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8 Attorneys for Plaintiff and the Class

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 27 2012

A. Torres *[Signature]*

ELO

MAR 27 2012

9/25
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BY FAX
ORIGINAL

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF RIVERSIDE**

12 BRAD POST, individually, and on behalf of all
13 others similarly situated;

14 Plaintiffs,

15 vs.

16 HOMEDICS, INC., a Michigan corporation; and
DOES 1-20, Inclusive,

17 Defendants.

Case No.: **RIC 1204417**

Assigned for all purposes to:
Dept.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

18
19 **I. INTRODUCTION**

20 Defendant HOMEDICS, INC. ("Defendant") has defrauded Californians by making blatant and
21 provably false claims to market, advertise, and distribute a line of products labeled and advertised as
22 possessing "Magnetic Wave Technology." Defendant falsely implies that the magnets have a
23 therapeutic value, when in reality there is no scientific evidence that the magnets are of any therapeutic
24 or any other health-related value.

25 Plaintiff BRAD POST, on behalf of himself and others similarly situated (collectively the
26 "Class") brings this lawsuit to recover the many millions of dollars of profits generated by this false
27 and misleading claim.
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II. THE PARTIES

A. Plaintiffs

1. Plaintiff BRAD POST is a resident of Riverside County, California who purchased Homedics TheraP Magnetic Knee Wrap in Riverside County.

B. Defendant

2. Defendant is the manufacturer and distributor of the TheraP Magnetic Wave Technology product line (the "Products"). The Products include the Homedics TheraP Magnetic Knee Wrap, Ankle Wrap, Elbow Wrap, and Wrist Wrap. Plaintiff is informed and believes that Defendant is a Michigan corporation that does business in California.

3. Plaintiffs do not know the true names or capacities of the persons or entities sued herein as DOES 1 to 250, inclusive, and therefore sue such defendants by such fictitious names. Plaintiffs are informed and believe and thereon allege that each of the DOE defendants is in some manner legally responsible for the damages suffered by Plaintiffs and the members of the class as alleged herein. Plaintiffs will amend this Complaint to set forth the true names and capacities of these defendants when they have been ascertained, along with appropriate charging allegations, as may be necessary.

III. JURISDICTION AND VENUE

4. The Court has jurisdiction over all causes of action asserted herein.

5. Venue is proper in this Court because Defendant has received substantial compensation from sales in this County. Specifically, Defendant knowingly engages in activities directed at consumers in this County and Defendant obtains substantial benefits from its scheme perpetrated in this County. Plaintiff has filed concurrently herewith the declaration of venue required by Civil Code Section 1780(d).

6. Defendant and other out-of-state participants can be brought before this Court pursuant to California's "long-arm" jurisdictional statute.

IV. FACTS

7. Defendant markets, advertises, and distributes the Products.

8. Defendant has placed the Products for sale to the general public and labeled them in such a way that they are misleading to the public. Copies of screen shots taken from Defendant's

1 website regarding the Products are attached as Exhibit One. Defendant has falsely advertised that the
2 TheraP Knee Wrap product contains the “Power of Magnets” and uses “Magnetic Wave Therapy” and
3 that the product provides “3 in 1 relief: Durable knee brace features 8 powerful neodymium magnets
4 and Hot/cold packs offer 2 options: heat for periodic treatment of injuries and cold for strains, sprains
5 and bruises.” See Exhibit One.

6 9. Defendant has falsely advertised that the TheraP Wrist Wrap, Ankle Wrap, and Elbow
7 Wrap products have “Magnetic Wave Technology.” Defendant has also falsely advertised that the
8 Ankle Wrap and Elbow Wrap products provide “3 in 1 relief” and “[feature] 8 powerful neodymium
9 magnets and Hot/cold packs offer[ing] 2 options: heat for periodic treatment of injuries and cold for
10 strains, sprains and bruises.” See Exhibit One.

11 10. Plaintiff purchased Defendant’s Product because of the Products’ magnet therapy
12 claims, used the Product as directed, and the Product was useless to him.

13 11. Defendant falsely implies that the magnets included in the Products have an impact on
14 relieving pain in various parts of a person’s body, and makes unsubstantiated claims regarding
15 scientific research on the Products.

16 12. The belief that magnets can be therapeutic for treating pain is commonly known as
17 “magnetic therapy.”

18 13. The National Science Foundation has classified “magnetic therapy” as pseudoscience.¹
19 According to the National Science Foundation, pseudoscience is defined as “claims presented so that
20 they appear to be scientific even though they lack supporting evidence and plausibility.”²

21 14. According to the National Science Foundation, there is no scientific basis for any belief
22 that “magnetic therapy” is effective in treating pain or any other ailment, and has concluded that
23 “magnetic therapy” has no scientific foundation. Furthermore, the National Science Foundation
24 conducted a survey and found that the less education a person has, the more likely they are to wrongly
25 believe that there is any scientific foundation for “magnetic therapy.”³

26
27 ¹ Science and Technology: Public Attitudes and Public Understanding; Science Fiction and Pseudoscience, Chpt. 7 (2002)
available at <http://www.nsf.gov/statistics/seind02/c7/c7s5.htm>.

28 ² *Id.*

³ *Id.*

1 15. The British Medical Journal ("BMJ") has also weighed in on magnet therapy and has
2 concluded that it's nothing but "Extraordinary claims, [and] no proved benefits."⁴ It was further noted
3 by the BMJ that annual sales for such products exceed *one billion dollars a year* globally based on the
4 falsely alleged healing properties of magnets.⁵ Perhaps even more importantly it was concluded by the
5 BMJ that all allegedly "controlled" studies on magnet therapies are inherently suspect because of the
6 inability to truly control and blind studies on such products.⁶

7 16. Defendant falsely represents that the Products have characteristics, uses and benefits
8 which they do not have, specifically the ability to provide pain relief as a result of magnets in the
9 Products. Defendant also falsely represents that the Products are of a particular, standard, quality, or
10 grade.

11 17. Defendant fraudulently induces customers to purchase the Products by causing them to
12 believe that the included magnets have therapeutic properties that they do not have.

13 V. CLASS ACTION ALLEGATIONS

14 18. Plaintiff brings this class action for damages and other monetary relief on behalf of the
15 following class:

16 "All persons within California who purchased any of Defendant's TheraP Magnetic Wave
17 Technology Products for personal use at any time during the four years preceding the filing
18 of this Complaint through the date of trial in this action" (the "Class").⁷

19 19. Excluded from the Class are governmental entities, Defendant, any entity in which
20 Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal
21 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from
22 the Class is any judge, justice, or judicial officer presiding over this matter and the members of their
23 immediate families and judicial staff.

24
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26 ⁴ "Magnet Therapy," British Medical Journal Editorial (5 January 2006) available at
<http://www.bmj.com/content/332/7532/4.full?ehom>.

27 ⁵ *Id.*

27 ⁶ *Id.*

28 ⁷ Excluded from the class are those who purchased Defendant's products in San Diego County. Also excluded from the class are those who purchased Defendant's "Homedics TheraP Magnetic Back Support."

1 20. The proposed Class is so numerous that individual joinder of all its members is
2 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiffs believe that
3 the total number of Class members is at least in the tens of thousands and members of the Class are
4 numerous and geographically dispersed across California. While the exact number and identifies of
5 the Class members are unknown at this time, such information can be ascertained through appropriate
6 investigation and discovery. The disposition of the Class members in a single class action will provide
7 substantial benefits to all parties and to the Court.

8 21. There is a well-defined community of interest in the questions of law and fact involved
9 affecting the Class and these common questions predominate over any questions that may affect
10 individual Class members. Common questions of fact and law include, but are not limited to, the
11 following:

- 12 a. Whether Defendant's advertisements that the Products provide pain relief as
13 a result of the use of magnets are false;
- 14 b. Whether Defendant's advertisements that the Products provide pain relief as
15 a result of the use of magnets are misleading to a reasonable consumer;
- 16 c. Whether Defendant has adequate substantiation to support the advertisements
17 that the Products provide pain relief as a result of the magnets;
- 18 d. When and to what extent did Defendant know that the advertisements
19 indicating the Products provide pain relief were false and misleading;
- 20 e. Whether Defendant continued to sell the Products after knowing the
21 preceding facts;
- 22 f. Whether Defendant's conduct constitutes a violation of the Consumers Legal
23 Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);
- 24 g. Whether Defendant's conduct constitutes a violation of California's false
25 advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);
- 26 h. Whether Defendant's conduct constitutes an unfair, unlawful, and/or
27 fraudulent business practice in violation of California's unfair competition
28 law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);

1 i. Whether Plaintiff and Class members are entitled to compensatory damages,
2 and if so, the nature of such damages; and

3 j. Whether Plaintiff and Class members are entitled to restitutionary relief.

4 22. Plaintiffs and the members of the Class suffered harm as a result of Defendant's
5 unlawful and wrongful conduct. A class action is superior to other available methods for the fair and
6 efficient adjudication of the present controversy. Individual joinder of all members of the class is
7 impracticable. Even if individual class members had the resources to pursue individual litigation, it
8 would be unduly burdensome to the courts in which the individual litigation would proceed.
9 Individual litigation magnifies the delay and expense to all parties in the court system in resolving the
10 controversies engendered by a defendant's common course of conduct. The class action device allows
11 a single court to provide the benefits of unitary adjudication, judicial economy, and the fair and
12 efficient handling of all class members' claims in a single forum. The conduct of this action as a class
13 action conserves the resources of the parties and of the judicial system and protects the rights of the
14 class members. Furthermore, for many, if not most, a class action is the only feasible mechanism that
15 allows an opportunity for legal redress and justice.

16 23. Adjudication of individual class members' claims with respect to the Defendant would,
17 as a practical matter, be dispositive of the interests of other members not parties to the adjudication,
18 and could substantially impair or impede the ability of other class members to protect their interests.

19 **VI. CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

21 **VIOLATION OF CALIFORNIA LEGAL REMEDIES ACT**

22 **(By Plaintiffs and On Behalf of the Class as against All Defendants)**

23 24. Plaintiff incorporates by this reference the preceding allegations as if fully set forth
24 herein.

25 25. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has
26 lost money or property as a result of Defendant's actions as set forth herein. Specifically, prior to the
27 filing of this action, Plaintiff purchased Products for his own personal use. In so doing, he reviewed,
28 believed, and relied upon each of the preceding false marketing claims. Plaintiff used the Products as

1 directed, but they did not work as advertised. Plaintiff did not experience the promised benefit of pain
2 relief as a result of the magnets. The Products provided no additional value to Plaintiff beyond less
3 expensive products that do not employ the fraudulent use of magnets.

4 26. Prior to filing this action, Plaintiff's counsel mailed to Defendant, by certified mail,
5 return receipt requested, the written notice required by Civil Code Section 1782(a). A copy of the
6 letter is attached hereto as Exhibit Two. While Defendant responded to Exhibit Two, Defendant has
7 not engaged in any appropriate correction, repair, replacement, or other remedy, or agreed to give
8 same within a reasonable time. Defendant has claimed it will offer consumers refunds on terms that
9 are suitable to it alone, Defendant has not indicated it will actually give refunds to all of its consumers,
10 and Defendant has not indicated a reasonable time in which it will accomplish giving refunds.

11 27. Plaintiff has concurrently filed herewith the declaration of venue required by Civil
12 Code Section 1780(d).

13 28. Defendant's wrongful business practices constituted, and constitute, a continuing
14 course of conduct in violation of the California Consumer Legal Remedies Act since Defendant is still
15 representing that its Products have characteristics and abilities which are false and misleading, and
16 have injured Plaintiff and the Class.

17 29. Pursuant to Section 1770 of the California Civil Code, Plaintiff and the Class seek an
18 Order of this Court for any and all legal remedies available under the statute.

19 30. Plaintiff and the Class seek:

- 20 (a) actual damages pursuant to Civil Code Section 1780(a)(1);
21 (b) punitive damages pursuant to California Civil Code Section 1780(a)(4) due
22 to the fraudulent, malicious, and willful nature of Defendant's conduct;
23 (c) statutory damages of no less than \$1,000 per class member pursuant to
24 California Civil Code Section 1780(a)(1);
25 (d) statutory damages of \$5,000 for each class member who is a senior citizen as
26 defined by California Civil Code Section 1761(f) or a disabled person as
27 defined by California Civil Code Section 1761(g) and who has suffered
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- 1 substantial physical, emotional, or economic damages pursuant to California
2 Civil Code Section 1780(b)(1); and
3 (e) any other equitable or legal relief that the Court deems proper pursuant to
4 California Civil Code Section 1780(a)(5).

5 **SECOND CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**

7 **CODE SECTION 17200 ET SEQ.**

8 **(By Plaintiff and on Behalf of the Class Against All Defendants)**

9 31. Plaintiff incorporates by this reference the preceding allegations as if fully set forth
10 herein.

11 32. As alleged hereinabove, Plaintiff has standing to pursue this claim as Plaintiff has
12 suffered injury in fact and has lost money or property as a result of Defendant's actions as set forth
13 herein. Plaintiff purchased Products for his own personal use. In doing so, he reviewed, believed, and
14 relied upon each of the preceding marketing claims. As detailed above, the marketing for the Products
15 was misleading and Defendant falsely asserted that the magnets in the Products have the ability to
16 provide pain relief.

17 33. Defendant's actions as alleged in this Complaint constitute an unfair or deceptive
18 business practice within the meaning of California Business and Professions Code section 17200 in
19 that Defendant's actions are unfair, unlawful, and fraudulent, and because Defendant has made unfair,
20 deceptive, untrue or misleading statements in advertising media, including the Internet, within the
21 meaning of California Business and Professions Code sections 17500, et seq.

22 34. Defendant's business practices, as alleged herein, are unfair because they offend
23 established public policy and/or are immoral, unethical, oppressive, unscrupulous and/or substantially
24 injurious to consumers in that consumers are potentially misled by the claims made with respect to the
25 Products as set forth herein.

26 35. Defendant's business practices as alleged herein are unlawful because the conduct
27 constitutes false marketing and advertising and other causes of action herein.
28

1 36. Defendant's business practices as alleged herein are fraudulent because they are likely
2 to deceive consumers into believing that the Products have properties that they in fact do not have.

3 37. Defendant's wrongful business practices constituted, and constitute, a continuing
4 course of conduct of unfair competition since Defendant is marketing and selling its Products in a
5 manner likely to deceive the public.

6 38. Defendant's wrongful business practices have caused injury to Plaintiffs and the Class.

7 39. Plaintiff and the Class also seek an Order requiring Defendant to make full restitution
8 of all moneys it wrongfully obtained from Plaintiffs and the Class.

9 **THIRD CAUSE OF ACTION**

10 **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW**

11 **(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)**

12 **(By Plaintiff and on Behalf of the Class Against All Defendants)**

13 40. Plaintiff incorporates by this reference the allegations contained in the paragraphs
14 above as if fully set forth herein.

15 41. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury
16 in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff
17 purchased the Products in reliance on Defendant's marketing claims. Plaintiff used the Products as
18 directed, but they did not work as advertised and did not provide any of the promised benefits.

19 42. Defendant has engaged in false advertising as it has disseminated false and/or
20 misleading representations about its Products.

21 43. Defendant knew or should have known by exercising reasonable care that its
22 representations were false and/or misleading. During the Class Period, Defendant engaged in false
23 advertising in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by misrepresenting in its
24 advertising and marketing of its Products to Plaintiff, Class members, and the consuming public that
25 its Products were effective treatments for pain.

26 44. Each of the aforementioned representations alleged in this Complaint was false and
27 misleading because the Products do not cure, remedy or treat any symptoms claimed by Defendant.
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in this action.

Dated: March 27, 2012

NEWPORT TRIAL GROUP
A Professional Corporation
Scott J. Ferrell

By: 
Scott J. Ferrell

Attorneys for Plaintiff and the Class

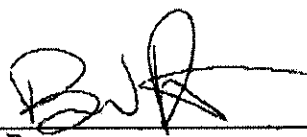
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I, Bradley Post, declare as follows:

1. I am a Plaintiff in this action, and am a citizen of the State of California. I have personal knowledge of the facts herein and, if called as a witness, I could and would testify competently thereto.

2. The Complaint in this action, filed concurrently with this Declaration, is filed in the proper place for trial under Civil Code Section 1780(d) in that Riverside County is a county in which Defendants are doing business.

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



Bradley Post

EXHIBIT 1

HoMedics Home

Wraps

Therap

Health & Diagnostics

Elbow Wrap

Therap™ Elbow Wrap

Model: MW-EHC

Elbow wrap with 3 in 1 therapy options: Heat

Therapy, Cold Therapy, or Magnetic Wave

Technology.

\$19.99

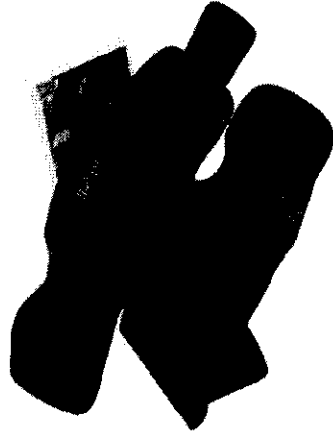
Availability: In stock

add to wishlist

Be the first to review this product

tell a friend

Find it in a Store



Enter your zip code to find retailers near you.

Zip Code:

Find

Support Information

- Instruction book (In English and Spanish)
- Warranty

Features

- 3 in 1 relief: Durable elbow brace features 8 powerful neodymium magnets and Hot/cold packs offer 2 options: heat for periodic treatment of injuries and cold for strains, sprains and bruises
- Comfortable and easy to strap on so you can wear it anywhere

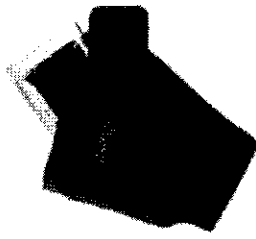


2.

MW-EHC

Therap™ Elbow Wrap

\$19.99



3.

MW-AHC

Therap™ Ankle Wrap

\$19.99



4.

MW-KHC

TheraP™ Knee Wrap

\$19.99



1.

MW-WHC

TheraP™ Wrist Wrap

\$9.99

5 Item(s)

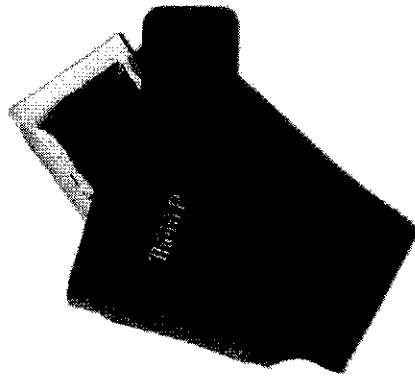
View as: **Grid** List

Show per page

Therap™ Ankle Wrap

Model: MW-AHC

Ankle wrap with 3 in 1 therapy options: Heat Therapy, Cold Therapy, or Magnetic Wave Technology.



\$19.99

Availability: In stock

add to wishlist

Be the first to review this product

tell a friend

Find it in a Store

Enter your zip code to find retailers near you.

Zip Code:

Find

Support Information

- Instruction book (in English and Spanish)
- Warranty

Features

- 3 in 1 relief: Durable ankle brace features 8 powerful neodymium magnets and Hot/cold packs offer 2 options: heat for periodic treatment of injuries and cold for strains, sprains and bruises
- Comfortable and easy to strap on so you can wear it anywhere

HoMedics Home
Wraps
Therap
Health & Diagnostics
Knee Wrap

Therap™ Knee Wrap

Model: MW-KHC

Knee wrap with 3 in 1 therapy options: Heat Therapy, Cold Therapy, or Magnetic Wave Technology.

\$19.99

Availability: In stock

add to wishlist

Be the first to review this product

tell a friend



Find it in a Store

Enter your zip code to find retailers near you.

Zip Code:

Support Information

- Instruction book (in English and Spanish)
- Warranty

Features

- 3 in 1 relief: Durable knee brace features 8 powerful neodymium magnets and Hot/cold packs offer 2 options: heat for periodic treatment of injuries and cold for strains, sprains and bruises
- Comfortable and easy to strap on so you can wear it anywhere

HoMedics Home
Wraps
Therap
™
Wrist Wrap
Health & Diagnostics

Therap™ Wrist Wrap

Model: MW-WHC

Wrist wrap with 3 in 1 therapy options: Heat Therapy, Cold Therapy, or Magnetic Wave Technology.



\$9.99

Availability: In stock

add to wishlist

Be the first to review this product

tell a friend

Find it in a Store

Enter your zip code to find retailers near you.

Zip Code:

Find

Support Information

- Instruction book (in English and Spanish)
- Warranty

Features

- Wrist wrap with 3 in 1 therapy options: Heat Therapy, Cold Therapy, or Magnetic Wave Technology.
- Comfortable and easy to strap on so you can wear it anywhere

EXHIBIT 2

January 20, 2011

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

HoMedics
3000 Pontiac Trail
Commerce Township, MI 48390
Attn: Chief Executive Officer

Re: Ongoing Violations of California Consumer Legal Remedies Act

Ladies and Gentlemen:

Please give this letter your complete and immediate attention.

I. Introduction

I am writing on behalf of Brad Post, as well as a class of similarly situated persons (excluding only those individuals who are members of the class already certified in *Gibson v. Homedics*), to advise you that you have violated and continue to violate the California Consumer Legal Remedies Act.

II. Factual Background

Defendant profits from the marketing, advertising, and distribution of several products labeled and advertised as possessing “Magnetic Wave Technology.” Defendant falsely implies that the magnets included in the products have a therapeutic value, when in reality there is no scientific evidence that the magnets are of any therapeutic or any other health-related value.

III. Summary of Violations

Defendant’s conduct violates the California Consumer Legal Remedies Act by, without limitation:

January 20, 2011

Page 2

1. Falsely representing that the products have characteristics, uses and benefits which they do not;
2. Falsely representing that the products are of a particular standard, quality, or grade; and
3. Labeling the products in a way that is misleading in a material respect.

IV. Demand for Relief

We intend to file suit seeking individual, representative, and class relief unless, within the time frame referenced above, Defendant:

1. Agrees to irrevocably stop all false and misleading advertising of the products; and
2. Identifies all consumers who have purchased the products within the applicable limitations period and provides such consumers with appropriate refund.

Very truly yours,

NEWPORT TRIAL GROUP
A Professional Corporation



Scott J. Ferrell

SJF/cw

cc: David J. Vendler, Esq. (via certified mail – return receipt requested)

BY FAX

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Scott J. Ferrell (SBN 202091)
 NEWPORT TRIAL GROUP
 895 Dove Street, Suite 425, Newport Beach, CA 92660

TELEPHONE NO.: 949-706-6464 FAX NO.: 949-706-6469

ATTORNEY FOR (Name): Plaintiff and the Class

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside Superior Court

STREET ADDRESS: 4050 Main Street

MAILING ADDRESS:

CITY AND ZIP CODE: Riverside 92501

BRANCH NAME: Historical Courthouse

FOR COURT USE ONLY

CASE NAME:
 Post v Homedics, et al.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
RIC 1204417

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/WD (23)</p> <p>Non-PI/PD/WD (Other) Tort</p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p>	<p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input checked="" type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p>
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Three
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 27, 2012
 Scott J. Ferrell

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract (*not unlawful detainer or wrongful eviction*)
- Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (*non-harassment*)
 - Mechanics Lien
 - Other Commercial Complaint Case (*non-tort/non-complex*)
 - Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
 - Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF ASSIGNMENT TO DEPARTMENT FOR CASE MANAGEMENT PURPOSES
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

POST VS HOMEDICS INC

CASE NO. RIC 1204417

This case is assigned to the Honorable Judge John W Vineyard
in Department 07 for case management purposes.
The Case Management Conference is scheduled for 09/25/12
at 8:30 in Department 07.

Case is Assigned to Department 02 for Law and Motion Purposes.

The plaintiff/cross-complainant shall serve a copy of this notice on
all defendants/cross-defendants who are named or added to the
complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6(a)(2) shall be
filed in accordance with that section.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of
California, County of Riverside, and that I am not a party to this
action or proceeding. In my capacity, I am familiar with the practices
and procedures used in connection with the mailing of correspondence.
Such correspondence is deposited in the outgoing mail of the Superior
Court. Outgoing mail is delivered to and mailed by the United States
Postal Service, postage prepaid, the same day in the ordinary course
of business. I certify that I served a copy of the foregoing
notice on this date, by depositing said copy as stated above.

Dated: 03/27/12

Court Executive Officer/Clerk

By:


ADRIANA I TORRES, Deputy Clerk

ac:cmc;cmcb;cmch;cmct;cmcc
cmccb;cmcch;cmcct