

1 Naomi Spector (SBN 222573)
2 Email: nspector@kamberlaw.com
3 **KAMBERLAW, LLP**
4 1501 San Elijo Road South, Ste.104
5 San Marcos, CA 92078
6 Phone: 310.400.1053
7 Fax: 212.202.6364

8 Counsel for Plaintiff Lauren Souter, and the
9 putative Classes

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 **LAUREN SOUTER, individually,**
13 **and on behalf of others similarly**
14 **situated,**

15 **Plaintiff,**

16 **vs.**

17 **EDGEWELL PERSONAL CARE**
18 **COMPANY, EDGEWELL**
19 **PERSONAL CARE BRANDS LLC,**
20 **and EDGEWELL PERSONAL**
21 **CARE, LLC,**

22 **Defendants.**

23 **CASE NO. '20CV1486 CAB BLM**

24 **CLASS ACTION COMPLAINT FOR:**

- 25 **1. UNFAIR AND UNLAWFUL**
- 26 **BUSINESS ACTS AND PRACTICES**
- 27 **(CAL. BUS & PROF. CODE §17200 ET**
- 28 **SEQ.);**
- 2. DECEPTIVE ADVERTISING**
- PRACTICES (CAL. BUS & PROF.**
- CODE §§ 17500, ET SEQ.);**
- 3. CONSUMER LEGAL REMEDIES**
- ACT (CAL. CIV. CODE § 1750, ET**
- SEQ.);**
- 4. BREACH OF EXPRESS**
- WARRANTY; AND**
- 5. QUASI-CONTRACT.**

DEMAND FOR JURY TRIAL

25 Plaintiff Lauren Souter on behalf of herself and others similarly situated, by and
26 through her undersigned counsel, hereby files this Class Action Complaint against
27 Defendants Edgewell Personal Care Company, Edgewell Personal Care Brands, LLC,
28 and Edgewell Personal Care, LLC (collectively “Defendants”) and states as follows:

NATURE OF THE ACTION

1
2 1. This is a case about holding the manufacturers of Wet Ones hand wipes¹
3 responsible for truthfully and accurately labeling their Products, which are used and
4 relied on by consumers to keep themselves and their families safe from germs.

5 2. Specifically, Plaintiff alleges that Defendants’ label representations
6 concerning the efficacy and skin safety of the Products are false and misleading,
7 including Defendants’ representations that the Products “Kill[] 99.99% of Germs” and
8 that they are hypoallergenic and gentle on skin. Plaintiff also asserts that Defendants
9 omit critical information concerning the limitations of the Products to “kill germs.”

10 3. “Germs” is a commonly understood term as an organism that causes
11 disease.

12 4. Contrary to Defendants’ material representations, however, the Products do
13 not “kill” 99.99% of the organisms that cause disease.

14 5. As described in detail herein, the active ingredient in the Products,
15 benzalkonium chloride (“BAC”), is ineffective against non-enveloped viruses, certain
16 gram negative bacteria, and spores. In addition, the concentration of BAC in the
17 Products and manner of application render the Products ineffective to “kill” certain
18 “germs.”

19 6. In the absence of truthful disclosures concerning the Products, consumers
20 are falsely led to believe that they are effective—as Defendants’ prominently
21 represent—against “99.99% of Germs.” If the Products were accurately labeled,
22 however, consumers would know when they are ineffective and when they should seek
23 alternative hand cleansing methods.

24
25
26 ¹ Wet Ones wipes are sold in a variety of sizes, scents and variations, including Wet
27 Ones canisters, travel packs, singles and big ones (collectively, the “Products”). This
28 action includes in the definition of Products all sizes, scents and variations of the
Products that bear the “Kills 99.99% of Germs” representation.

1 7. Defendants’ skin safety representations, including that the Products are
2 “[h]ypoallergenic” and “tough on dirt and germs, yet gentle on skin” are also false and
3 misleading because the Products contain numerous known irritants, allergens and toxins.

4 8. BAC, for example, is an established skin irritant and has been found to
5 cause allergic contact dermatitis.

6 9. In addition, the third most prevalent inactive ingredient in the Products,
7 phenoxyethanol, is a recognized allergen and toxin. The United States Food and Drug
8 Administration (“FDA”) has stated that phenoxyethanol can depress the central nervous
9 system in infants. A French medical agency cautioned consumers not to use wipes
10 containing phenoxyethanol on children under the age of three because of concerns
11 related to reproductive and developmental toxicity. The Product directions, however,
12 include use instructions for children 2 years and older.

13 10. Plaintiff purchased the Products under the reasonable belief that they were
14 accurately represented, including that the label representations were truthful. Plaintiff
15 suffered damage, as described herein.

16 11. Plaintiff brings this action individually and on behalf of those similarly
17 situated and seeks to represent a Nationwide Class and California Subclass (defined
18 *infra*). Plaintiff seeks damages, interest thereon, reasonable attorneys’ fees and costs,
19 restitution, equitable relief, and disgorgement of all benefits Defendants have enjoyed
20 from their unlawful and/or deceptive business practices, as detailed herein. In addition,
21 Plaintiff seeks injunctive relief to stop Defendants’ unlawful conduct in the labeling and
22 marketing of the Products. Plaintiff makes these allegations based on her personal
23 knowledge as to herself and her own acts and observations and, otherwise, on
24 information and belief based on investigation of counsel.

25 **JURISDICTION AND VENUE**

26 12. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §
27 1332(d) because this is a class action in which: (1) there are over 100 members in the
28 proposed classes; (2) members of the proposed classes have a different citizenship from

1 Defendants; and (3) the claims of the proposed class members exceed \$5,000,000 in the
2 aggregate.

3 13. This Court has personal jurisdiction over Defendants because Defendants'
4 contacts with the forum are continuous and substantial, and Defendants intentionally
5 availed themselves of the markets within California through their sale and distribution
6 of the Products to California consumers and through the privilege of conducting business
7 in California.

8 14. Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because
9 Defendants engage in continuous and systematic business activities within the State of
10 California. Moreover, a substantial part of the events and omissions giving rise to the
11 claims alleged herein occurred in this District. *See also* Declaration of Lauren Souter
12 Regarding Venue Pursuant to Cal. Civ. Code § 1780(d), attached hereto as Exhibit A.

13 PARTIES

14 15. Plaintiff Lauren Souter is a resident of San Diego, California, who
15 purchased the Products during the class period, as described herein. Plaintiff's claim is
16 typical of all Class members in this regard. In addition, the advertising and labeling on
17 the package of the Products purchased by Plaintiff, including the Products' label
18 representations, is typical of the advertising, labeling and representation of the Products
19 purchased by members of the Classes.

20 16. Defendant Edgewell Personal Care Company is a Missouri corporation
21 with its principal place of business in Shelton, CT. Defendant and its agents
22 manufacture, market, distribute, label, promote, advertise and sell the Products. At all
23 times material hereto Defendant was conducting business in the United States, including
24 in California, through its services as a manufacturer and supplier to various stores in
25 California and by, among other things, maintaining agents for the customary transaction
26 of business in California.

27 17. Defendant Edgewell Personal Care Brands, LLC is a Delaware Limited
28 Liability Company with its principal place of business in Shelton, CT. Defendant and

1 its agents manufacture, market, distribute, label, promote, advertise and sell the
2 Products. At all times material hereto Defendant was conducting business in the United
3 States, including in California, through its services as a manufacturer and supplier to
4 various stores in California and by, among other things, maintaining agents for the
5 customary transaction of business in California.

6 18. Defendant Edgewell Personal Care, LLC is a Delaware Limited Liability
7 Company with its principal place of business in Shelton, CT. Defendant and its
8 agents manufacture, market, distribute, label, promote, advertise and sell the Products.
9 At all times material hereto Defendant was conducting business in the United States,
10 including in California, through its services as a manufacturer and supplier to various
11 stores in California and by, among other things, maintaining agents for the customary
12 transaction of business in California.

13 19. Defendants and their agents promoted, marketed and sold the Products at
14 issue in this jurisdiction and in this judicial district. The unfair, unlawful, deceptive, and
15 misleading advertising and labeling of the Products was prepared and/or approved by
16 Defendants and their agents, and was disseminated by Defendants and their agents
17 through labeling and advertising containing the misrepresentations and omissions
18 alleged herein.

19 **FACTUAL ALLEGATIONS**

20 **A. Defendants Falsely Label and Advertise the Products as Killing**
21 **99.99% of Germs**

22 20. Defendants manufacture, label, market, promote, advertise, and sell the
23 Products.

24 21. The following images depict the front and back panel representations on the
25 Products:
26
27
28

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