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 10 **UNITED STATES DISTRICT COURT**  
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 ALANA WATKINS and JO ANN ACCARDI,  
 13 individually and on behalf of all other persons  
 14 similarly situated,

15 Plaintiffs,

16 v.

17 ILLUMINATI LABS LLC, and RISEWELL  
 18 LLC, d/b/a RISEWELL,

19 Defendants.  
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Case No.:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiffs Alana Watkins and Jo Ann Accardi (“Plaintiffs”), bring this action on behalf of  
2 themselves and all others similarly situated against Defendants Illuminati Labs LLC and RiseWell  
3 LLC, d/b/a RiseWell (“Defendants” or “RiseWell”). Plaintiffs make the following allegations  
4 pursuant to the investigation of their counsel and based upon information and belief, except as to  
5 the allegations specifically pertaining to themselves, which are based on personal knowledge.

6 **NATURE OF THE ACTION**

7 1. Plaintiffs bring this class action lawsuit on behalf of themselves and other similarly  
8 situated consumers who purchased Defendants’ RiseWell Kids Mineral Toothpaste (the  
9 “Product”).<sup>1</sup>

10 2. As one of Defendants’ Instagram posts correctly explains, “the mouth is a window  
11 to your overall health.” To that end, the demand for toothpaste made with clean, natural  
12 ingredients has grown rapidly. Indeed, McKinsey & Company estimated that U.S. consumers in  
13 2022 spent more than \$450 billion on wellness products and predicted that number would continue  
14 “growing at more than 5 percent annually.”<sup>2</sup>

15 3. Defendants’ brand fits squarely into that segment: RiseWell’s children’s toothpaste  
16 is advertised as “natural,” “safe to swallow,” and chemical free for a child’s safe tooth brushing.

17 4. Unfortunately for consumers, however, despite the brand’s express safety and clean  
18 ingredient claims, the Product contains high levels of perfluoroalkyl and polyfluoroalkyl  
19 substances, commonly known as “PFAS.” PFAS chemicals are “large, complex group[s] of  
20 synthetic chemicals” that “break down slowly, if at all.” Because PFAS chemicals do not break  
21 down quickly, if at all, these chemicals can build up in the body after repeated exposure and have  
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25 <sup>1</sup> Discovery may reveal that additional of Defendant’s products are within the scope of this  
26 Complaint. Accordingly, Plaintiffs reserve the right to include additional items identified through  
27 the course of discovery.

28 <sup>2</sup> Shaun Callaghan & Warren Teichner, et al., *Still Feeling Good: The US Wellness Market  
Continues to Boom*, MCKINSEY & COMPANY (Sept. 19, 2022), available  
[https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/still-feeling-good-  
the-us-wellness-market-continues-to-boom](https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/still-feeling-good-the-us-wellness-market-continues-to-boom) (last accessed Feb. 13, 2024).

1 been linked to “increased cholesterol, changes in the body’s hormones and immune system,  
2 decreased fertility, and increased risk of certain cancers.”<sup>3</sup>

3 5. Alarmingly, a Department of Defense ELAP-certified laboratory, which was  
4 commissioned to test the Product, found that it contained **over 188 parts per billion of (PPB)** of  
5 PFAS. For reference, when researchers found 250 parts per trillion PFAS in kale, over 750 times  
6 *less* than what was found in the Product, they described being “stunned” by the “high levels” of the  
7 compounds.<sup>4</sup>

8 6. Accordingly, Plaintiffs bring their claims against Defendants individually and on  
9 behalf of classes of all others similarly situated for (1) violation of the Consumers Legal Remedies  
10 Act, Cal. Civ. Code § 1750, *et seq.*; (2) violation of California’s Unfair Competition Law, Cal. Bus.  
11 & Prof. Code § 17200, *et seq.*; (3) violation of California’s False Advertising Law, Cal. Bus. &  
12 Prof. Code § 17500, *et seq.*; (4) violation of New York General Business Law § 349; (5) violation  
13 of New York General Business Law § 350; (6) Fraud; (7) Fraudulent Omission or Concealment;  
14 (8) Breach of Express Warranty; (9) Negligent Misrepresentation; and (10) Unjust Enrichment.

### 15 PARTIES

16 7. Plaintiff Alana Watkins is a citizen of California who resides in Santa Cruz,  
17 California. As recently as December 2023, Plaintiff Watkins purchased Defendant’s Kids Mineral  
18 Toothpaste for her children from Defendant’s website from her home in Santa Cruz. Prior to her  
19 purchase, Plaintiff Watkins reviewed the Product’s marketing, Defendants’ online advertising,  
20 health claims, ingredient and Product composition claims, and understood those representations  
21 and warranties to mean that the Product was free of harmful toxins and safe for her children to  
22 swallow. Plaintiff purchased the Product because it was advertised as being safe to swallow and  
23 would not have purchased it or would not have made the purchase on the same terms had she  
24 known that the Product contained toxic, PFAS chemicals.

25 <sup>3</sup> Michigan OFAS Action Response Team, *EGLE Classroom: Introduction to PFAS*, available  
26 <https://www.michigan.gov/pfasresponse/faq/categories/pfas-101> (last accessed Feb. 13, 2024).

27 <sup>4</sup> See Tom Perkins, *New Report Finds Most US Kale Samples Contain ‘Disturbing’ Levels of*  
28 *‘Forever Chemicals,’* THE GUARDIAN (June 30, 2023) available  
<https://www.theguardian.com/environment/2023/jun/30/kale-pfas-forever-chemicals-contamination>  
(last accessed Feb. 13, 2024).

1           8.       Plaintiff Watkins remains interested in purchasing natural toothpaste from  
2 Defendants that is safe for her child to use. However, she is unable to determine if the Product is  
3 actually safe or if it contains synthetic, toxic chemicals. As long as the Product is marketed as  
4 being “the only [toothpaste] on the market” that is “safe to swallow” and “naturally effective,”  
5 when it contains known harmful PFAS chemicals, Plaintiff Watkins will be unable to make  
6 informed decisions about whether to purchase Defendants’ Product and will be unable to evaluate  
7 the different prices between Defendants’ Product and competitors’ products. She is further likely  
8 to be repeatedly misled by Defendants’ conduct, unless and until Defendants are compelled to  
9 ensure that its marketing is accurate, non-misleading, and its Product is toxin-free. Plaintiff  
10 Watkins would like to purchase the Product again in the future. Had she known the true nature of  
11 the product, Ms. Watkins would have paid substantially less for it, if anything at all.

12           9.       Plaintiff Jo Ann Accardi is a citizen of New York who resides in Staten Island, New  
13 York. As recently as 2023, Plaintiff Accardi purchased Defendants’ Kids Mineral Toothpaste for  
14 her child from Defendants’ website from her home in Staten Island. Prior to her purchase, Plaintiff  
15 Accardi reviewed the Product’s marketing, Defendants’ online advertising, health claims, and  
16 ingredient and Product composition claims, and understood those representations and warranties to  
17 mean that the Product was free of harmful toxins. Plaintiff Accardi purchased the Product because  
18 it was advertised as being safe to swallow, and toxin-free, and would not have purchased it or  
19 would not have made the purchase on the same terms, had she known that the Product contained  
20 toxic PFAS chemicals.

21           10.     Plaintiff Accardi remains interested in purchasing natural toothpaste from  
22 Defendants that is safe for her child to use. However, she is unable to determine if the Product is  
23 actually safe or if it contains synthetic, toxic chemicals. As long as the Product is marketed as  
24 being “the only [toothpaste] on the market” that is “safe to swallow” and “naturally effective,”  
25 when it contains known harmful PFAS chemicals, Plaintiff Accardi will be unable to make  
26 informed decisions about whether to purchase Defendants’ Product and will be unable to evaluate  
27 the different prices between Defendants’ Product and competitors’ products. She is further likely  
28 to be repeatedly misled by Defendants’ conduct, unless and until Defendants are compelled to

1 ensure that its marketing is accurate, non-misleading, and its Product is toxin-free. Plaintiff  
2 Accardi would like to purchase the Product again in the future. Had she known the true nature of  
3 the product, Ms. Accardi would have paid substantially less for it, if anything at all.

4 11. Defendant Illuminati Labs LLC is a Colorado limited liability corporation with its  
5 principal place of business at 2513 Elmira Street, Aurora, Colorado 80010. Defendant Illuminati  
6 Labs is the parent of RiseWell LLC who, together, produce, manufacture, market, and sell  
7 toothpaste, including the Product, throughout California, New York, and the United States.

8 12. Defendant RiseWell LLC is a New York Limited Liability Company with its  
9 principal place of business at 82 Beaver Street, New York, NY 10005. Defendant RiseWell, with  
10 its parent Illuminati Labs LLC, produce, manufacture, market, and sell toothpaste, including the  
11 Product, throughout California, New York, and the United States.

#### 12 **JURISDICTION AND VENUE**

13 13. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A), as  
14 modified by the Class Action Fairness Act (“CAFA”), because at least one member of the Class is  
15 a citizen of a different state than Defendants, there are more than 100 members of the Class, and  
16 the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interest and costs.

17 14. This Court has personal jurisdiction over Defendants because Defendants conduct  
18 substantial business within California, including in this District and purposefully avails themselves  
19 to the benefits of this District. In addition, a substantial portion of the events giving rise to  
20 Plaintiffs’ claims occurred in this District.

21 15. Venue is proper in this District under 28 U.S.C. § 1391 because a substantial portion  
22 of the events, omission, and acts giving rise to the claims herein occurred in this District.

#### 23 **FACTUAL ALLEGATIONS**

##### 24 **I. Exposure To PFAS Chemicals.**

25 16. “PFAS are man-made chemicals that have been used in industry and consumer  
26 products worldwide since the 1940s. They have been used to make nonstick cookware, water-  
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28

1 repellent clothing, stain resistant fabrics and carpets, some cosmetics, some firefighting foams, and  
2 products that resist grease, water, and oil.”<sup>5</sup>

3 17. PFAS are large, complex groups of synthetic chemicals that break down slowly, if  
4 at all, and as such can accumulate in the body once someone has ingested them.<sup>6</sup> PFAS exposure  
5 can occur by using products made with PFAS or products that are packaged in materials containing  
6 PFAS, among others.<sup>7</sup> PFAS chemicals have also been found in water supplies.<sup>8</sup> PFAS have been  
7 linked to “increased cholesterol, changes in the body’s hormones and immune system, decreased  
8 fertility, and increased risk of cancers.”<sup>9</sup>

9 18. Indeed, in 2021, the Biden Administration, taking on “accelerated efforts to protect  
10 Americans from per- and polyfluoroalkyl substances (PFAS), which can cause severe health  
11 problems and persists in the environment once released, posing a serious threat across rural,  
12 suburban, and urban areas,” announced an agency plan to “prevent PFAS from being released into  
13 the air, drinking systems, and [the] food supply ... to remediate the impact of these harmful  
14 pollutants.”<sup>10</sup> Taking action to protect people from PFAS exposure, in April 2024, the White  
15 House announced a plan to create “the first-ever national legally enforceable drinking water

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17 <sup>5</sup> Agency for Toxic Substances and Disease Registry, *What are PFAS?* U.S. DEP’T OF HEALTH &  
18 HUM. SERVS., (Jan. 18, 2024) available <https://www.atsdr.cdc.gov/pfas/health-effects/overview.html> (last accessed Mar. 11, 2024).

19 <sup>6</sup> Nat’l Inst. of Health, *Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)*, U.S. DEP’T. OF  
20 HEALTH AND HUM. SERVS., <https://www.niehs.nih.gov/health/topics/agents/pfc/index.cfm> (last  
21 accessed Mar. 11, 2024).

22 <sup>7</sup> EPA, *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, (June  
23 7, 2023) available <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-Risks-pfas#:~:text=Current%20research%20has%20shown%20that,may%20contain%20PFAS%2C%20including%20fish> (last accessed Mar. 11, 2024).

24 <sup>8</sup> U.S. Env’t. Protection Agency, *PFAS Explained*, Oct. 25, 2023, available  
25 <https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/10/fact-sheet-biden-harris-administration-takes-critical-action-to-protect-communities-from-pfas-pollution-in-drinking-water/>  
26 (last accessed May 15, 2024).

27 <sup>9</sup> Michigan PFAS Action Response Team, *EGLE Classroom: Introduction to FPAS*,  
28 <https://www.michigan.gov/pfasresponse/faq/categories/pfas-101> (last accessed Mar. 11, 2024).

<sup>10</sup> *Fact Sheet: Biden-Harris Administration Launches Plan to Combat PFAS Pollution*, The White  
House (Oct. 18, 2021), available <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/18/fact-sheet-biden-harris-administration-launches-plan-to-combat-pfas-pollution/> (last accessed Mar. 11, 2024).

1 standard for PFAS, which will protect 100 million people from PFAS exposure, prevent tens of  
2 thousands of serious illnesses, and save lives.”<sup>11</sup>

3 19. Likewise, “[p]rior studies have shown that PFAS in food packaging can leach into  
4 food and higher levels of PFAS have been found in blood testing of people who regularly eat types  
5 of foods that are typically sold in PFAS-containing packaging.”<sup>12</sup>

6 20. The level of risk presented by PFAS chemical exposure varies depending on the  
7 recipient. In children, PFAS have been linked to “[l]ower antibody response[s] to some  
8 vaccines,”<sup>13</sup> thereby rendering children more vulnerable to diseases they were otherwise immunized  
9 from. In fact, the American Academy of Pediatrics has found that “[c]hildren are more vulnerable  
10 to environmental pollutants like PFAS than adults because of ... lower body weight, differences in  
11 water and food intake, developing organ systems and longer lifespans during which toxic effects  
12 might manifest.”<sup>14</sup> Accordingly, the presence of PFAS in toothpaste, like Defendant’s, is  
13 particularly alarming because this Product is specifically intended for children. But, regardless of a  
14 person’s stage in life, “[v]irtually no amount of PFAS is safe for consumption, according to the  
15 U.S. Environmental Protection Agency.”<sup>15</sup>

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17 <sup>11</sup> THE WHITE HOUSE, *Fact Sheet: Biden-Harris Administration Takes Critical Action to Protect*  
18 *Communities from PFAS Pollution in Drinking Water*, April 10, 2024, available  
19 [https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/10/fact-sheet-biden-harris-](https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/10/fact-sheet-biden-harris-administration-takes-critical-action-to-protect-communities-from-pfas-pollution-in-drinking-water/)  
administration-takes-critical-action-to-protect-communities-from-pfas-pollution-in-drinking-water/  
(last accessed May 15, 2024).

20 <sup>12</sup> Int’l Pollutants Elimination Network, *McDonald’s, KFC, Burger King, Subway, Starbucks,*  
21 *Dunkin’ Donuts, and Jolly Time Found to Have Inconsistent use of PFAS and PFAS-Free Packing,*  
22 *IPEN FOR TOXICS-FREE FUTURE* (Dec. 13, 2023) available [https://ipen.org/news/single-use-food-](https://ipen.org/news/single-use-food-packaging-17-countries-contains-pfas-%E2%80%9Cforever-chemicals%E2%80%9D#:~:text=Prior%20studies%20have%20shown%20that,sold%20in%20PFAS%2Dcontaining%20packaging)  
packaging-17-countries-contains-pfas-%E2%80%9Cforever-  
chemicals%E2%80%9D#:~:text=Prior%20studies%20have%20shown%20that,sold%20in%20PFAS%2Dcontaining%20packaging (last accessed Mar. 11, 2024).

23 <sup>13</sup> Agency for Toxic Substances and Disease Registry, *supra* note 5.

24 <sup>14</sup> Alan D. Woolf, M.D., M.P.H., FAAP, & Lauren Zajac, M.D., M.P.H., FAAP., *Report Outlines*  
25 *Health Effects of PFAS Chemicals in Children, Provides Recommendations for Testing*, AM. ACAD.  
26 OF PEDIATRICS (Sept. 13, 2022) available [https://publications.aap.org/aapnews/news/22138/Report-](https://publications.aap.org/aapnews/news/22138/Report-outlines-health-effects-of-PFAS-chemicals?autologincheck=redirected)  
outlines-health-effects-of-PFAS-chemicals?autologincheck=redirected (last accessed Mar. 11,  
2024).

27 <sup>15</sup> Wisconsin Watch, *What Should I do about PFAS in my Water?* PBS WISCONSIN (Nov. 28, 2022)  
28 available [https://pbswisconsin.org/news-item/what-should-i-do-about-pfas-in-my-](https://pbswisconsin.org/news-item/what-should-i-do-about-pfas-in-my-water/#:~:text=How%20much%20PFAS%20is%20harmful,the%20U.S.%20Environmental%20Protection%20Agency)  
water/#:~:text=How%20much%20PFAS%20is%20harmful,the%20U.S.%20Environmental%20Pr  
otection%20Agency (last accessed Mar. 11, 2024).

1           21.     Toothpaste is a particularly effective method to introduce PFAS substances into the  
 2 body. The mouth and oral lining tissue are efficient entry points for both children and adults.  
 3 Specifically, oral absorption occurs either via the oral mucosa, which is the mucous membrane  
 4 lining the “skin” inside the mouth, including the cheeks and lips,<sup>16</sup> or through the sublingual  
 5 mucosa, which refers to the tongue and the floor of the mouth.<sup>17</sup> Both areas efficiently usher  
 6 particulates into the bloodstream. This is because, in the case of absorption through oral mucosa,  
 7 “[t]here are tiny blood vessels in the cheek area, allowing [] [substances] to be absorbed directly  
 8 into the bloodstream, bypassing the digestive system.”<sup>18</sup> Similarly, particulates introduced to the  
 9 sublingual mucosa are absorbed “directly in to the blood stream through the ventral surface of the  
 10 tongue and floor of the mouth ... [allowing] rapid absorp[tion]” into the system of facial veins that  
 11 connects to the rest of the body’s systemic circulation.<sup>19</sup> In fact, “[t]he absorption of [a] drug  
 12 through the sublingual route is 3 to 10 times greater than [the] oral route and is only surpassed by  
 13 hypodermic injection.”<sup>20</sup> Thus, the presence of PFAS in toothpaste poses a particular danger to  
 14 users because of the body’s efficiency in oral absorption.

15           22.     As a result, there is a growing consumer demand to eliminate PFAS from various  
 16 consumer products, including oral hygiene products.<sup>21</sup>

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 21 <sup>16</sup> Dep’t. of Dermatology, *Oral Mucosal Diseases*, UNIV. OF CAL., DAVIS, available  
<https://health.ucdavis.edu/dermatology/specialties/medical/oral.html> (last accessed Mar. 11, 2024).

22 <sup>17</sup> Neha Narang & Jyoti Sharma, *Sublingual Mucosa As a Route for Systemic Drug Delivery*, 3 (2)  
 23 INT’L J. PHARMACY & PHARM. SCI. 18-22, 18 (2011) available  
<https://innovareacademics.in/journal/ijpps/Vol3Suppl2/1092.pdf> (last accessed Mar. 11, 2024).

24 <sup>18</sup> Avior Nutritionals, *What is Buccal & Sublingual Absorption and Why Are They So Important?*  
 25 (May 16, 2019) available <https://www.aviornutritionals.com/what-is-buccal-sublingual-absorption-and-why-are-they-so-important/> (last accessed Mar. 11, 2024).

26 <sup>19</sup> Neha Narang & Jyoti Sharma, *supra* note 17.

<sup>20</sup> *Id.*

27 <sup>21</sup> Elicia Mayuri Cousins, et al., *Risky Business? Manufacturer and Retailer Action to Remove Per-  
 28 and Polyfluorinated Chemicals from Consumer Products*, NEW SOLUTIONS: J. OF ENV’T &  
 OCCUPATIONAL HEALTH POL’Y (2019) 29(2), 242-65, doi: 10.1177/104829111985674.



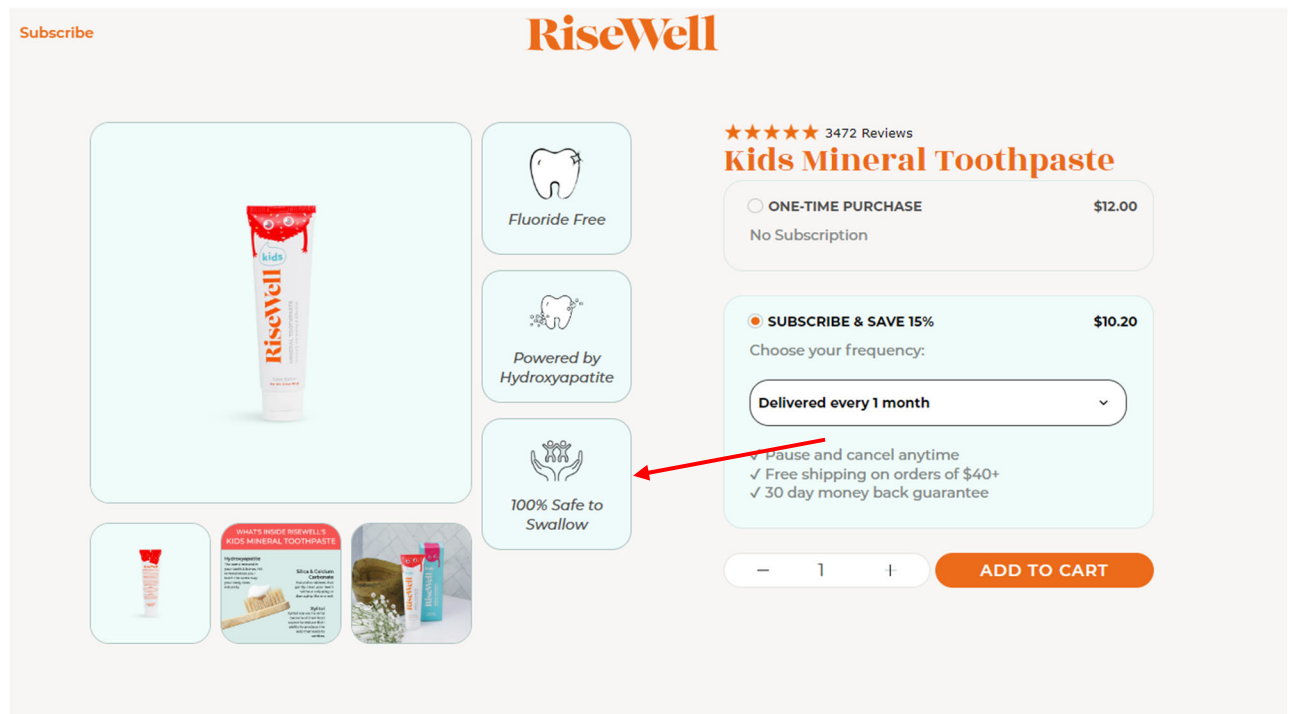
**II. Defendants’ Representations Are Actionable**

**A. Defendants Use Their Website to Make Express, But Untrue, Health and Safety Claims About its Product.**

23. Plaintiffs’ counsel commissioned a Department of Defense Environmental Laboratory Accreditation Program-certified laboratory to test Defendants’ Kids Mineral Toothpaste. Both the packaging and the toothpaste itself were tested, which showed that the Product was contaminated with over 188 parts per billion (PPB) of PFAS chemicals.

24. These results are contrary to the warranties and representations made throughout Defendants’ marketing. Defendants’ material omissions therefore harmed Plaintiffs.

25. For example, Defendants expressly warrant that the Product is “100% safe to swallow” on the checkout page on its website.<sup>22</sup>



26. Defendants bookend their “safe to swallow” claim by explaining on the Product’s page that it is “naturally effective” and relies on “a naturally occurring mineral” while assuring

<sup>22</sup> RiseWell, *Kids Mineral Toothpaste*, available <https://risewell.com/products/risewell-kids-toothpaste> (last accessed May 14, 2024).

1 consumers like Plaintiffs that there's "no need to be nervous when your little ones begin learning to  
2 brush!"<sup>23</sup>

3  
4  
5 **What makes our kids toothpaste special and naturally effective?**



8 Finally there's a treat that naturally strengthens your kid's teeth! The secret is Hydroxyapatite, a naturally occurring  
9 mineral (and our signature ingredient!) that protects and remineralizes your kid's teeth as they grow. And, it is 100% safe  
10 to swallow, so no need to be nervous when your little ones begin learning to brush!

11 27. In fact, in doubling down on the "safe to swallow" claim, Defendants explain that  
12 "since the rest of our ingredients are also all safe, you have nothing to worry about when using our  
13 natural fluoride-free toothpaste, morning, noon, or night."<sup>24</sup>

14 **So safe you can eat it**

15 ...but that might be weird

16 Because Hydroxyapatite is a naturally occurring mineral in  
17 our teeth and bones, it's completely harmless if accidentally  
18 ingested. And since the rest of our ingredients are also all  
19 safe, you have nothing to worry about when using our  
20 natural fluoride-free toothpaste, morning, noon, or night.



22 28. Defendants, as leading manufacturers, marketers, and sellers of children's  
23 toothpaste, know the importance of ensuring that a toothpaste brand specifically intended for  
24 children is safe to swallow. In fact, it is fairly common, if not expected, that children will swallow  
25 toothpaste. One study of a "sample size comprised [of] 75 parents of children between the age  
26 group of 3 and 5 years" found that "83% of the children have the habit of toothpaste swallowing."<sup>25</sup>

27 <sup>23</sup> *Id.*

28 <sup>24</sup> RiseWell, *Backed by Science to Conquer Cavities Naturally*, available  
<https://risewell.com/pages/science> (last accessed May 14, 2024).

<sup>25</sup> B. Aishwarya Reddy, et al., *Prevalence of Toothpaste Swallowing Habit in Children Between the Age Group of 3 and 5 Years*, *Drug Intervention Today* 12(7) (March 2019) 1452-1455, available

29. What is more, Defendants charge a premium for its Product. In 2023, the average price for a tube of toothpaste was \$3.92.<sup>26</sup> Defendants, however, charge either \$12.00 per tube for a one-time purchase or \$10.20 for consumers with recurring order subscriptions. Defendants justify the high price premium by distinguishing their toothpaste from competitors’ brands based on health, safety, and ingredient quality and transparency claims. For example, Defendants refers to the Product as having “extra special benefits” for children and offers the “safest” ingredients<sup>27</sup>:



30. And if that wasn’t enough, Defendants publish a grid, capturing what they call “The RiseWell Difference,” directly comparing the Product to “natural” and “traditional” competitors. Among the attributes Defendants claim set its Product apart from competitors’ products are

[https://www.researchgate.net/publication/335523804\\_Prevalence\\_of\\_toothpaste\\_swallowing\\_habit\\_in\\_children\\_between\\_the\\_age\\_group\\_of\\_3\\_and\\_5\\_years](https://www.researchgate.net/publication/335523804_Prevalence_of_toothpaste_swallowing_habit_in_children_between_the_age_group_of_3_and_5_years) (last accessed May 14, 2024).

<sup>26</sup> The Council for Community and Economic Research, *Just a Tube of Toothpaste or a Teller of Tumultuous Times?* available <https://www.coli.org/just-a-tube-of-toothpaste-or-a-teller-of-tumultuous-times/#:~:text=According%20to%20the%20most%20recent,to%20%243.92%20in%20Q3%202023> (last accessed May 14, 2024).

<sup>27</sup> RiseWell, *supra* note 20.

1 “[i]ngredients you can pronounce” that are “[n]aturally effective ingredients,” culminating in a  
 2 children’s toothpaste that is “[s]afe enough to eat.”<sup>28</sup> Most concerning, Defendants falsely assure  
 3 parents, like Plaintiffs, that, “[u]nlike many natural toothpastes, we don’t just remove the toxic  
 4 ingredients found in traditional toothpaste; we swap in 100% safe, natural alternatives that clean  
 5 and protect just as effectively.”

## 7 The RiseWell Difference

8 Unlike many natural toothpastes, we don't just remove the toxic ingredients found in traditional toothpastes; we swap in 100% safe, natural alternatives that clean and protect just as effectively.

	RiseWell	Natural	Traditional
11 Fluoride-Free	✓	✓	✗
12 Hydroxyapatite to remineralize	✓	✗	✗
13 Naturally effective ingredients	✓	✗	✗
14 Safe enough to eat	✓	~	✗
15 No harsh foaming agents like SLS	✓	~	✗
16 No Propylene Glycol (antifreeze)	✓	~	✗
17 No mystery "natural flavors"	✓	~	✗
18 Ingredients you can pronounce	✓	~	✗

19 ✓ You bet!    ~ Some    ✗ None

20  
 21 31. Defendants rely heavily on its safety representations, but aside from the larger  
 22 health effects of PFAS exposure found in its Product, testing revealed the presence of  
 23 perfluorodecanoic acid. Worryingly, a study of 629 U.S. children aged 3-11 found that  
 24 “perfluorodecanoic acid was significantly associated with dental caries[.]”<sup>29</sup> “Dental caries, which

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 26 <sup>28</sup> RiseWell, *supra* note 22.

27 <sup>29</sup> R. Constance Wiener, DMD, PhD & Christopher Waters, MS, *Perfluoroalkyls/polyfluoroalkyl*  
 28 *Substances and Dental Caries Experience in Children, Ages 3-11 Years, National Health and*  
*Nutrition Examination Survey, 2013-2014, J. Public Health Dent. (2019) 79(4), 307-319, 313,*  
*available doi: 11.1111/jphd/12329.*

1 is also referred to as tooth decay or cavities, is one of the most common and widespread persistent  
2 diseases today and is also one of the most preventable.”<sup>30</sup> Accordingly, as the researchers of the  
3 aforementioned study explained, “[a]s perfluorodecanoic acid is a larger, stable perfluoroalkyl with  
4 associated adverse health effects, having a trend of fewer exposures is a public health benefit.”<sup>31</sup>

5 32. Nonetheless, Defendants attempt to make its claims credible to consumers by  
6 promising consumers that their labeling practices are more trustworthy than competitors’ labeling  
7 practices. Defendants ironically note that “[t]he lack of regulation within the cosmetic industry  
8 permits the use of harmful ingredients, making it easy for many companies to hide behind labels  
9 like ‘natural ingredients,’” assuring consumers instead that, unlike its shifty competitors, RiseWell  
10 “let[s] you know every ingredient in all of [its] products.”<sup>32</sup> Unfortunately for Plaintiffs, this  
11 promise does not include disclosing high levels of toxic PFAS chemicals.

12 33. RiseWell’s physical packaging does not fare much better. Both the external box and  
13 the tube represent and warrant that the toothpaste is “Naturally whitening,” and contains “Only  
14 Good Stuff.”

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26 <sup>30</sup> Oral-B, *What are Dental Caries? Treatments, Signs, and Symptoms*, available  
27 <https://oralb.com/en-us/oral-health/conditions/cavities-tooth-decay/what-are-dental-caries/> (last  
28 accessed May 23, 2024).

<sup>31</sup> R. Constance Weiner, *et al*, *supra* note 29.

<sup>32</sup> RiseWell, *supra* note 28.



34. The back of the tube also makes untrue guarantees. The marketing on the back of the tube represents that “RiseWell Kids Toothpaste is like no other natural toothpaste out there. ... Our goal is to give your kids a toothpaste that is as effective as chemical toothpastes, but without toxins. So, instead of simply eliminating these chemicals, we found replacements that are not only natural and completely safe but also incredibly effective.”<sup>33</sup>

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<sup>33</sup> RiseWell, *supra* note 22.



35. Defendants' health representations track with marketing trends for children's toothpaste. This is because of the unique market position that the massive children's toothpaste segment holds. "The market is defined by the development and manufacturing of toothpaste products that are specifically designed to meet the needs of children. This includes taking into account elements like taste appeal, age-appropriate fluoride levels, and visually appealing packaging. The main goal of children's toothpaste is to promote preventative dental health practices, lower the risk of dental problems, and establish and maintain good oral hygiene habits from an early age."<sup>34</sup> Therefore, "the children's toothpaste market closely follows larger trends in health and wellbeing. Growing consumer sophistication among parents is pressuring product makers to use substances that are seen as safe and mild in addition to being effective. This approach presents children's toothpaste as a crucial part of comprehensive pediatric healthcare, in

<sup>34</sup> Verified Market Reports, *Global Children Toothpaste Market by Type (Fluoride Toothpaste, Fluoride-Free Toothpaste), By Application (Online Stores, Offline Stores), by Geographic Scope And Forecast*, December 2023, available <https://www.verifiedmarketreports.com/product/children-toothpaste-market-size-and-forecast/> (last accessed June 4, 2024).

1 line with an increased understanding of the long-term effects of oral hygiene practices on general  
 2 health.”<sup>35</sup> Accordingly, Defendants’ material omissions harmed Plaintiffs. Defendants, as major  
 3 manufacturers, marketers, and sellers in this space, likely understand the market trends and  
 4 consumer preferences in this space and calibrate their marketing and advertising accordingly.

5 **B. Defendants Make Similar Representations Throughout**  
 6 **RiseWell’s Online Presence**

7 36. Defendants reiterate the claims on their website throughout their online marketing  
 8 and third-party website points of sale. On its Amazon page, RiseWell assures parents that they can  
 9 “[r]est easy knowing that our fluoride free kids toothpaste is 100% safe to swallow and eat. It  
 10 offers peace of mind for parents and a worry-free brushing experience for their little ones.”<sup>36</sup>  
 11 RiseWell also assures parents that they can “[s]ay goodbye to artificial colors, flavors, and  
 12 preservatives with our natural kids toothpaste, providing a pure and natural option for your child’s  
 13 dental hygiene needs.”<sup>37</sup>

14 37. RiseWell repeats these similar claims on the Walmart sales page for the Product.  
 15 Under its product details, it explains that “[d]aily usage will leave your kid’s teeth visibly whiter,  
 16 healthier, and stronger as their smiles grow and mature. And the best part? It’s safe enough to  
 17 eat—even if your kids ... eat a whole delicious tube.”<sup>38</sup>

18 38. RiseWell’s health and safety representatives are not limited to its website and third-  
 19 party sales pages. RiseWell’s Facebook marketing echoes the same claims made on its website.

20 39. Defendant’s advertising online (and on its packaging) is uniform and pervasive.

21  
 22  
 23 <sup>35</sup> *Id.*


24 <sup>36</sup> Amazon.com, *RiseWell Kids Mineral Toothpaste – Kids Hydroxyapatite Toothpaste – Safe to*  
 25 *Swallow, Fluoride & SLS Free Toothpaste for Kids – Case Batter, 3.4 Oz.*, available  
 26 <https://www.amazon.com/Risewell-Kids-Batter-Hydroxyapatite-Toothpaste/dp/B0B249Q6MF>  
 (last accessed May 15, 2024).

27 <sup>37</sup> *Id.*


28 <sup>38</sup> Walmart.com, *Risewell Kids Cake Batter Hydroxyapatite Toothpaste*, available  
[https://www.walmart.com/ip/Risewell-Kids-Cake-Batter-Hydroxyapatite-](https://www.walmart.com/ip/Risewell-Kids-Cake-Batter-Hydroxyapatite-Toothpaste/2285120002?from=/search)  
 Toothpaste/2285120002?from=/search (last accessed May 15, 2024).



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 **RiseWell**  
Sponsored

Elevate your oral care routine for a naturally healthy and radiant smile with RiseWell. All of our products, from mouthwash to toothpaste and even mints, are made with 100% safe and clean ingredients.

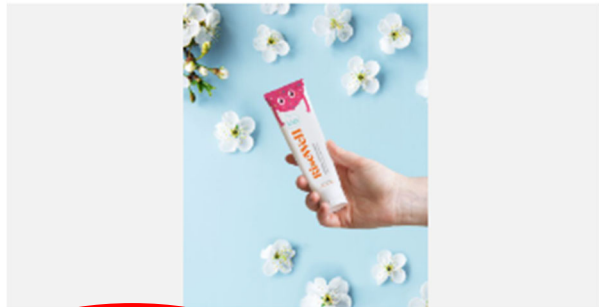


RISEWELL.COM  
Free Shipping for Orders Over \$40  
Fluoride-free, 100% safe

[Shop Now](#)

 **RiseWell**  
Sponsored


RiseWell's cake-flavored kid's toothpaste is perfect for a fresh start this Spring! Made with 100% safe, natural ingredients, and proven to protect and strengthen your little one's growing teeth! 🍰




RISEWELL.COM  
Non-Toxic Dental Care for Kids  
Dentist Recommended

[Shop Now](#)

40. Similarly, RiseWell's own Instagram and TikTok posts are intended to impress upon consumers that the brand is in lockstep with its health-conscious consumers who are in the market for a purported "non-toxic" natural, oral health product.

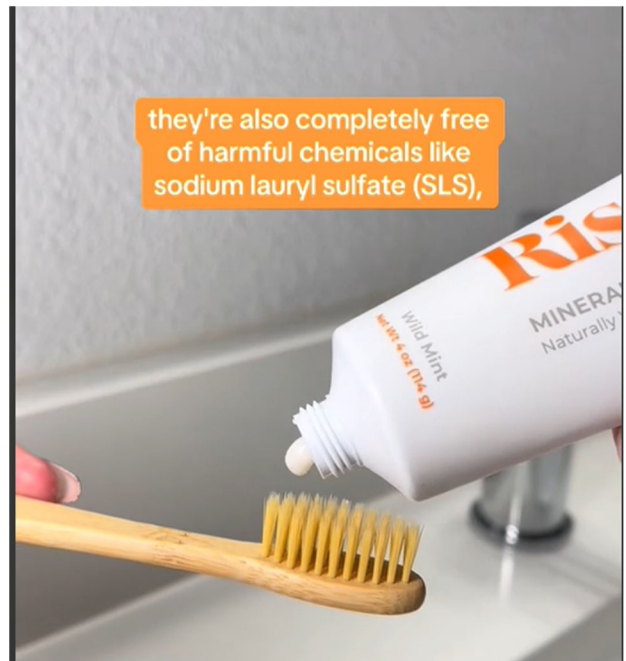
 risewellco

“The mouth is a *window* to your overall health.”



55 likes  
risewellco Have you ever heard that your mouth is a window to your overall health? In other words, when you maintain great oral health, your overall health will be great, too... more  
View 1 comment  
March 18

they're also completely free of harmful chemicals like sodium lauryl sulfate (SLS),



**Rise**  
Wild Mint  
MINERAL  
Naturally

41. But, despite RiseWell's repeated, affirmative claims that the Product is 100% safe to swallow and only contains clean, safe ingredients, Defendants omit the fact that the Product

1 contains high levels of toxic, PFAS chemicals, which are efficiently absorbed into the body  
2 through oral absorption and ingestion.

3 42. However, Plaintiffs and the members of the Classes bargained for a product that is  
4 made from clean ingredients and completely free of harmful toxins and were thus deprived of the  
5 basis of their bargain when Defendants sold them a Product it both affirmatively represented as  
6 meeting those desires and contrasted from products that did not. RiseWell elected to engage in this  
7 marketing despite the Product containing high levels of toxic PFAS chemicals, thereby exposing  
8 consumers and their children to various health risks that they sought to avoid by buying the  
9 product.

10 43. No reasonable consumer would expect the Product, which was marketed  
11 prominently as a safe to swallow, completely natural, toxic-free toothpaste, to contain harmful  
12 PFAS chemicals.

13 44. In addition, because the facts concern a critical safety-related deficiency in the  
14 Product, and because Defendants affirmatively and expressly represented otherwise, Defendants  
15 were under a continuous duty to disclose to Plaintiffs and the members of the Classes the true  
16 standard, quality, and grade of the Product and to disclose that the Product contained substances  
17 known to have adverse health effects. Defendants also had a duty to disclose because of its  
18 exclusive and/or superior knowledge concerning the true nature and composition of the Product as  
19 the owner, manufacturer, producer, marketed, and seller of the Product. Nonetheless, Defendants  
20 concealed this material information and affirmatively warranted the opposite.

21 45. Moreover, given the randomized sample that was tested, it is likely that dangerous  
22 PFAS chemicals are present in the Product generally, not simply this one Product.

23 46. Although Defendants are in the best and exclusive position to know the true  
24 composition and contents of its Product, Plaintiffs satisfy the requirements of Rule 9(b) by alleging  
25 the following facts with particularity:

26 47. **WHO:** Defendants Illuminati Labs LLC and RiseWell LLC, doing business as  
27 RiseWell.  
28

1           48.     **WHAT:** Defendants’ conduct here was, and continues to be, fraudulent because  
2 they omitted and concealed that the Product contained PFAS—which are widely known to have  
3 significant negative health repercussions. Thus, Defendants’ conduct deceived Plaintiffs and the  
4 members of the Classes into believing that the Product is natural and toxin-free and thus safe to  
5 swallow when it is not. As demonstrated by Defendants’ intense focus on positioning itself as a  
6 toxin-free, natural, safe-to-swallow brand and directly comparing and contrasting those qualities to  
7 competitor brands, Defendants knew or reasonably should have known that this information is  
8 material to reasonable consumers, including Plaintiffs and the members of the Classes when they  
9 make their purchasing decisions, yet it continued to pervasively and affirmatively warrant and  
10 represent that the Product was of a clean, natural, toxic-free quality and character when it is not.

11           49.     **WHEN:** Defendants made material representations and omissions during the  
12 putative class periods, including prior to and at the time of Plaintiffs’ and the Class Members’  
13 purchases. Plaintiffs viewed the packaging and advertising of the Product online at purchase and  
14 viewed the representations and warranties made by Defendants, understanding them to mean  
15 precisely what they say—that the Product is a uniquely safe, natural, toxic-free, safe-to-swallow  
16 toothpaste fit for safe use by children, produced by a health-conscious brand.

17           50.     **WHERE:** Defendants’ marketing messages were uniform and pervasive  
18 throughout California, New York, and the United States and carried throughout material  
19 misrepresentation, warranties, and omissions on its labeling, packaging, and marketing materials.

20           51.     **HOW:** Defendants made material misrepresentations and omissions of fact  
21 regarding the Product by representing and warranting that the Product was made of only natural  
22 ingredients and that it is therefore toxin-free and safe to swallow when the Product actually  
23 contained high levels of harmful, toxic, PFAS chemicals.

24           52.     **WHY IT IS FALSE:** Defendants made material representations and warranties  
25 that its Product is a “100% safe to swallow,” toxin-free children’s toothpaste comprised of only  
26 natural ingredients. In addition, Defendants compare its Product and the Product’s composition to  
27 that of competitors to demonstrate to consumers that the brand and Product are uniquely positioned  
28 as more honest about its ingredients, which it represents as safe, natural and toxin-free. However,

1 the Product contains high levels of toxic, unsafe, unnatural PFAS chemicals, which is contrary to  
2 RiseWell's affirmative representations and warranties.

3 53. **INJURY:** Plaintiffs and the members of the Classes purchased, and paid a  
4 premium, or otherwise paid more for the Product they otherwise would not have had they known  
5 known the truth of Defendants' product and had not reasonably relied on its representations and  
6 warranties.

7 **CLASS ALLEGATIONS**

8 54. Plaintiffs bring this matter on behalf of themselves, and all similarly situated in the  
9 following Classes (collectively, the "Classes"):

10 ***Nationwide Class.*** All natural persons in the United States who purchased the  
11 Product, and all substantially similar products, from June 11, 2020, to present.

12 55. Plaintiff Watkins seeks to represent the following Subclass:

13 ***California Subclass.*** All natural persons in the State of California who purchased  
14 the Product, and all substantially similar products, from June 11, 2020, to present.

15 56. Plaintiff Accardi seeks to represent the following Subclass:

16 ***New York Subclass.*** All natural persons in the State of New York who purchased  
17 the Product, and all substantially similar products, from June 11, 2020, to present.

18 57. Excluded from the Classes are: (1) any Judge or Magistrate presiding over this  
19 action and any members of their families; (2) Defendants, Defendants' subsidiaries, parents,  
20 successors, predecessors, and any entity in which Defendants or their parent have a controlling  
21 interest and their current or former employees, officers, and directors; and (3) Plaintiffs' counsel  
22 and Defendants' counsel.

23 58. **Numerosity.** Class Members are so numerous that joinder of all members is  
24 impracticable. Plaintiffs believe that there are thousands of people who purchased the Product and  
25 substantially similar versions of the Product who have been injured by Defendants' false and  
26 misleading representations. While the exact number of members of each Class is unknown to  
27 Plaintiffs at this time, such information can be ascertained through appropriate discovery from  
28 records maintained by Defendants and their agents.

1           59.     **Commonality and Predominance.** The questions of law and fact common to the  
2 Classes which predominate over any questions which may affect individual class members include,  
3 but are not limited to:

- 4                   i. Whether Defendants’ Product contains PFAS;
- 5                   ii. Whether Defendants represented and warranted that the Product was natural,  
6 safe to swallow, and toxin-free;
- 7                   iii. Whether Defendants breached those representations and warranties;
- 8                   iv. Whether Plaintiffs and the members of the Classes reasonably relied on  
9 Defendants’ representations, warranties, and omissions;
- 10                  v. Whether Defendants’ conduct violated California’s consumer protection  
11 statutes;
- 12                  vi. Whether Defendants’ conduct violated New York’s consumer protection  
13 statutes;
- 14                  vii. Whether Defendants’ conduct amounted to violations of the common law;  
and
- 15                  viii. Whether the knowledge of the presence (or risk thereof) of PFAS in the  
16 Product would be material to a reasonable consumer.

17           60.     **Typicality.** The claims of the named Plaintiffs are typical of the claims of the  
18 members of the Classes because the named Plaintiffs, like other members of the Classes, purchased  
19 the Product and Defendants’ substantially similar Products, relying on the representations and  
20 warranties made by Defendants on the Product’s packaging and online, that the Product was safe  
21 for children to use, and free of harmful toxins.

22           61.     **Adequate Representation.** Plaintiffs have retained and are represented by  
23 qualified and competent counsel who are highly experienced in complex consumer class action  
24 litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this class action.  
25 Neither Plaintiffs, nor their counsel, have any interest adverse to, or in conflict with, the interests of  
26 the absent members of the Classes. Plaintiffs are able to fairly and adequately represent the interest  
27 of the Classes. Plaintiffs have raised viable statutory claims of the type reasonably expected to be  
28 raised by members of the Classes and will vigorously pursue those claims. If necessary, Plaintiffs



1           68. Defendants violated Civil Code §§1770(a)(5), (a)(7), and (a)(9) by holding out the  
2 Product as being made from only natural and safe ingredients, such that it is safe enough to  
3 swallow, when, in fact, the Product contained high amounts of unsafe, unnatural, toxic, PFAS  
4 chemicals.

5           69. The Product is thus not healthy for the consumer, nor comprised of only natural  
6 ingredients.

7           70. Defendants made their representations to Plaintiff and the members of the California  
8 Subclasses while suppressing the true nature of the Product. Specifically, Defendants displayed the  
9 Product and described it as wholly comprised of only clean, natural ingredients and thereby safe to  
10 swallow, including on the Product's packaging, on its website, and in its marketing, without  
11 disclosing that the Product contains toxic, PFAS chemicals. As such, Defendants affirmatively  
12 misrepresented, *inter alia*, the ingredients, quality, and grade of the Product while continuing to  
13 advertise the goods without the intent to sell them as advertised.

14           71. Plaintiff Watkins and the Subclass suffered harm as a result of the violations of the  
15 CLRA because they incurred, charged, and/or paid monies for the Product that they otherwise  
16 would not have incurred or paid and were unknowingly exposed to a significant and substantial  
17 health risk.

18           72. On April 23, 2024, prior to filing this complaint, Defendants' Counsel accepted  
19 service of Plaintiffs' demand letter via email. The letter advised Defendant that it was in violation  
20 of the CLRA with respect to the presence of PFAS in the Product, and demanded that it cease and  
21 desist from such violations and make full restitution by refunding the monies received therefrom.  
22 The letter stated that it was sent on behalf of all other similarly situated purchasers.

23           73. Defendants failed to remedy the issues raised by the notice letter.

24           74. Pursuant to Civ. Code § 1780, Plaintiff and the Subclass seek: (a) actual damages in  
25 an amount to be determined at trial; (b) an order enjoining Defendant from continuing its violative  
26 acts and practices; (c) restitution of all money and property lost by Plaintiff and the Subclass as a  
27 result of Defendant's unlawful conduct; (d) punitive damages; (e) any other relief that the Court  
28 deems proper; and (f) attorneys' costs and fees.

**COUNT II**

**Violation of California’s Unfair Competition Law,  
Cal. Bus. & Prof. Code § 17200, et seq.  
(On Behalf of the California Subclass)**

75. Plaintiff Watkins incorporates the foregoing allegations as if fully set forth herein.

76. Plaintiff Wakins brings this claim individually and on behalf of the Subclass against Defendant.

77. California Business and Professions Code § 17200 prohibits “any unlawful, unfair, or fraudulent business act of practice.” By committing the acts and practices alleged herein, Defendant has violated California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200-17210 by engaging in unlawful, unfair, and fraudulent conduct.

78. Defendants violated the UCL’s proscription against engaging in **Unlawful Business Practices** by violating the CLRA, Cal. Civ. Code §§ 1770(a)(5), (a)(7), and (a)(9), as well as by violating California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code § 17500, et seq.

79. As more fully described above, Defendants’ misleading marketing, advertising, packaging, and labeling of its Product is likely to deceive reasonable consumers. In addition, Defendants have committed unlawful business practices by, *inter alia*, making the representations and omissions of material facts, as set forth more fully above, thereby violating the common law.

80. Plaintiffs and Classes reserve the right to allege other violations of law which constitute other unlawful business acts or practices.

81. Defendants also violated the UCL’s prohibition against engaging in **Unfair Business Practices**. Defendants’ acts, omissions, misrepresentations, practices, and non-disclosures as alleged herein also constituted “unfair” business acts and practices within the meaning of Bus. & Prof. Code § 17200, et. seq., as the conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable to such conduct.

82. There were reasonably available alternatives to further Defendants’ legitimate business interest other than the conduct described above. There are no legitimate business



1 purposes served by Defendants' conduct, which caused Plaintiff and the Subclass economic injury  
2 because they purchased a Product, the basis of the bargain for which was untrue.

3 83. Defendants have further violated the UCL's proscription against engaging in  
4 **Fraudulent Business Practices**. Defendants' claims, nondisclosures, and misleading statements  
5 with respect to the Product, as more fully set forth above, were false, misleading, and/or likely to  
6 deceive the consuming public within the meaning of Bus. & Prof. Code § 17200.

7 84. Plaintiffs and the Classes suffered a substantial injury by virtue of buying the  
8 Product that they would not have purchased absent Defendants' unlawful, fraudulent, and unfair  
9 marketing, advertising, packaging, and omission about the inclusion of harmful toxins in its  
10 Product.

11 85. There is no benefit to consumers or competition from deceptively marketing and  
12 omitting material facts about the true nature of the Product.

13 86. Plaintiffs and the Classes had no way of reasonably knowing that the Product they  
14 purchased was not truthfully marketed, advertised, packaged, or labeled. Thus, they could not have  
15 reasonably avoided the injury each of them suffered.

16 87. The gravity of the consequences of Defendants' conduct as described outweigh any  
17 justification, motive, or reason therefore, particularly considering the available legal alternatives  
18 which exist in the marketplace. Such conduct is immoral, unethical, unscrupulous, offends  
19 established public policy, or is substantially injurious to Plaintiffs and the other members of the  
20 Classes.

21 88. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiff and the Subclasses seek an  
22 order of this Court that includes, but is not limited to, requiring Defendant to (a) provide restitution  
23 to Plaintiffs and other Subclass Members; (b) disgorge all revenues obtained as a result of  
24 violations of the UCL; and (c) pay Plaintiff's attorneys' fees and costs.

**COUNT III**

**Violation of California’s False Advertising Law,  
Cal. Bus. & Prof. Code § 17500, *et seq.*  
(On Behalf of the California Subclass)**

89. Plaintiff Watkins incorporates the foregoing allegations as if fully set forth herein.

90. Plaintiff Watkins brings this claim on behalf of herself and the California Subclass against Defendant.

91. Defendants’ acts and practices, as described herein, have deceived and/or are likely to continue to deceive, members of the California Subclass and public. As described throughout this Complaint, Defendants misrepresented the Product as wholly natural, free from toxic chemicals, and therefore safe to swallow when, in fact, the Product is not wholly natural, free from toxic chemicals, or safe to swallow because of the inclusion of PFAS chemicals.

92. By their actions, Defendants disseminated uniform advertising regarding the Product across California and the U.S. The advertising was, by its very nature, unfair, deceptive, untrue, and misleading within the meaning of Cal. Bus. & Prof. Code § 17500, *et seq.* Such advertisements were intended to and likely did deceive the consuming public.

93. The above-described false, misleading, and deceptive advertising Defendants disseminated continue to have a likelihood to deceive in that Defendants failed to disclose that the Product contains substances that pose a significant risk to the health of consumers or correct their advertising.

94. Defendants continue to misrepresent to consumers that the Product is safe to swallow, natural, and toxin-free when, in fact, the Product is not.

95. In making and disseminating these statements, Defendants knew, or should have known, their advertisements were untrue and misleading in violation of California law. Plaintiffs and members of the California Subclass based their purchasing decisions on Defendants’ omitted material facts. The revenue attributable to the Product sold in those false and misleading advertisements likely amounts to millions of dollars. Plaintiff Watkins and members of the California Subclass were injured in fact and lost money and property as a result.





1 116. Defendants knew, or reasonably should have known, that their advertising of the  
2 Product is false. Defendants are manufacturers, marketers, and sellers of the Product and thereby  
3 are privy to the production, marketing, labeling processes that create and put the Product into  
4 commerce. Defendants were in the best position to know of, and test for, the quality and safety of  
5 the Product but nonetheless chose to continue their course of marketing.

6 117. Defendants' actions led to direct, foreseeable, and proximate injury to Plaintiff  
7 Accardi and the members of the New York Subclass.

8 118. As a consequence of Defendants' deceptive marketing scheme, Plaintiff Accardi  
9 and the other members of the New York Subclass suffered an ascertainable loss, insofar as they  
10 would not have purchased the Product had the truth been known or would not have paid the  
11 requested price of the Product; moreover, as a result of Defendants' conduct, Plaintiff Accardi and  
12 the other members of the New York Subclass received the Product at a lesser value than what they  
13 paid for.

14 119. By reason of the foregoing, Plaintiff Accardi and the New York Subclass members  
15 are entitled to (1) actual damages and/or statutory damages; (2) punitive damages; and (3)  
16 reasonable attorneys' fees, pursuant to NYGBL § 350-e(3).

17 **COUNT VI**  
18 **Fraud**  
**(On Behalf of the Nationwide Class)**

19 120. Plaintiffs Watkins and Accardi incorporate the foregoing allegations as if fully set  
20 forth herein.

21 121. Plaintiffs Watkins and Accardi bring this claim on behalf of themselves and on  
22 behalf of the Nationwide Class.

23 122. Plaintiffs bring this claim under the laws of the State of California.

24 123. At the time Plaintiffs and members of the Nationwide Class purchased the Product,  
25 Defendants did not disclose, but instead concealed and misrepresented, that the Product was not  
26 wholly made of natural ingredients, and thus unsafe to swallow because of the presence of PFAS  
27 chemicals.



1 135. Defendants willfully, falsely, and knowingly omitted material information and made  
2 material, affirmative misrepresentations regarding the quality and character of the Product as  
3 discussed throughout.

4 136. Rather than inform consumers of the truth regarding the Product, Defendants  
5 misrepresented the quality of the Product as discussed herein at the time of purchase.

6 137. Defendants made these material omissions and material, false misrepresentations to  
7 boost or maintain sales of the Product and to falsely assure purchasers of the Product that its  
8 Product is a safer, natural toothpaste. The omitted information and partial representations were  
9 material to consumers because the representations played a significant role in the value of the  
10 Product purchased.

11 138. Plaintiffs and Classes had no way of knowing that Defendant's representations were  
12 false and misleading.

13 139. Defendants had a duty to ensure the accuracy of the information regarding the  
14 Product because it was in exclusive knowledge of this information and the information pertains to  
15 matters of health, and Defendants did not fulfill that duty.

16 140. Defendants misrepresented material facts partly to pad and protect its profits, as it  
17 saw that profits and sales of the Product were essential for its continued growth and to maintain  
18 and grow its reputation as a premier manufacturer and seller of the Product. Such benefits came at  
19 the expense of Plaintiffs and the Nationwide Class.

20 141. Plaintiffs and the Nationwide Class Members were unaware of these material  
21 misrepresentations, and they would not have acted as they did had they known the truth. Plaintiffs'  
22 and Nationwide Class Members' actions were justified given Defendants' misrepresentations.  
23 Defendants were in the exclusive control of material facts and such facts were not known to the  
24 public.

25 142. Due to Defendants' misrepresentations, Plaintiffs and Nationwide Class sustained  
26 injury due to the purchase of the Product, which did not live up to its advertised representation.  
27 Plaintiffs and the Nationwide Class are entitled to recover full refunds for the Product they  
28 purchased due to Defendants' misrepresentations.

1 143. Defendants' acts were done maliciously, oppressively, deliberately, and with intent  
2 to defraud, and in reckless disregard of Plaintiffs' and Nationwide Class Members' rights and well-  
3 being, and in part to enrich itself at the expense of consumers. Defendants' acts were done to gain  
4 commercial advantage over competitors, and to drive consumers away from consideration of  
5 competing products.

6 **COUNT VIII**  
7 **Breach of Express Warranty**  
8 **(On Behalf of the Nationwide Class)**

9 144. Plaintiffs Watkins and Accardi incorporate the foregoing allegations as if fully set  
10 forth herein.

11 145. Plaintiffs Watkins and Accardi bring this claim individually on behalf of themselves  
12 and the Nationwide Class.

13 146. Plaintiffs bring this claim under the laws of the State of California.

14 147. Plaintiffs and Nationwide Class Members formed a contract with Defendants at the  
15 time Plaintiffs and Nationwide Class Members purchased the Product.

16 148. The terms of the contract include the promises and affirmations of fact made by  
17 Defendants on the Product packaging and through marketing and advertising, as described above.

18 149. This labeling, marketing, and advertising constitute express warranties and became  
19 part of the basis of the bargain and are part of the standardized contract between Plaintiffs and  
20 Nationwide Class Members.

21 150. As set forth above, Defendants purport through its advertising, labeling, marketing,  
22 and packaging, to create an express warranty that the Product is safe for their intended use.

23 151. Plaintiffs and Nationwide Class Members performed all conditions precedent to  
24 Defendants' liability under this contract when they purchased the Product.

25 152. Defendants breached express warranties about the Product and its qualities because,  
26 despite Defendants' warranties that the Product is made wholly from natural ingredients, is safe to  
27 swallow, and is free from toxic ingredients, the Product is objectively not safe for use because of  
28 the inclusion of harmful, toxic, PFAS chemicals. Thus, the Product does not conform to  
Defendants' affirmations and promises described above.







- b) For an order declaring that Defendants' conduct violates the statutes referenced herein;
- c) For an order finding in favor of Plaintiffs and the Classes on all counts asserted herein;
- d) For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- e) For prejudgment interest on all amounts awarded;
- f) For an order of restitution and all other forms of equitable monetary relief;
- g) For injunctive relief as pleaded or as the Court may deem proper;
- h) For an order awarding Plaintiffs and the Classes their reasonable attorneys' fees and expenses and costs of suit.

**JURY DEMAND**

Plaintiffs demand a trial by jury of all issues so triable.

Dated: June 11, 2024

**BURSOR & FISHER, P.A.**

By:     /s/ L. Timothy Fisher      
L. Timothy Fisher

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**CLRA VENUE DECLARATION**

I, L. Timothy Fisher, declare as follows:

1. I am an attorney at law licensed to practice in the State of California and a member of the bar of this Court. I am a partner at Bursor & Fisher, P.A., counsel of record for Plaintiffs. Plaintiff Watkins resides in Santa Cruz, California. Plaintiff Accardi resides in Staten Island, New York. I have personal knowledge of the facts set forth in this declaration and as called as a witness, I could and would completely testify thereto under oath.

2. The Complaint filed in this action is filed in the proper place for trial under Civil Code Section 1780(d) in that a substantial portion of the events alleged in the Complaint occurred in the Northern District of California, as Plaintiff Watkins purchased the Product from her home while in this District. Additionally, Defendant advertised, marketed, manufactured, distributed, and/or sold the Product at issue to Class Members in this District.

3. I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct, and that this declaration was executed at Walnut Creek, California this June 11, 2024.

/s/ L. Timothy Fisher  
L. Timothy Fisher

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [RiseWell Kids Mineral Toothpaste Contains High Levels of Forever Chemicals, New Class Action Lawsuit Says](#)

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