

NOV 04 2013

John A. Clarke, Executive Officer/Clerk

By **LA TRESE JOHNSON**, Deputy

1 Morse Mehrban (State Bar No. 169082)
LAW OFFICES OF MORSE MEHRBAN, A.P.C.
2 15233 Ventura Boulevard, Suite 1000
Sherman Oaks, California 91403-2251
3 Telephone: 424-274-1237
Facsimile: 206-202-3834
4 Email: Morse@Mehrban.com

5 Julie Mehrban (State Bar No. 271290)
MEHRBAN LAW CORPORATION, A.P.C.
6 15233 Ventura Boulevard, Suite 1000
Sherman Oaks, California 91403-2251
7 Telephone: 424-777-3319
Facsimile: 206-337-9532
8 Email: Julie@MehrbanLaw.com

Attorneys for Plaintiff,
9 Natisha Meloncon

10 SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES, STANLEY MOSK COURTHOUSE

11 NATISHA MELONCON, Individually, In the
Public Interest, and On Behalf of All Others
12 Similarly Situated,

Case No. **BC 526663**

[CLASS ACTION]

13 Plaintiff,

COMPLAINT FOR CIVIL PENALTIES,
RESTITUTION, AND DAMAGES FOR
VIOLATION OF THE CONSUMER LEGAL
REMEDIES ACT, THE UNFAIR
14 COMPETITION LAW, AND THE SAFE
15 DRINKING WATER AND TOXIC
16 ENFORCEMENT ACT OF 1986;
17 DECLARATION OF NATISHA MELONCON

14 v.

15 NATERRA INTERNATIONAL, INC. AND
16 DOES 1-10,

17 Defendants.

18 NATISHA MELONCON (hereinafter, "Plaintiff"), individually, in the public interest (first cause
19 of action), and on behalf of all others similarly situated (second and third causes of action), makes the
20 following allegations and claims against NATERRA INTERNATIONAL, INC. and DOES 1-10
(hereinafter, "Defendants"), upon personal knowledge, investigation of counsel, and information and
21 belief:

PARTIES

- 22 1. Plaintiff is a resident of the state of California and county of Los Angeles.
23 2. NATERRA INTERNATIONAL, INC. is a Texas corporation with its principal place of business
24 and corporate headquarters in Texas.

1 3. Does 1-10 are sued pursuant to Code of Civil Procedure section 474.

2 FRIST CAUSE OF ACTION AGAINST ALL DEFENDANTS FOR VIOLATION OF
3 THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

4 4. Each of the foregoing paragraphs is incorporated herein by reference.

5 5. It is unlawful for Defendants to expose people to chemicals known to the state of California to
6 cause cancer, birth defects, or other reproductive harm without a “clear and reasonable warning,”
7 unless they can prove that the exposure fits within a statutory exemption. (Health & Saf. Code, §
8 25249.6.)

9 6. On June 22, 2012, the state of California officially listed coconut oil diethanolamine condensate
10 (cocamide diethanolamine) also known as Cocamide DEA (hereinafter, the “Chemical”) as a
11 chemical known to cause cancer. (Cal. Code Regs., title 27, § 27001, subd. (b).)

12 7. On June 22, 2013, one year after it was listed as a chemical known to cause cancer, the Chemical
13 became subject to the clear and reasonable warning requirement. (Cal. Code Regs., title 27, §
14 27001, subd. (b); Health & Saf. Code, § 25249.10, subd. (b).)

15 8. Plaintiff has complied with provisions of Health and Safety Code section 25249.7, subdivision
16 (d)(1); California Code of Regulations, title 27, section 25903; and California Code of
17 Regulations, title 11, sections 3101- 3102.

18 9. Neither the Attorney General, any district attorney, any city attorney, nor any prosecutor has
19 commenced and is diligently prosecuting an action against the violation set forth in this cause of
20 action.

21 10. Since June 22, 2013, Defendants have been selling to consumers certain shampoos, bubble baths,
22 and soaps containing Cocamide DEA, including but not limited to “Kids Magic Calming
23 Lavender Bubble Bath” (hereinafter, the “Products”) without first warning those consumers that
24 the Products contain a chemical known to the state of California to cause cancer. The consumers
25 have been exposed to the Chemical through the foreseeable and intended use of the Products,
i.e., their application to the skin, hair, and scalp.

11. The route of exposure to the Chemical in the Products is dermal contact.

12. The exposures have been knowing and intentional because Defendants have known that the
Products have contained the Chemical.

23 \\\

24 \\\

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

2013 while they contained the Chemical without being warned that the Products contained a chemical known to the state of California to cause cancer.

- 25. The members of the class are so numerous that joinder of all members is impracticable. While the exact number of class members is unknown, such information can be ascertained through discovery into Defendants' records. The number is estimated to exceed 500.
- 26. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all members is impracticable, the likelihood of individual class members prosecuting separate claims is remote and individual class members do not have a significant interest in individually controlling the prosecution of separate actions. Relief concerning Plaintiff's rights and with respect to the class as a whole would be appropriate. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.
- 27. There is a well-defined community of interest among the members of the class because common questions of law and fact predominate. Common questions of law and fact exist as to all members of the class and predominate over any questions affecting solely individual members of the class. These common questions include, but are not limited to, whether Defendants have sold the Products to California consumers since June 22, 2013 while they contained the Chemical without warnings that that the Products contained a chemical known to the state of California to cause cancer; whether consumers who purchased the Products are entitled to restitution; whether consumers who purchased the Products are entitled to statutory minimum damages consisting of \$1,000 for each of the Products they purchased; and whether Defendants' conduct constitutes violation of the Unfair Competition Law and the Consumer Legal Remedies Act.
- 28. Plaintiff's claims are typical of those of other class members because Plaintiff, like every other class member, was exposed to virtually identical conduct and is entitled to the same remedies pursuant to the same laws.
- 29. Plaintiff can fairly and adequately represent the interests of the class. Plaintiff has no conflicts of interest with other class members. Plaintiff has retained competent counsel experienced in civil litigation and class actions.

22 \\\
23 \\\
24 \\\

1 PRAYER

2 Wherefore, Plaintiff prays for judgment against Defendants as follows:

3 On the First Cause of Action

4 For civil penalties against each Defendant in the amount of \$2,500 per day for each of the
5 Products sold in California from June 22, 2013 until such time that Defendants gave purchasers thereof
6 warning that using the Products would expose them to a chemical known to the state of California to
7 cause cancer or until such time that the Products ceased to contain the Chemical.

8 On the Second Cause of Action

9 For restitution consisting of all sums earned by Defendants from the Products' sales to California
10 consumers from June 22, 2013 until such time that Defendants gave purchasers thereof warning that
11 using the Products would expose them to a chemical known to the state of California to cause cancer or
12 until such time that the Products ceased to contain the Chemical.

13 On the Third Cause of Action

- 14 A. For restitution consisting of all sums earned by Defendants from the Products' sales to California
15 consumers from June 22, 2013 until such time that Defendants gave purchasers thereof warning
16 that using the Products would expose them to a chemical known to the state of California to
17 cause cancer or until such time that the Products ceased to contain the Chemical.
- 18 B. Minimum statutory damages in the amount of \$1,000 for each of the Products sold in California
19 from June 22, 2013 until such time that Defendants gave purchasers thereof warning that using
20 the Products would expose them to a chemical known to the state of California to cause cancer or
21 until such time that the Products ceased to contain the Chemical.


22 On All Causes of Action

23 For an order certifying this case as a class action, reasonable attorney's fees, costs, prejudgment
24 interest, and such relief as the Court may deem just and proper.

25 Dated: 10/25/2013

LAW OFFICES OF MORSE MEHRBAN, A.P.C.

By:



Morse Mehrban
Attorney for Plaintiff,
Natisha Meloncon

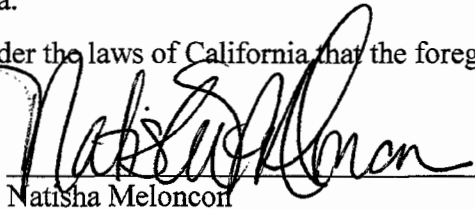
DECLARATION OF NATISHA MELONCON

I, the undersigned, declare:

1. I have personal knowledge of the following and could and would competently and accurately testify thereto, if so required. I am Plaintiff in the above-entitled action and submit this declaration pursuant to Civil Code section 1780(d) in support of my complaint.
2. This action has been commenced in Los Angeles county as a proper place for the trial of the action because it is the county where the transaction that is the basis for my Consumer Legal Remedies Act claim occurred.
3. More specifically, I purchased one of Defendants' products that are the subject of this action in the county of Los Angeles, California.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

Dated: 10/25/2013



Natisha Meloncon

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