bus. & Com. Code Ann. § 2.313, *et seq.*

225. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XVI**  
**BREACH OF IMPLIED WARRANTY**

(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)

226. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

227. At all relevant and material times, Defendants manufactured, distributed, advertised, promoted, and sold Defendants' Control Cream and Healing Cream.

228. At all relevant times, Defendants intended that Defendants' Control Cream and Healing Cream be used for the purposes and in the manner that Plaintiffs in fact used them and Defendants impliedly warranted each product to be of merchantable quality, safe and fit for such use. Control Cream and Healing Cream were not adequately tested.

229. Defendants were aware that consumers, including Plaintiffs, would use Control Cream and Healing Cream in the manner directed by the instructions for use, which is to say that Plaintiffs were foreseeable users of Defendants' Control Cream and Healing Cream.

230. Plaintiffs were at all relevant times in privity with Defendants.

231. Defendants' Control Cream and Healing Cream was expected to reach and did in fact reach consumers, including Plaintiffs, without substantial change in the condition in which they were manufactured and sold by Defendants.

232. Defendants breached various implied warranties with respect to

233. Defendants' Control Cream, including the following particulars:

234. Defendants failed to disclose that Defendants' Control Cream and Healing Cream contained prescription steroids and hydrocortisone;

235. Defendants represented through their labeling, advertising, marketing materials, and publications that Defendants' Control Cream and Healing Cream were safe and fraudulently withheld and concealed information about the substantial risks of serious injury associated with using Control Cream and Healing Cream;

236. Defendants represented that Defendants' Control Cream and Healing Cream were safe, and/or safer than other alternative devices or procedures and fraudulently concealed information, which demonstrated that Defendants' Control Cream and Healing Cream were not safe or safer than alternatives available on the market; and

237. Defendants represented that Defendants' Control Cream and Healing Cream were efficacious for use as a daily moisturizer and/or a treatment for rosacea or acne, and fraudulently concealed information regarding the true efficacy of Defendants' Control Cream.

238. In reliance upon Defendants' implied warranties, Plaintiffs used Control Cream and Healing Cream as directed and in the foreseeable manner normally intended, recommended, promoted, and marketed by Defendants.

239. Defendants breached their implied warranty to Plaintiffs in that Defendants' Control Cream and Healing Cream were not of merchantable quality, safe and fit for their intended use, or adequately tested, in violation of Common Law principles and the following statutory provisions:

- Ark. Code Ann. §§ 4-2-314 *et seq.*;
- Cal. Uniform Comm. Code §§ 2314, 2315; Cal. Civ. Code §§ 1791.1(b); 1792.1 and 1792.2.
- D.C. Code Ann. §§ 28:2-314 *et seq.*;
- Ill. Comp. Stat. Ann. Ch. 810, 5/2-314 *et seq.*;
- Md. Code Ann., Com. Law §§ 2-314 *et seq.*;
- Mass. M.G.L. c. 106, §§ 2-314 *et seq.*;
- Minn. Stat. Ann. §§ 336.2-313 through 315;
- N.J. Stat. Ann. §§ 12A:2-314 *et seq.*;
- N.Y. U.C.C. Law §§ 2-314 *et seq.*;
- N.C. Gen. Stat. Ann. §§ 25-2-314 *et seq.*;
- Ohio Rev. Code Ann. §§ 1302.27 *et seq.*;
- Or. Rev. Stat §§ 72.3140, *et seq.*; Or. Rev. Stat § 72.3150; and
- Tex. Bus. & Com. Code Ann. §§ 2.314 *et seq.*

240. As a proximate result of Defendants' design, manufacture, labeling, marketing, sale, and distribution of Control Cream and Healing Cream, Plaintiffs have been injured

catastrophically, sustained severe or permanent pain, suffering, impairment, disfigurement, loss of enjoyment of life, and economic damages.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request compensatory damages, punitive damages, together with interest, costs of suit, attorneys' fees, and such further relief as the Court deems equitable and just.

**COUNT XVII**  
**VIOLATION OF CONSUMER PROTECTION LAWS**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

241. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

242. Plaintiffs purchased and used Defendants' Control Cream and Healing Cream primarily for personal use and thereby suffered ascertainable losses as a result of Defendants' actions in violation of consumer protection laws.

243. Had Defendants not engaged in the deceptive conduct described herein, Plaintiffs would not have purchased and/or paid for Defendants' Control Cream or Healing Cream, and would not have incurred related medical costs and injury.

244. Defendants engaged in wrongful conduct while at the same time obtaining, under false pretenses, moneys from Plaintiffs for Control Cream and Healing Cream that would not have been paid had Defendants not engaged in unfair and deceptive conduct.

245. Defendants engaged in unfair methods of competition or deceptive acts or practices that were proscribed by law, including the following:

a) Representing that goods or services have characteristics, ingredients, uses benefits or quantities that they do not have;

b) Advertising goods or services with the intent not to sell them as advertised; and

c) Engaging in fraudulent or deceptive conduct that creates a likelihood of confusion or misunderstanding.

246. Plaintiffs were injured by the cumulative and indivisible nature of Defendants' conduct. The cumulative effect of Defendants' conduct directed at consumers was to create demand for and sell Control Cream and Healing Cream. Each aspect of Defendants' conduct combined to artificially create sales of Defendants' Control Cream and Healing Cream.

247. Defendants have a statutory duty to refrain from unfair or deceptive acts or trade practices in the design, labeling, development, manufacture, promotion, and sale of Defendants' Control Cream and Healing Cream.

248. Had Defendants not engaged in the deceptive conduct described above, Plaintiffs would not have purchased and/or paid for Control Cream or Healing Cream, and would not have incurred related medical costs.

249. Defendants' deceptive, unconscionable, negligent or fraudulent representations, and material omissions to consumers, including Plaintiffs, constituted unfair and deceptive acts and trade practices in violation of the state consumer protection statutes listed.

250. Defendants' actions as complained of herein constitute unfair competition or unfair, unconscionable, deceptive, fraudulent acts or trade practices in violation of state consumer protection statutes, as listed below.

251. Defendants have engaged in unfair competition, unfair or deceptive acts or trade practices and have made false representations in violation of:

- Ark. Code Ann. §§ 4-88-101 et seq.;



- Cal. Civ. Code §§ 1770 et seq. and Cal. Bus. & Prof. Code §§ 17200 et seq.;
- Ill. Comp. Stat. Ann ch. 815, 505/1 et seq.;
- Md. Code Ann., Com. Law §§ 13-101 et seq.;
- Mass. Gen. Laws Ann. Ch. 93A et seq.;
- Minn. Stat. §§ 325D.43 et seq. and §§ 325F.67 et seq.;
- N.Y. Gen. Bus. Law §§ 349 et seq. and §§ 350-e et seq.;
- N.C. Gen. Stat. §§ 75-1.1 et seq.;
- Ohio Rev. Code Ann. §§ 1345.01 et seq.;
- Or. Rev. Stat. §§ 646.605 et seq.;
- Tex. Bus. & Com. Code Ann. §§ 17.41 et seq.

252. Under the statutes listed above, which protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising, Defendants are the suppliers, manufacturers, advertisers, and sellers who are subject to liability for unfair, deceptive, fraudulent and unconscionable consumer sales practices.

253. Defendants violated the statutes that were enacted in these states to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising, by knowingly and falsely representing that Defendants' Control Cream and Healing Cream were fit to be used for the purpose for which they were intended, when in fact they were defective and dangerous, and by other acts alleged herein. These representations were made in marketing and promotional materials.

254. The actions and omissions of Defendants alleged herein are uncured or incurable deceptive acts under the statutes enacted in the states to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising.

255. Defendants had actual knowledge of the defective and dangerous condition of Control Cream and Healing Cream and failed to take any action to cure such defective and dangerous conditions.

256. Plaintiffs relied upon Defendants' misrepresentations and omissions in determining to purchase and use Control Cream and Healing Cream.

257. Defendants' deceptive, unconscionable, fraudulent, or negligent representations and material omissions to patients, physicians and consumers constituted unfair and deceptive acts and practices.

258. By reason of the unlawful acts engaged in by Defendants, and as a direct and proximate result thereof, Plaintiffs have suffered ascertainable losses and damages.

259. As a direct and proximate result of Defendants' violations of the states' consumer protection laws, Plaintiffs have sustained economic losses and other damages and are entitled to statutory and compensatory damages in an amount to be proven at trial.

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them, individually, jointly, severally and in the alternative, and request restitution and disgorgement of profits, together with interest, cost of suit, attorneys' fees, and all such other and further relief as this Court deems just and proper.

**COUNT XVIII**  
**PUNITIVE DAMAGES**

**(Plaintiffs Ang, Gordon-Glassford, Huang, Valentic, Markel, S. Smith, Treem, Trettin, Yu, Lynn, Fisher, Woolley, Smith, Pacorini, Raviv, LaVolpicelo, Losinger, Yang, Hannigan, Collazos-Delgado, Carpenito, Yeh, Lee, Mezzina, Moore, Ouellette, Breshears, Shows, Thompson)**

260. Plaintiffs reallege the foregoing paragraphs as if set forth fully herein.

261. At all relevant times, Defendants knew, recklessly disregarded or should have known that Defendants' Control Cream and Healing Cream were inherently dangerous with

respect to the risks of permanent scarring, pain and suffering, loss of life's enjoyment, remedial treatments in an effort to cure the conditions proximately related to the use of the product, as well as other severe and personal injuries which are permanent and lasting in nature.

262. At all relevant times, Defendants attempted to misrepresent and did misrepresent facts concerning the ingredients and safety of the Defendants' Control Cream and Healing Cream.

263. Defendants' misrepresentation included knowingly withholding material information from the public, including Plaintiffs, concerning the unlabeled steroids in Defendants' Control Cream and Healing Cream and the safety and suitability of Defendants' Control Cream and Healing Cream for use as a facial moisturizer.

264. At all relevant times, Defendants knew, recklessly disregarded, and failed to disclose the fact that the unlabeled steroids in Defendants' Control Cream and Healing Cream were addictive and had the potential to cause significant and long-lasting injuries because of the well-known effects of topical steroid use and withdrawal.

265. At all relevant times, Defendants intentionally misstated and misrepresented the ingredients in Defendants' Control Cream and Healing Cream so as to lead consumers to believe that Control Cream and Healing Cream contained only "botanical" ingredients, when in fact they contained prescription steroids that are only suitable for use under close medical supervision and are under no circumstances suitable for long term use on the face.

266. Defendants knew of the unreasonably dangerous nature of Control Cream and Healing Cream, but continued to manufacture, produce, advertise, market, distribute, or sell the Defendants' Control Cream and Healing Cream so as to maximize sales and profits at the

expense of the health and safety of the Public, including Plaintiffs, in conscious and/or negligent disregard of the foreseeable harm caused by Defendants' Control Cream and Healing Cream.

267. Defendants continuously, intentionally, recklessly and/or gross negligently concealed and/or failed to disclose the actual ingredients in Control Cream and Healing Cream, the nature of Control Cream and Healing Cream, and/or the potentially injurious effects of the subjects projects in order to ensure continued and increased sales, even after the South Korean drug agency recalled Healing Cream.

268. Defendants willfully deleted Facebook posts from Mario Badescu's Facebook page that raised questions about the steroid contents of Control Cream and Healing Cream.

269. Defendants' willful and reckless and/or grossly negligent failure to disclose information deprived Plaintiffs of necessary information to enable them to weigh the true risks of using Defendants' Control Cream and Healing Cream against their benefits.

270. As a direct and proximate result of the foregoing acts and omissions, Plaintiffs have required and will require health care and services, and have incurred medical, health care, incidental, and other related expenses. Plaintiffs are informed and believe and further allege that Plaintiffs will in the future be required to obtain further medical care, hospital care and/or medical services.

271. Defendants' aforementioned conduct was committed with knowing, conscious, and deliberate disregard for the rights and safety of consumers such as Plaintiffs, thereby entitling Plaintiffs to punitive damages in an amount appropriate to punish Defendants and deter them from similar conduct in the future.

WHEREFORE, Plaintiffs demand judgment against each Defendant jointly and severally, and seek punitive damages plus any other relief this court deems to be just and proper.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:51-1(c), Michael A. Galpern and John C. Whitfield are designated as trial counsel for Plaintiffs in the above matter.

**JURY DEMAND**

Plaintiffs demand trial by a jury on all of the triable issues of this complaint, pursuant to R. 1:8-2(b) and 4:35-1(a).

**DEMAND FOR DISCOVERY OF INSURANCE COVERAGE**

Pursuant to R. 4:10-2(b), demand is made that Defendants disclose to Plaintiffs' attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiffs' attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe, and umbrella policies.

**CERTIFICATION OF OTHER ACTIONS**

Pursuant to R. 4:5-1(b)(2), it is hereby stated that the matter in controversy is the subject of an action pending in the Court of Appeal for the State of California, Second Appellate District. That matter, *Restaino et al. v. Choi et ano and Mario Badescu et ano*, No. B257480, is an appeal from a class action related to misrepresentation claims arising out of the sales of Mario Badescu's Control Cream and Healing Cream. Though that case did not involve personal injury claims, individuals who suffered personal injuries were included in the Settlement Class, as defined. Plaintiffs Restaino, Huang, Yu, and Valentic have filed a notice of appeal to the trial court's approval of the class action on the basis that the class representatives inadequately represented the interests of the class members who suffered personal injuries. To the best of our

belief, no other action or arbitration proceeding is pending or contemplated. In addition to the parties set forth in this pleading, we know of no other plaintiffs that should be joined in this action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

**CERTIFICATION PURSUANT TO N.J.S.A. 56:8-1 et. seq.**

Pursuant to N.J.S.A. 56:8-1, I have forwarded a copy of this Complaint to the Attorney General of the State of New Jersey and Camden County Office of Consumer Affairs.

Dated:

9/24/14

Respectfully submitted,



Michael A. Galpern  
Andrew P. Bell  
Janet Walsh  
LOCKS LAW FIRM, LLC  
800 North Kings Highway  
Cherry Hill, New Jersey 08034

Gary E. Mason (to be admitted *pro hac vice*)  
Esfand Nafisi (to be admitted *pro hac vice*)  
WHITFIELD BRYSON & MASON LLP  
1625 Massachusetts Ave., NW, Suite 605  
Washington, D.C. 20036

John C. Whitfield (to be admitted *pro hac vice*)  
Caroline Ramsey Taylor (to be admitted *pro hac vice*)  
WHITFIELD BRYSON & MASON LLP  
19 N. Main Street  
Madisonville, KY 42431

Attorneys for Plaintiffs