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8 **UNITED STATES DISTRICT COURT**  
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **AMY FRIEDMAN and JUDI**  
 11 **MILLER, on behalf of themselves**  
 12 **and all others similarly situated,**

13 **Plaintiffs,**

14 **v.**

15 **GUTHY-RENKER LLC, and WEN**  
 16 **BY CHAZ DEAN INC.,**

17 **Defendants.**

**Case No.: 2:14-cv-06009**

**SECOND AMENDED CLASS**  
**ACTION COMPLAINT FOR:**

1. **BREACH OF WARRANTY**
2. **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, Business & Professions Code §17200 et seq.**
3. **VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, Business & Professions Code §17500 et seq.**
4. **BREACH OF CONTRACT**
5. **NEGLIGENCE—FAILURE TO WARN;**
6. **NEGLIGENCE—FAILURE TO TEST; and**
7. **STRICT PRODUCTS LIABILITY.**

**DEMAND FOR JURY TRIAL**

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1 **NATURE OF THE ACTION**

2 Plaintiffs Amy Friedman and Judi Miller, (collectively “Plaintiffs”), on  
3 behalf of themselves and all others similarly situated, by their undersigned  
4 attorneys, allege as follows:

5 1. This is a class action brought by Plaintiffs, on behalf of themselves  
6 and other similarly situated persons, against Guthy-Renker LLC (“Guthy-Renker”)  
7 and WEN By Chaz Dean Inc. (“WEN”) (collectively “Defendants”). Plaintiffs  
8 seek damages and equitable remedies for themselves and the Class (defined in ¶  
9 42, below), which includes consumers who have purchased WEN Cleansing  
10 Conditioner haircare products, in the following variations: Sweet Almond Mint,  
11 Lavender, Pomegranate and Summer Honey Peach (“WEN Cleansing Conditioner”  
12 or the “Products”).

13 2. Chaz Dean is a famous celebrity hair stylist, who through his  
14 company WEN, created and developed the formula for WEN Cleansing  
15 Conditioner, which is marketed as “a revolutionary way to cleanse and hydrate the  
16 hair.” WEN licenses the Products to Guthy-Renker, which manufactures, markets,  
17 sells and distributes WEN Cleansing Conditioner throughout the United States  
18 according to the formula and instructions developed by WEN.

19 3. As described below, an inherent design and/or manufacturing defect  
20 in Defendants’ WEN Cleansing Conditioner causes significant hair loss.  
21 Defendants provide no warning about this consequence and, in fact, make  
22 numerous assertions about the gentle nature of the product. For example, Guthy-  
23 Renker’s website makes statements such as, “WEN® is gentle enough to use every  
24 day” and “WEN® isn't like an ordinary shampoo so you want to use more of it, not  
25 less. You can never use too much! The more you use, the better the results.” These  
26 statements and others, which related uniformly to all the Products, were and are  
27 false and have harmed Plaintiffs and the Class. In fact, WEN products use  
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1 numerous harsh chemicals and known human allergens, such as  
2 Hydroxycitronellal. As a result of the defective nature of the Products, they were  
3 and are unfit for their intended use and purpose. During the Class Period,  
4 Defendants also represented that WEN Cleansing Conditioners are sulfate-free.  
5 However, WEN Cleansing Conditioners actually do contain sulfates, such as  
6 Behentrimonium Methosulfate, rendering these statements demonstrably false.

7 4. Once the hair loss caused by WEN Cleansing Conditioner begins, it  
8 can often continue for weeks before abating, even if the consumer immediately  
9 discontinues use of the product. The hair loss is not *de minimus*—consumers who  
10 suffer hair loss often lose one quarter to one third of their hair, or more.  
11 Plaintiffs have suffered injury in fact and loss of money or property as the result of  
12 their use of WEN Cleansing Conditioner.

13 5. This action arises from Defendants’ failure, despite their longstanding  
14 knowledge of a material design defect, to disclose and/or warn Plaintiffs and other  
15 consumers that WEN Cleansing Conditioner can and does cause substantial hair  
16 loss. Indeed, not only did Defendants fail to warn consumers, they actively  
17 concealed customers’ comments concerning hair loss, by blocking and/or erasing  
18 such comments from the WEN Facebook page.

19 6. Further, based on inherent defects in the formula and/or manufacture  
20 of the WEN Cleansing Conditioner, Defendants knew or should have known that  
21 its warranties were being breached by the hair loss caused by the Products.  
22 Defendants knew or should have known that Plaintiffs and Class members would  
23 suffer damages as the result of the hair loss caused by WEN Cleansing  
24 Conditioner. Defendants concealed these facts from Class members, including  
25 Plaintiffs. Defendants’ failure to disclose this defect about which it knew or  
26 should have known constitutes both an actionable misrepresentation and an unfair,  
27 unlawful, fraudulent, and deceptive business practice.

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1           7. Plaintiffs and other Class members have been damaged by  
2 Defendants' concealment and non-disclosure of the defective nature of the  
3 Products, because they were misled into purchasing WEN Cleansing Conditioner  
4 of a quality and value different than they were promised. Guthy-Renker and WEN  
5 have known about this issue for at least four years as the result of public  
6 complaints. They also knew or should have known about the hair loss issues  
7 caused by WEN Cleansing Conditioner as the result of pre-release formulation and  
8 testing. Notwithstanding these complaints, Defendants have failed and/or refused  
9 to provide an adequate remedy.

10           8. Perhaps most striking about this situation is Defendants' clear and  
11 unambiguous knowledge of the hair loss caused by WEN Cleansing Conditioner.  
12 For example, Guthy-Renker alone has received more than 17,000 complaints of  
13 hair loss caused by WEN Cleansing Conditioner. Moreover, after complaining  
14 about hair loss to the United States Food and Drug Administration, Plaintiff  
15 Friedman received electronic communications from Guthy-Renker's consumer  
16 affairs department. One of these emails included more than two-dozen  
17 comprehensive questions concerning Plaintiff Friedman's use of WEN Cleansing  
18 Conditioner. Discovery in this litigation will undoubtedly demonstrate that Guthy-  
19 Renker formulated these questions long ago and has repeatedly used them with  
20 complaining consumers. Plaintiff Friedman subsequently received communications  
21 from Guthy-Renker's apparent insurer, Chubb. Rather than address this systemic  
22 problem, Guthy-Renker is apparently attempting to pay off consumers on the  
23 cheap, sweep this problem under the rug and continue its lucrative business selling  
24 its defective WEN Cleansing Conditioner.

25           9. Despite notice and knowledge of the problems caused by WEN  
26 Cleansing Conditioner from the numerous consumer complaints it has received,  
27 information from third parties (including the United States Food and Drug  
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1 Administration), Guthy-Renker and WEN have not recalled the WEN Cleansing  
2 Conditioner, or offered its customers proper compensation for their damages.

3 10. Had Plaintiffs and other Class members known that WEN Cleansing  
4 Conditioner could cause hair loss, they would not have purchased the product.

5 11. As a result of Defendants' practices, Plaintiffs and the other Class  
6 members have suffered injury in fact, including economic damages.

7 12. Plaintiffs therefore bring this action on behalf of themselves and a  
8 proposed Class of similarly situated purchasers of Defendants' WEN Cleansing  
9 Conditioner.

10 **JURISDICTION AND VENUE**

11 13. This Court has subject matter jurisdiction of this action pursuant to 28  
12 U.S.C. §1332 of the Class Action Fairness Act of 2005 because: (i) there are 100  
13 or more class members, (ii) there is an aggregate amount in controversy exceeding  
14 \$5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity  
15 because at least one plaintiff and defendant are citizens of different states. This  
16 Court has supplemental jurisdiction over any state law claims pursuant to 28  
17 U.S.C. § 1367.

18 14. Venue is proper in this District pursuant to 28 U.S.C. §1391 inasmuch  
19 as the unlawful practices are alleged to have been directed from this District.  
20 Specifically, Defendants Guthy-Renker and WEN have their principal places of  
21 business in this District, and Defendants regularly conduct and direct their  
22 businesses in and from this District.

23 15. According to Defendant Guthy-Renker's website during the class  
24 period stated: "This Agreement and the resolution of any dispute related to this  
25 Agreement, the Website, or items you purchased through the Website shall be  
26 governed by and construed in accordance with the laws of California."  
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1 **PARTIES**

2 16. During all times relevant to this suit, Plaintiff, Amy Friedman  
3 (“Friedman” or “Plaintiff Friedman”), has been a resident of the State of Florida,  
4 and currently resides in St. Petersburg, Florida.

5 17. During all times relevant to this suit, Plaintiff, Judi Miller (“Miller” or  
6 “Plaintiff Miller”), has been a resident of the State of Maryland, and currently  
7 resides in Glenwood, Maryland.

8 18. Defendant Guthy-Renker is an American corporation whose principal  
9 place of business is located at 3340 Ocean Park Blvd, Santa Monica, California.  
10 At all times relevant to this complaint, Guthy-Renker has transacted business in  
11 this judicial district and has directed its international operations from this district  
12 throughout the United States and the world.

13 19. Defendant WEN is an American corporation whose principal place of  
14 business is located at 6444 Fountain Avenue, Los Angeles, California. At all times  
15 relevant to this complaint, WEN has transacted business in this judicial district and  
16 has directed its operations from this district throughout the United States and the  
17 world.

18 20. According to Defendants, any and all claims regarding their WEN  
19 Cleansing Conditioner are governed by the laws of the state of California.

20 **COMMON FACTS**

21 21. At all relevant times herein, Defendant WEN created and developed  
22 the formula for WEN Cleansing Conditioner, which is marketed as “a  
23 revolutionary way to cleanse and hydrate the hair.”

24 22. Defendant WEN licenses WEN Cleansing Conditioner to Defendant  
25 Guthy-Renker, who in turn manufactures the product according to the formula  
26 developed by WEN and celebrity hair stylist Chaz Dean.

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1           23. At all relevant times herein, Defendant Guthy-Renker has,  
2 manufactured, marketed, sold and distributed WEN Cleansing Conditioner  
3 throughout the United States.

4           24. On its website ([www.guthy-renker.com](http://www.guthy-renker.com)) Guthy-Renker bills itself as  
5 “direct marketing pioneers” and “one of the largest and most respected direct  
6 marketing companies in the world, with distribution in 68 countries.” Guthy-  
7 Renker’s website also indicates it has been in operation since 1988. Guthy-Renker  
8 sells its products predominantly through celebrity-driven infomercials. The strong  
9 majority of Guthy-Renker’s sales occur by phone. Guthy-Renker is best known for  
10 its promotion and sale of Proactive Solution, but it sells six other beauty-related  
11 products—including WEN haircare products.

12           25. In its marketing materials and on its website for WEN haircare  
13 products ([www.wen.com](http://www.wen.com)), Guthy-Renker makes a variety of false and/or  
14 misleading statements about WEN Cleansing Conditioner, including, but not  
15 limited to, the following:

16  
17           It seems like I'm using a lot of product. Can I use too much?  
18           WEN® isn't like an ordinary shampoo so you want to use more of it, not  
19           less. **You can never use too much! The more you use, the better the**  
20           **results.**

21 (emphasis added).

22           Should I use the Cleansing Conditioner every day?  
23           That's up to you. Some people like to wash their hair daily. Others will go a  
24           day or two between washings. Although **WEN® is gentle enough to use**  
25           **every day**, if you don't, you can combine 4-6 pumps of Cleansing  
26           Conditioner with a quarter-size amount of Styling Creme in a spray bottle  
27           with water. Shake vigorously to mix completely. Spritz it on 12-18 inches  
28           above hair to provide a light mist. Shake out and restyle or fluff up your  
29           hair!

30 (emphasis added).

31           Rinse hair thoroughly. Apply WEN® into your palms and rub together. Use  
32           10-16 pumps for short hair, 16-24 for medium length hair and **24-32 pumps**  
33           **for long hair. If your hair is longer/thicker you may need to increase the**  
34           **amount of pumps.**

(emphasis added).

Apply to scalp and hair, adding a splash of water to evenly distribute. WEN® has no harsh detergents or sodium lauryl sulfate, so it won't lather. **Massage thoroughly into hair and leave on for the remainder of your shower.**

(emphasis added).

“WEN® Cleansing Conditioner is a revolutionary new concept in hair care. A 5-in-1 formula, this one product takes the place of your shampoo, conditioner, deep conditioner, detangler and leave-in conditioner. **It cleanses hair thoroughly without lathering or harsh ingredients. It's designed not to strip your hair and scalp of natural oils, leaving your hair with more strength, moisture, manageability and better color retention.**

(emphasis added).

26. The instructions for using WEN Cleansing Conditioner does not vary between scents, and states:

CLEANSING YOUR HAIR IN 3 EASY STEPS:

Step 1:

Rinse hair thoroughly. Apply WEN® into your palms and rub together. Use 10-16 pumps for short hair, 16-24 for medium length hair and 24-32 pumps for long hair. If your hair is longer/thicker you may need to increase the amount of pumps.

Step 2:

Apply to scalp and hair, adding a splash of water to evenly distribute. WEN® has no harsh detergents or sodium lauryl sulfate, so it won't lather. Massage thoroughly into hair and leave on for the remainder of your shower.

Step 3:

Rinse thoroughly and completely, massaging scalp and running fingers through to the ends.

ADDITIONAL USAGE TIPS:

Apply 1/2 to 1 pump depending on hair length and texture as a leave-in conditioner to soaking wet hair. For best results, we highly suggest you cleanse, rinse and repeat, using half the recommended pumps for the first cleanse, and the remaining half for the second cleanse. Unlike many ordinary shampoos, you may find you don't need to cleanse as often.



1           27. The emphasized statements are false and/or misleading, and through  
2 the instructions on the product, Guthy-Renker expressly instructs consumers to use  
3 tremendous amounts of the product, reinforcing these statements with assertions  
4 that the product is gentle and you cannot possibly use too much. Guthy-Renker  
5 encourages consumers to leave the product in their hair for long periods, but fails  
6 to provide direct instructions concerning the duration of application. Indeed,  
7 Guthy-Renker also encourages consumers to leave small amounts of the product in  
8 their hair as a “leave-in conditioner” and not wash it out at all. In reality, use of  
9 the Products can and do cause significant hair loss when used in accordance with  
10 Guthy-Renker’s limited instructions.

11           28. Due to Guthy-Renker’s false and misleading statements, Class  
12 members purchased WEN Cleansing Conditioner with no reason to suspect or  
13 know the dangers occasioned by use of the Products, and used tremendous  
14 amounts of the product on their hair as instructed. Not until hair loss began could a  
15 Class member have any reason to suspect that WEN Cleansing Conditioner is  
16 defective, and even then might not immediately make the connection due to  
17 Defendants’ false statements concerning the nature of the product and active  
18 concealment of the Products’ defects.

19           29. Rather than acknowledging the dangers of using WEN Cleansing  
20 Conditioner, Guthy-Renker further reinforces its false statements with summary of  
21 a patently misleading “study”. Guthy-Renker’s “Features” study states:

22           In a 3-week study of users of WEN® Cleansing Conditioner, up to:

23           100% said hair was more moisturized!

24           97% noticed that WEN® added more shine!

25           95% reported that hair became more manageable

26 However, Guthy-Renker goes on to state (in much smaller print) that these results  
27 are “not typical.” If the results are not typical, what purpose does this information  
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1 serve, other than to mislead potential consumers into purchasing Defendants'  
2 defective product?

3 30. Guthy-Renker sells its WEN Cleansing Conditioner in a variety of  
4 different scents, including, Sweet Almond Mint, Pomegranate and Lavender. The  
5 "study" quoted above applies to all three of these scents. In addition, the "Key  
6 Ingredients" listed for all three scents does not differ:

7 **KEY INGREDIENTS**

8 Glycerin: A humectant that provides moisturizing benefits to the hair.

9 Chamomile Extract: Used for its soothing and calming properties.

10 Wild Cherry Bark: Formulated to help condition the hair.

11 Rosemary Extract: Designed to soothe hair.

12 Panthenol: Designed to help strengthen hair and restore resilience.

13 As a result, there is no discernable difference between the various scents other than  
14 the smell.

15 31. As the direct and proximate result of Guthy-Renker's false and  
16 misleading statements, Plaintiffs and Class members have suffered injury in fact  
17 and a loss of money or property through the out-of-pocket costs expended to  
18 purchase the WEN Cleansing Conditioner, as well as the costs of mitigating the  
19 hair loss occasioned by Defendants' products.

20 32. By marketing, selling and distributing WEN Cleansing Conditioner to  
21 purchasers throughout the United States, Guthy-Renker made actionable  
22 statements that WEN Cleansing Conditioner was free of defects in design and/or  
23 manufacture, and that it was safe and fit for its ordinary intended use and purpose.

24 33. By marketing, advertising, selling and distributing WEN Cleansing  
25 Conditioner from California to purchasers throughout the United States, Guthy-  
26 Renker made actionable statements that the ordinary use of the WEN Cleansing  
27 Conditioner would not involve undisclosed safety risks. Further, Guthy-Renker  
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1 concealed what it knew or should have known about the safety risks resulting from  
2 the material defects in design and/or manufacture.

3 34. Guthy-Renker engaged in the above-described actionable statements,  
4 omissions and concealments with knowledge that the representations were false  
5 and/or misleading, and with the intent that consumers rely upon such concealment,  
6 suppression and omissions. Alternatively, Guthy-Renker was reckless in not  
7 knowing that these representations were false and misleading at the time they were  
8 made. Guthy-Renker had exclusive access to data and research conducted prior  
9 and during the design and manufacture phase of the development of WEN  
10 Cleansing Conditioner that Plaintiffs and Class members could not and did not  
11 review.

12 **PLAINTIFF FRIEDMAN'S EXPERIENCE**

13 35. After viewing advertisements for WEN Cleansing Conditioner  
14 espousing its safe, innovative and gentle qualities, on or about January 29, 2014,  
15 Plaintiff, Amy Friedman, purchased the Sweet Almond Mint basic kit directly from  
16 Guthy-Renker for a price of \$29.95. Plaintiff Friedman had previously used  
17 organic shampoos and conditioners, which never caused abnormal hair loss. At no  
18 time did Guthy-Renker provide Plaintiff Friedman any warnings concerning the  
19 potential dangers of using WEN Cleansing Conditioner.

20 36. Within two weeks of beginning use of her WEN Cleansing  
21 Conditioner, Plaintiff Friedman began losing substantial and abnormal amounts of  
22 hair. Plaintiff Friedman discontinued use, but the hair loss continued for  
23 approximately three more weeks. Ultimately, Plaintiff Friedman lost one quarter  
24 to one third of the hair on her head. As a result, Plaintiff Friedman, a nurse  
25 practitioner by profession, was forced to expend substantial sums on vitamins and  
26 supplements to attempt to regrow her very long hair. Additionally, Plaintiff  
27  
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1 Friedman was forced to undertake expensive cosmetic solutions, such as hair  
2 extensions, to mask the hair loss.

3 **PLAINTIFF MILLER’S EXPERIENCE**

4 37. Plaintiff Miller first purchased WEN Cleansing Conditioners (Sweet  
5 Almond Mint and Pomegranate) in June 2011. She purchased the WEN Cleansing  
6 Conditioners by telephone after viewing Guthy-Renker’s advertisements regarding  
7 the safe, innovative and gentle qualities of its WEN Cleansing Conditioners. After  
8 initial purchases, Plaintiff Miller received automatic shipments of WEN Cleansing  
9 Conditioners every few months, until January 21, 2014, when she called and  
10 cancelled direct shipments. Plaintiff Miller used the WEN products consistent  
11 with the instructions, in some instances using the product as a so-called “spa  
12 treatment” and leaving it in her hair for extended periods of time.

13 38. Beginning in January 2013, Plaintiff Miller noticed that she was  
14 losing abnormal amounts of hair. Not suspecting the WEN Cleansing Conditioner  
15 was the culprit, Plaintiff Miller only stopped using the products in June 2014, when  
16 she finally realized that she was losing substantial amounts of hair only in the areas  
17 in which she applied WEN Cleansing Conditioner, among other places, on the  
18 crown of her head.

19 39. As a result of the hair loss caused by the WEN Cleansing  
20 Conditioners, Plaintiff Miller was forced to expend substantial sums on vitamins,  
21 supplements, and doctor visits to treat and attempt to regrow her hair and treat  
22 other serious health issues caused by use of the products. Like Plaintiff Friedman,  
23 Plaintiff Miller also contacted the FDA concerning her negative experience with  
24 WEN haircare products.

25 **ADDITIONAL COMMON FACTS**

26 40. Plaintiffs’ experiences are by no means isolated or outlying  
27 occurrences. Indeed, the internet is replete with examples of blogs and other  
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1 websites where consumers have complained of the exact same issues with WEN  
2 Cleansing Conditioner. A very small sample<sup>1</sup> of the numerous online  
3 complaints—dating back several years—appears below:

- 4 • <http://community.qvc.com/forums/wen/topic/305237/hair-loss-after-using-wen-products.aspx>

5 **Hair Loss After Using Wen Products**

6 Started 07/08/2012 at 10:26 AM in WEN | Last reply 11/15/2013 at 4:03  
7 AM by racern

8 I'm posting this note after losing massive amounts of hair in patches mostly  
9 at the crown of my head, with smaller bald patches all over my scalp. Early  
10 this year (2012) I purchased the Wen introductory package (cleanser, deep  
11 conditioner, styling creme, styling balm [stick] and a comb) with the auto  
12 30-day refill. Almost immediately after using the product I noticed huge  
13 amounts of hair caught in the drain (the water in my shower built up to my  
14 ankles so I checked the drain and found a handful of hair -- much more than  
15 I've EVER lost at one time). I didn't make the connection between the  
16 natural Wen product and my hair loss and honestly didn't think anything of it  
17 until I went to get my long, curly hair cut/shaped and was told by the stylist  
18 that I had 'alopecia.' I've never had any problem with hair loss and only the  
19 regular 'shedding.' This loss of hair was way behind the regular shedding.  
20 The stylist showed me a 2" patch at the crown of my head with smaller  
21 patches in the area. I located an additional 5 patches around my scalp. After  
22 a tugging feeling that the Wen could be the root of my problem, I checked  
23 the internet for 'hair loss after using wen' and found many reports of hair loss  
24 similar to mine. And the majority of them sound like my experience. For the  
25 record, I haven't had any medical issues, dietary changes, lifestyle changes  
26 since the onset of hair loss and the only behavioral change I've made is  
27 adding Wen to my hair care routine.

28 A word of warning to those of you about to purchase WEN Cleansing  
Conditioner: Wen is a dangerous product.

- 19 • <http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/DO-NOT-BUY-WEN-Made-My-Hair-Fall-Out-With-One-Use.htm>

21 **My Review**

22 My husband bought this as a birthday gift for me after he overheard me  
23 talking to about a friend about it. I only used it once, but that was enough for  
24 me. In my first use I lost 100x's the amount of hair than I do in an average  
25 shower. I was literally pulling clumps of hair out of my head and I had hair  
26 balls running down my legs into the shower drain.

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26 <sup>1</sup> Typographical and grammatical errors in the excerpted complaints have not been  
27 corrected and remain as originally written.

1 I look online and found horror stories about people losing so much hair that  
2 they were balding and lawsuits of people trying to recup costs from  
3 dermatology appointments to try and get there hair back.  
4 I called the mall kiosk where I bought it and the cashier said, "I've got to tell  
5 you, this isn't the first time someone's returned the product and complained  
6 that their hair was falling out.  
7 I would NEVER recommend this product and I wonder how these people  
8 can sleep at night with so many people complaining about this problem.

- 9 • **<http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/Very-Angry-About-Hairloss-from-WEN.htm>**

10 **My Review**

11 I used Wen hair care for the first time and it was good till the next week. I  
12 washed my hair and it was coming out. Wen hair thinned my hair and made  
13 it frizzy. I noticed it right away. I'm so upset! I am African American with  
14 long hair, untill I used this mess and thinned my hair!

- 15 • **<http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/My-Hair-is-Lifeless-and-Thinning-After-Using-WEN.htm>**

16 **My Review**

17 At first I really liked this product. Then I noticed my hair was feeling greasy  
18 and heavy. Now my hair is falling out in gobs daily. I would not recommend  
19 this product. My hair is now thinning so bad you can see my scalp. It is  
20 lifeless and lusterless.

- 21 • **<http://womenshair.about.com/u/reviews/products/Wen-Haircare-Products/WEN-Caused-Immeidate-Hair-Loss-for-Me.htm>**

22 **My Review**

23 Note: I have very delicate hair!  
24 The first wash was amazing! Then the next 3 times (without using any other  
25 products) there was massive hair loss. I would put in the conditioner and  
26 when I ran my fingers through it to distribute it took me a full minute to get  
27 all the hair that had fallen out off my fingers. Then I would see random  
28 FULL LENGTH hair floating around my car, my desk, and in my eyes.  
I stopped using it after the 4th day. Today I received an email asking how I  
like the product.  
After reading other reviews I will be on the phone with them first thing in  
the morning for a FULL refund. And if they dare try to charge me for the  
membership....don't get me started.

- **[https://getsatisfaction.com/wenbychazdean/topics/wen\\_causes\\_hair\\_to\\_fall\\_out\\_that\\_cant\\_be\\_true](https://getsatisfaction.com/wenbychazdean/topics/wen_causes_hair_to_fall_out_that_cant_be_true)**

o **mish** 1 year ago

Craig,  
YOU can contact me about my hair loss after using WEN! I have suffered  
hair loss and breakage! I have been using WEN for about 8 months. Thought  
I was using a safe & healthy product! Saw my Drs. and all tests are normal,  
nothing in my recent blood work or physical that would point to hair loss!  
Never made the connection to WEN until I MADE my POOR husband use it  
, thinking I was doing a good thing! THEN, he suffered hair loss!!!!!! So

1 TODAY, I googled WEN & Hair loss! I was floored when I saw the MANY  
2 complaints of Hair Loss and WEN! Many were told by dermatologists that  
3 WEN causes blocked hair follicles. What is most alarming is that people  
4 have reported that their hair still has not returned to normal even after  
5 stopping the use of WEN! I find that disturbing! They also said that reported  
6 that to the FDA

7 o **snucif@aol.com** 1 year ago  
8 Started using Wen cleansing Conditioner about 6 or 7 months ago, I bought  
9 a package deal on QVC now my thin hair is even thinner and my son says  
10 you can see a bald spot in the back! I am going to stop using it.

- 11 • **[http://wen-haircare.pissedconsumer.com/beware-using-wen-shampoo-](http://wen-haircare.pissedconsumer.com/beware-using-wen-shampoo-hair-loss-20120818340078.html)**  
12 **[hair-loss-20120818340078.html](http://wen-haircare.pissedconsumer.com/beware-using-wen-shampoo-hair-loss-20120818340078.html)**

13 sunshine2daI've seen the commercials and thought why not try it because it  
14 seems to have a nice effect on hair and felt that my hair could even look  
15 better.I was shocked to see after the first wash SO MUCH HAIR IN  
16 THE SHOWER.

17 I have never experienced that in my life. I immediately called company and  
18 gal I spoke with advised to keep using with the conditioner as she had lost  
19 hair too the first time as it was just kicking out old stuff. I wanted to believe  
20 and used again with the conditioner and gobs of hair falling out. I stopped  
21 and it has been a month and shedding,shedding, shedding.

22 I hate to wash my hair as there is so much fall out and now I'm stressed  
23 which doesn't help.I only wish I would have read all the other people that are  
24 losing their hair with this horrible product.

25 **HumbleOpinion Jun 02**

26 I have very thick, healthy, never-colored hair. My overall health is excellent  
27 and I am not on any medications. I can confirm that Wen causes hair loss!  
28 Just Friday, after a limited trial of Wen, I had hair falling out in the shower. I  
have never experienced anything like this in my life. I have not washed my  
hair since Friday and am frankly fearful of showering! Wen is an awful  
product - do not tell someone with handfuls of lost hair how much you love  
Wen!!!

**Thinning Jan 09**

Loved the product at first, but after 8 months, I have lost hair in two spots as  
well as at the front hairline. I am sad, my hair has always been thick and  
pretty. I can only pray that after discontinuing usage, maybe it will grow  
back. Be aware, not a good thing to use.

**hate deception Oct 20, 2013Winston Salem, North Carolina**

I used wen on the advice of a family member. I started getting sores on my  
scalp and my hair came out. There is something in it that causes an infection  
of the hair follicles, thus the hair falls out. stop using and see a  
dermatologist.

1           •           <http://www.consumeraffairs.com/cosmetics/wen.html>

2           Sherry of Sumter, SC on July 5, 2014

3           I have tried two different types (mint, fig) and the first couple of days my  
4           hair was soft, and after a week, my hair was falling out in clumps. My  
5           husband always would ask me "are you okay, I keep finding your hair in the  
6           bathroom" ..

7           I promise you as I was washing my hair, clumps would come out in my  
8           hands. I called and cancelled and even told them I didn't want a refund  
9           (didn't want to go through the hassle of refunds with them after reading  
10          reviews). I still had to pay for the next shipment and called American  
11          express and they had any new payments after my initial shipment stopped. I  
12          am the type of person that I don't believe everything I read without proof and  
13          I am telling you the reader this is the honest truth. This was my experience  
14          with Wen and the last. I hope this will help somebody even if it's just one.  
15          Thank You for your attention...

16          •           <http://www.consumeraffairs.com/cosmetics/wen.html>

17          Nancy of Dunsford, ON

18          I started using the WEN Sweet Almond Cleansing Conditioner about 6  
19          weeks ago. I have naturally curly hair that is very fine, just past my  
20          shoulders. I used the conditioner as directed 3-4 times a week. Soon after I  
21          noticed considerable hair loss. I comb my hair when wet in shower which  
22          was filled with hair. My drain full. I thought maybe it was a nutritional  
23          imbalance. However, I supplement with Biotin for hair growth and never  
24          had a problem with hair loss in past. I spoke to a friend who mentioned she  
25          heard that Wen users were complaining of the same. Coincidence? I think  
26          not.

27          •           <http://www.consumeraffairs.com/cosmetics/wen.html>

28          cheryl of Youngstown, OH

          I order 5 bottles of wen cleansing conditioners because my aunt got me one  
          for Christmas and at first it worked great so I got more. Then my hair started  
          just falling out. I mean bad. I'm bald in spots. I stopped using it and hair still  
          not quite right. There's got to be something done. My hair was so nice and  
          long now it looks like \*\*. I'm going to talk to a lawyer because I don't even  
          want to leave the house anymore. Thanks to wen by Chaz Dean.

          •           <http://www.complaintsboard.com/complaints/wen-hair-care-c523263.html>

          I purchased this product and after 2 weeks my hair started falling out, let me  
          first say I have no medical issues and this is not normal hair shedding, I  
          didn't connect the hair loss to the wen at first, until a friend said do you think  
          it's the wen, so I googled wen hair loss and there are many women that have  
          had the same reaction, and before some of you wen lovers comment, some  
          women after several months are now having the same results (hair loss), I  
          have contacted the fda and you need to call this number to report it 1-800-  
          332-1088, I went to the wen facebook page and women posting they have  
          hair loss was removed and blocked from commenting, if I would of seen  
          some of these comments my hair would be on my head and not in the trash,  
          it was healthy now it's like straw and brittle, I have stopped using wen over a



1 week now, the hair loss is not as bad, but the damage is done and over half  
2 my hair is gone ...please report to the fda and the BBB, don't let them keep  
3 selling this to others, save someone from this, wish I had found web sites  
4 before I started using it!!!

5 • <http://katieelizabethchicago.blogspot.com/2013/12/back-wen.html>

6 Until... my hair started falling out. At first, I had no idea what it was from.  
7 It wasn't alarmingly falling out so I just figured I was just "shedding" more  
8 than normal. When it continued for quite a while, I decided it had to be  
9 something I was using. I'm always trying new products so I cut out every  
10 single styling product that I was using to see if that made a difference.  
11 When it didn't and all I was using was the Wen, I decided to do some  
12 research. All you have to do is Google Wen and you'll find tons of articles  
13 on Wen + hair loss. And sadly, it's true for me. As soon as I stopped using  
14 my beloved Wen, the hair stopped coming out in handfuls.

15 So this is my warning to women - it's NOT worth it!! I know not everyone  
16 has this problem when they use Wen, but why risk it? There are so many  
17 other great options out there that WON'T possibly make your hair fall out!!  
18 Check out these articles on Wen hair loss if you're considering trying it:

19 [Wen Shampoo Causes Hair Loss. Do Not Use!](#)  
20 [QVC Community on Wen Hair Loss](#)  
21 [Wen Products Caused Hair Loss and Damage](#)

22 • [http://forum.purseblog.com/the-beauty-bar/wen-hair-care-  
23 thoughts-466693.html](http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693.html)

24 I used it for a while, and it did make my hair feel soft. However, I SWEAR  
25 it felt like I was losing hair. I know we all lose a certain amount through out  
26 the day, but this felt like a lot. I was in the shower rinsing (keep in mind  
27 you have to do a TON of rinsing with this stuff) and I felt something hit my  
28 thigh. I looked down, and I kid you not, it was a HUGE wad of my hair!!! I  
FREAKED after that, and have not touched it since!

• [http://forum.purseblog.com/the-beauty-bar/wen-hair-care-  
thoughts-466693.html](http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693.html)

OK - SAME for me. I was using the fig. At first it was great. My hair was  
softer, color held longer (I have fairly thick red color-treated past shoulder  
length hair). Then I noticed tons of hair by the drain, clumps of it on my  
skin, just like the quote above. My hair was definitely thinner around my  
bangs - I freaked out. I wrote to WEN, they answered me with some bs  
quote - you lose up to 100 hairs a day, medication use (I don't), ageing (I'm  
not that old). I told them I wasn't looking for compensation, just giving them  
information and they should quite defending themselves. I was using the Fig  
because I really like that smell. I am back to my Pureology and am hoping  
my hair will be restored to its original awesomeness before the Wen.

• [http://forum.purseblog.com/the-beauty-bar/wen-hair-care-  
thoughts-466693-2.html](http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-2.html)

I've been scouring my life and focusing on staying calm while I try to figure  
out why I, someone with thick hair who has to get it thinned (and my mother  
still does at the age of 67!), have lost 50% of my hair in the past two weeks!  
I'm a bit baffled as I am, in general, feeling pretty good.

1 Out of my research, it says to consider what medication and actions one has  
2 done in the past four months. Well, one thing is I started using this all  
3 "Natural" WEN Cleansing Conditioner almost exactly four months ago! I  
4 come here and see that some others are also describing the same kinds of  
5 sudden, significant and scary amounts of hair falling out.

6 Two weeks ago, I was using the stuff, combing it through my hair in the  
7 shower and was shocked to see how much hair I saw in the drain and in the  
8 comb and for the past two weeks have been trying to figure out this  
9 miserable corundum.

10 Unfortunately I had just ordered a new supply, but I will never use the stuff  
11 again! This has been an unnecessary and very stressful experience. And I'm  
12 going to submit this to the FDA as this is a very rough side effect for  
13 women.

14 • <http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-3.html>

15 I started using Wen a few months ago and started noticing my hair falling  
16 out out in handfuls. I also started noticing a significant amount of hair  
17 breakage. I have a lot of hair normally and the amount of hair loss is quite  
18 noticeable. I stopped using the product when I suspected that it was what  
19 might be causing the thinning hair and hair loss. As soon as I stopped the  
20 Wen the hair stopped falling. I am waiting to see when hair will start  
21 growing back.

22 It also happened to my daughter, and when she stopped using it it started  
23 growing back.

24 • <http://forum.purseblog.com/the-beauty-bar/wen-hair-care-thoughts-466693-3.html>

25 I tried it also and at first loved it, but then my hair started falling out as well.  
26 I didnt realize until the second time that, that was what was making my hair  
27 fall out. Stopped using it and my hair has stopped falling out. I am glad I  
28 googled my hunch and found this forum, because I thought something was  
wrong with me! I also had a painful to the touch lump on my head.

41. In addition to blog complaints, YouTube features numerous videos  
also documenting hair loss caused by WEN Cleansing Conditioner. The problems  
experienced by Plaintiff s are neither isolated, nor unique. Indeed, this problem is  
rampant, and rather than acknowledge this serious issue, Defendants are  
concealing it in order to continue selling the product and reaping windfall profits.

1 **CLASS ALLEGATIONS**

2 42. Plaintiffs bring this action on their own behalf, and on behalf of the  
3 following Class pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and/or 23(b)(3).  
4 Specifically, the Class is defined as:

5 All persons or entities in the United States who purchased WEN  
6 Cleansing Conditioner via (a) WEN's Website from August 1, 2009 to  
7 February 26, 2014; or (b) by telephone from August 1, 2009 to the  
8 date of the Court's Class Certification Order.

9  
10 43. Excluded from the Class are Defendants, their affiliates, employees,  
11 officers and directors, persons or entities that purchased the WEN Cleansing  
12 Conditioner for purposes of resale, and the Judge(s) assigned to this case.

13 44. Plaintiffs reserve the right to amend or modify the Class definitions in  
14 connection with a motion for class certification or as warranted by discovery.

15 45. This action has been brought and may properly be maintained on  
16 behalf of the Class proposed herein under the criteria set forth in Federal Rule of  
17 Civil Procedure 23.

18 46. Numerosity: Plaintiffs do not know the exact size or identities of the  
19 proposed Class, however, the Class encompasses tens of thousands of individuals  
20 who are dispersed geographically throughout the United States. Therefore, the  
21 proposed Class is so numerous that joinder of all members is impracticable. Class  
22 members may be notified of the pendency of this action by mail and/or electronic  
23 mail, supplemented if deemed necessary or appropriate by the Court by published  
24 notice.

25 47. Existence and Predominance of Common Questions of Fact and Law:  
26 There are questions of law and fact that are common to the Class, and predominate  
27 over any questions affecting only individual members of the Class. The damages  
28 sustained by Plaintiffs and the other members of the Class flow from the common

1 nucleus of operative facts surrounding Defendants’ misconduct. The common  
2 questions include, but are not limited to the following:

- 3 a. Whether Defendants failed to comply with their warranties;
- 4 b. Whether WEN Cleansing Conditioner causes hair loss;
- 5 c. Whether WEN Cleansing Conditioner contains a design defect;
- 6 d. Whether and when Defendants had exclusive knowledge that  
7 WEN Cleansing Conditioner caused hair loss but failed to  
8 disclose this defect to the public ;
- 9 e. Whether Guthy-Renker’s conduct violated the California Unfair  
10 Competition Law;
- 11 f. Whether Guthy-Renker’s conduct violated the California False  
12 Advertising Law;
- 13 g. Whether Guthy-Renker’s conduct constituted a breach of  
14 applicable warranties;
- 15 h. Whether Guthy-Renker’s conduct constitutes a breach of  
16 contract;
- 17 i. Whether WEN’s acts and omissions make it liable to Plaintiffs  
18 and the Class for negligence and strict products liability;
- 19 j. Whether, as a result of Guthy-Renker’s omissions and/or  
20 misrepresentations of material facts, Plaintiffs and members of  
21 the Class have suffered an ascertainable loss of monies and/or  
22 property and/or value; and
- 23 k. Whether Plaintiffs and Class members are entitled to monetary  
24 damages and/or other remedies and, if so, the nature of any  
25 such relief.

26 48. Typicality: All of Plaintiffs’ claims are typical of the claims of the  
27 Class since each Class member was subject to the same common inherent defect in  
28

1 the Products. Furthermore, Plaintiffs and all members of the Class sustained  
2 monetary and economic injuries including, but not limited to, ascertainable loss  
3 arising out of Defendants' breach of warranties and other wrongful conduct as  
4 alleged herein. Plaintiffs are advancing the same claims and legal theories on  
5 behalf of themselves and all absent Class members.

6 49. Adequacy: Plaintiffs will fairly and adequately represent the interests  
7 of the Class. They are committed to the vigorous prosecution of the Class' claims  
8 and have retained attorneys who are qualified to pursue this litigation and are  
9 experienced in class action litigation.

10 50. Superiority: A class action is superior to other methods for the fair  
11 and efficient adjudication of this controversy. While substantial, the damages  
12 suffered by each individual Class member do not justify the burden and expense of  
13 individual prosecution of the complex and extensive litigation necessitated by  
14 Defendants' conduct. Further, it would be virtually impossible for the members of  
15 the Class to individually and effectively redress the wrongs done to them. A class  
16 action regarding the issues in this case does not create any problems of  
17 manageability. The class action device presents far fewer management difficulties  
18 than alternative methods of adjudication, and provides the benefits of single  
19 adjudication, economy of scale, and comprehensive supervision by a single court.

20 51. In the alternative, the Class may be certified because:

21 a. the prosecution of separate actions by the individual members  
22 of the Class would create a risk of inconsistent or varying  
23 adjudication with respect to individual Class members which  
24 would establish incompatible standards of conduct for  
25 Defendants;

26 b. The prosecution of separate actions by individual Class  
27 members would create a risk of adjudications with respect to  
28

1                   them which would, as a practical matter, be dispositive of the  
2                   interests of the other Class members not parties to the  
3                   adjudications, or substantially impair or impede the ability to  
4                   protect their interests; and

- 5                   c. Defendants have acted or refused to act on grounds generally  
6                   applicable to the Class, thereby making appropriate final and  
7                   injunctive relief with respect to the members of the Class as a  
8                   whole.

9                   **VIOLATIONS ALLEGED**

10                   **COUNT I**

11                   **BREACH OF WARRANTY**  
12                   **(Class Claim Against Guthy-Renker)**

13                   52. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
14                   1-51, as if set forth herein in full.

15                   53. Guthy-Renker sold WEN Cleansing Conditioner in its regular course  
16                   of business. Plaintiffs and Class members purchased the Products.

17                   54. According to Guthy-Renker’s website, California law applies to any  
18                   and all claims made in connection with the purchase of its products.

19                   55. The Products are “consumer products” within the meaning of the  
20                   Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(1), and California law. WEN  
21                   Cleansing Conditioner costs more than five dollars.

22                   56. Plaintiffs and Class members are “consumers” and “buyers” within  
23                   the meaning of the Magnuson-Moss Act, 15 U.S.C. § 2301(3) and California law.

24                   57. Guthy-Renker is a “supplier” and “warrantor” within the meaning of  
25                   the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301(4) – (5). Guthy-Renker is  
26                   also a “manufacturer” and “seller” within the meaning of California law.

27                   58. Guthy-Renker made promises and representations in an express  
28

1 warranty provided to all consumers, which became the basis of the bargain  
2 between Plaintiffs, Class members and Guthy-Renker.

3 59. Guthy-Renker's written affirmations of fact, promises and/or  
4 descriptions as alleged are each a "written warranty". The affirmations of fact,  
5 promises and/or descriptions constitute a "written warranty" within the meaning of  
6 the Magnuson-Moss Act, 15 U.S.C. §2301(6).

7 60. By placing such products into the stream of commerce, by operation  
8 of law including Section 2314 of the California Commercial Code, and the  
9 Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et. seq.*, Guthy-Renker also  
10 impliedly warranted to Plaintiffs and Class members that WEN Cleansing  
11 Conditioner was of merchantable quality (*i.e.*, a product of a high enough quality  
12 to make it fit for sale, usable for the purpose it was made, of average worth in the  
13 marketplace, or not broken, unworkable, contaminated or flawed or containing a  
14 defect affecting the safety of the product), would pass without objection in the  
15 trade or business, and were free from material defects, and reasonably fit for the  
16 use for which they were intended.

17 61. Guthy-Renker breached all applicable warranties because WEN  
18 Cleansing Conditioner suffers from a latent and/or inherent defect that causes it to  
19 produce substantial hair loss, rendering WEN Cleansing Conditioner unfit for its  
20 intended use and purpose. This defect substantially impairs the use, value and  
21 safety of WEN Cleansing Conditioner.

22 62. The latent and/or inherent defect at issue herein existed when the  
23 WEN Cleansing Conditioner left Guthy-Renker's possession or control and was  
24 sold to Plaintiffs and Class members. The defect was undiscoverable by Plaintiffs  
25 and the Class members at the time of purchase of the WEN Cleansing Conditioner.

26 63. All conditions precedent to seeking liability under this claim for  
27 breach of express and implied warranty have been performed by or on behalf of  
28

1 Plaintiffs and others in terms of paying for the goods at issue. Guthy-Renker  
2 having been placed on reasonable notice of the defect in the Products and breach of  
3 the warranties, and has had an opportunity for years to cure the defect for Plaintiffs  
4 and all Class members, but has failed to do so.

5 64. Guthy-Renker was on notice of the problems with the WEN Cleansing  
6 Conditioner based on the more than 17,000 complaints it received directly from  
7 Plaintiffs and other Class members.

8 65. Guthy-Renker breached its express and implied warranties, as WEN  
9 Cleansing Conditioner did not contain the properties it represented.

10 66. Guthy-Renker's breaches of warranty have caused Plaintiffs and Class  
11 members to suffer injuries, paying for defective products, and entering into  
12 transactions they would not have entered into for the consideration paid. As a  
13 direct and proximate result of Guthy-Renker's breaches of warranty, Plaintiffs and  
14 Class members have suffered damages and continue to suffer damages, including  
15 economic damages in terms of the cost of WEN Cleansing Conditioner and the  
16 cost of efforts to mitigate the damages caused by same.

17 67. As a result of the breach of these warranties, Plaintiffs and Class  
18 members are entitled to legal and equitable relief including damages, costs,  
19 attorneys' fees, rescission, and/or other relief as deemed appropriate, for an amount  
20 to compensate them for not receiving the benefit of their bargain.

21 **COUNT II**

22 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW,**  
23 **BUSINESS AND PROFESSIONS CODE § 17200, et seq.**

24 **(Class Claim Against Guthy-Renker)**

25 68. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
26 1-51 as though fully set forth at length herein.

27 69. According to Guthy-Renker's Website, California law applies to all  
28



1 claims.

2 70. Business & Professions Code § 17200, *et seq.* prohibits acts of “unfair  
3 competition”, which is defined by Business & Professions Code § 17200 as  
4 including any “any unlawful, unfair or fraudulent business act or practice . . . .”

5 71. Guthy-Renker has engaged in unfair competition and unfair, unlawful  
6 or fraudulent business practices by the conduct, statements, and omissions  
7 described above, and by concealing from Plaintiffs and Class members the material  
8 fact that WEN Cleansing Conditioner can cause substantial hair loss. Guthy-  
9 Renker should have disclosed this information because it was in a superior position  
10 to know the true facts related to this defect, and Plaintiffs and Class members could  
11 not reasonably be expected to learn or discover the true facts related to the defect  
12 prior to their purchases.

13 72. Separate and distinct from the unfair and fraudulent practices  
14 involving the hair loss, Guthy-Renker has engaged in an unfair and fraudulent  
15 practice of intentionally instructing consumers to use amounts of the product far in  
16 excess of the amount reasonably necessary to Condition the hair for the purpose of  
17 supporting its automatic re-purchase agreement. By instructing its customers to:  
18 “Use 10-16 pumps for short hair, 16-24 for medium length hair and 24-32 pumps  
19 for long hair,” Guthy-Renker caused consumers to use substantially more product  
20 than reasonably necessary without any additional benefit to the hair. This unfair  
21 and deceptive practice caused consumers to use excessive amounts of WEN  
22 Cleansing Conditioner which, in turn, required them to purchase more of the  
23 product at regular intervals through Guthy-Renker’s automatic repurchase plan.  
24 The regular repurchases would not have been necessary but for Guthy-Renker’s  
25 specific instructions to use excessive amounts of the product thereby necessitating  
26 the additional purchases.

27 73. These acts and practices have also deceived Plaintiffs and are likely to  
28

1 deceive reasonable consumers targeted by such statements and omissions. In  
2 failing to disclose this material defect and suppressing other material facts from  
3 Plaintiffs and Class members, Guthy-Renker breached its duties to disclose these  
4 facts, violated the UCL, and caused injuries to Plaintiffs and Class members. The  
5 omissions and acts of concealment by Guthy-Renker pertained to information  
6 material to Plaintiffs and Class members in that it would have been likely to  
7 deceive them based on reasonable consumer's expectations and assumptions based  
8 on the safety-related nature of this defect.

9 74. The injuries suffered by Plaintiffs and Class members are also greatly  
10 outweighed by any potential countervailing benefit to consumers or to competition.  
11 Nor are they injuries that Plaintiffs and Class members should or could have  
12 reasonably avoided.

13 75. Plaintiffs seek to enjoin further unlawful, unfair and/or fraudulent acts  
14 or practices by Guthy-Renker, to obtain restitutionary disgorgement of all monies  
15 and revenues generated as a result of such practices, and all other relief allowed  
16 under Cal. Bus. & Prof. Code § 17200.

17 **COUNT III**

18 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW,**  
19 **BUSINESS AND PROFESSIONS CODE § 17500, *et seq.***

20 **(Class Claim Against Guthy-Renker)**

21 76. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
22 1-51 as though fully set forth at length herein.

23 77. According to Guthy-Renker's website, California law applies to all  
24 claims.

25 78. In violation of California Business & Professions Code § 17500, *et*  
26 *seq.*, Guthy-Renker has disseminated or caused to be disseminated deceptive  
27 advertising misrepresentations, omissions and practices, including the statements  
28

1 referenced, *inter alia*, in paragraph 25, *supra*. These statements are actionable  
2 violations of § 17500 in that Guthy-Renker expressly states that WEN Cleansing  
3 Conditioners have attributes, which they do not possess.

4 79. Guthy-Renker's advertising misrepresentations, omissions, and  
5 practices made in connection with the sale of WEN Cleansing Conditioner are  
6 unfair, deceptive and/or misleading within the meaning of California Business &  
7 Professions Code § 17500, *et seq.* These representations are likely to deceive  
8 reasonable consumers.

9 80. In making and disseminating the statements alleged herein, Guthy-  
10 Renker knew or should have known that the statements were and are misleading or  
11 likely to mislead for the reasons set forth above.

12 81. As detailed above, Plaintiffs suffered injuries in fact and losses of  
13 money or property as a result of Guthy-Renker's acts and practices, which violate  
14 § 17500, *et seq.*

15 82. Pursuant to California Business & Professions Code § 17535,  
16 Plaintiffs and members of the Class seek, and are entitled to:

- 17 a. an order enjoining Guthy-Renker from continuing to make false  
18 and misleading statements concerning WEN Cleansing  
19 Conditioner;
- 20 b. restitution and disgorgement of any and all excessive amounts  
21 paid to Guthy-Renker or its agents;
- 22 c. equitable relief pursuant to Cal. Code of Civil Procedure § 384;
- 23 d. pre- and post-judgment interest at the highest rate allowable by  
24 law; and
- 25 e. payment of attorney's fees and costs pursuant to, *inter alia*, Cal.  
26 Code of Civ. Proc. § 1021.5, the common fund and private  
27 attorney general doctrines.

28

1 83. As a result of Guthy-Renker’s violations of the false advertising  
2 statute, Plaintiffs and Class members are entitled to equitable relief as the Court  
3 deems appropriate.

4 **COUNT IV**

5 **BREACH OF CONTRACT**

6 **(Class Claim Against Guthy-Renker)**

7 84. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
8 1-51 as though fully set forth at length herein.

9 85. Plaintiffs and the Class entered into a contract to purchase WEN  
10 Cleansing Conditioners from Guthy-Renker.

11 86. According to Guthy-Renker’s website, California law applies to all  
12 claims.

13 87. Plaintiffs and the Class paid money and conferred a benefit upon  
14 Guthy-Renker by purchasing WEN Cleansing Conditioner from Guthy-Renker.

15 88. Plaintiffs and the Class have performed all conditions and promises  
16 required on their part to be performed in accordance with the agreement to  
17 purchase the Products.

18 89. Guthy-Renker materially breached its contracts with Plaintiffs and the  
19 Class by selling Plaintiffs and the Class Products that were defective and were not  
20 what the Plaintiffs and the Class had bargained for.

21 90. As a result of Guthy-Renker’s breach, Plaintiffs and the Class have  
22 suffered harm in the form of damages as they did not receive the benefit of their  
23 bargain.

24 **COUNT V**

25 **NEGLIGENCE – FAILURE TO WARN**

26 **(Class Claims Against Both Defendants)**

27 91. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
28

1 1-51 as though fully set forth at length herein.

2 92. At all times referenced herein, Defendants were responsible for  
3 designing, formulating, testing, manufacturing, inspecting, distributing, marketing,  
4 supplying and/or selling WEN Cleansing Conditioner to Plaintiffs and the Class.

5 93. According to Guthy-Renker's website, California law applies to all  
6 claims.

7 94. At all times material hereto, the use of WEN Cleansing Conditioner in  
8 a manner that was intended and/or reasonably foreseeable by Defendants involved  
9 substantial risk of hair loss.

10 95. At all times the risk of substantial hair loss was known or knowable  
11 by Defendants, in light of the generally recognized and prevailing knowledge  
12 available at the time of manufacture and design, as described herein.

13 96. Defendants, as the developers, manufacturers, distributors and/or  
14 sellers of WEN Cleansing Conditioner, had a duty to warn Plaintiffs and the Class  
15 of all dangers associated with the intended use.

16 97. Certainly, after receiving thousands of complaints of hair loss from  
17 WEN Cleansing Conditioner customers, a duty arose to provide a warning to  
18 consumers that use of the product could result in hair loss.

19 98. Defendants were negligent and breached their duty of care by  
20 negligently failing to give adequate warnings to purchasers and users of WEN  
21 Cleansing Conditioner, including Plaintiffs and the Class, about the risks, potential  
22 dangers and defective condition of the Products.

23 99. Defendants knew, or by the exercise of reasonable care, should have  
24 known of the inherent design defects and resulting dangers associated with using  
25 WEN Cleansing Conditioner as described herein, and knew that Plaintiffs and  
26 Class members could not reasonably be aware of those risks. Defendants failed to  
27 exercise reasonable care in providing the Class with adequate warnings.

28

1           100. As a direct and proximate result of Defendants’ failure to adequately  
2 warn consumers that use of WEN Cleansing Conditioner could cause hair loss,  
3 Plaintiffs and the Class have suffered damages as set forth herein.

4

5

**COUNT VI**

6

**NEGLIGENCE – FAILURE TO TEST**

7

**(Class Claims Against Both Defendants)**

8

9           101. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
10 1-51 as though fully set forth at length herein.

11

12           102. According to Guthy-Renker’s website, California law applies to all  
13 claims.

14

15           103. Defendants did not perform adequate testing on WEN Cleansing  
16 Conditioner, which was defectively designed, formulated, tested, manufactured,  
17 inspected, distributed, marketed, supplied and/or sold to Plaintiffs and the Class.

18

19           104. Adequate testing would have revealed the serious deficiencies in the  
20 WEN Cleansing Conditioner in that it would have revealed the substantial hair  
21 loss occasioned by use of the Products.

22

23           105. Defendants had, and continue to have, a duty to exercise reasonable  
24 care to properly design—including the duty to test—WEN Cleansing Conditioner  
25 before introducing it into the stream of commerce.

26

27           106. Defendants breached these duties by failing to exercise ordinary care  
28 in the design and testing of WEN Cleansing Conditioner, which they introduced  
29 into the stream of commerce, because Defendants knew or should have known  
30 that WEN Cleansing Conditioner could cause substantial hair loss.

31

32           107. Defendants knew or reasonably should have known that Class  
33 members such as Plaintiffs would suffer economic damages or injury and/or be at  
34 an increased risk of suffering damage and injury, as a result of its failure to

35

1 exercise ordinary care in the design of WEN Cleansing Conditioner by failing to  
2 conduct appropriate testing.

3 108. By reason of the foregoing, Plaintiffs and the Class experienced  
4 and/or are at risk of experiencing financial damage and injury.

5 109. As a direct and proximate result of Defendants' failure to test WEN  
6 Cleansing Conditioner designed, formulated, manufactured, inspected, distributed,  
7 marketed, warranted, advertised, supplied and/or sold by the Defendants,  
8 Plaintiffs and the Class have suffered damages.

9 **COUNT VII**

10 **STRICT PRODUCTS LIABILITY**

11 **(Class Claim Against Both Defendants)**

12 110. Named Plaintiffs repeat and re-allege every allegation in paragraphs  
13 1-51 as though fully set forth at length herein.

14 111. According to Guthy-Renker's website, California law applies to all  
15 claims.

16 112. Defendant WEN was the creator and developer of WEN Cleansing  
17 Conditioner

18 113. Defendant WEN licenses the formula for its Cleansing Conditioner to  
19 Defendant Guthy-Renker.

20 114. Defendant Guthy-Renker was the manufacturer or supplier of WEN  
21 Cleansing Conditioner at issue in this case.

22 115. As described herein, the Products possessed a defect in  
23 manufacturing in that the formula can cause substantial hair loss.

24 116. The defect in the Products existed at the time the Products left  
25 Defendants' possession.

26 117. The Products caused harm and injury to Plaintiffs and the proposed  
27 Class in that, *inter alia*, it caused and/or causes hair loss.

28

1 118. Plaintiffs' use of the Cleansing Conditioner occurred in a manner that  
2 was reasonably foreseeable to Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Named Plaintiffs respectfully requests the following relief:

- 5 a. Determine that the claims alleged herein may be maintained as a  
6 class action under Rule 23 of the Federal Rules of Civil Procedure,  
7 and issue an order certifying one or more Classes as defined above;
- 8 b. Appoint Plaintiffs as the representatives of the Class and their  
9 counsel as Class counsel;
- 10 c. Award all actual, general, special, incidental, statutory, and  
11 consequential damages to which Plaintiffs and Class members are  
12 entitled;
- 13 d. Award pre-judgment and post-judgment interest on such monetary  
14 relief;
- 15 e. Grant appropriate injunctive and/or declaratory relief, including,  
16 without limitation, an order that requires Defendants to replace the  
17 WEN Cleansing Conditioner with non-defective products, and/or  
18 repay Plaintiffs and Class members, or, at a minimum, to provide  
19 Plaintiffs and Class members with appropriate curative notice  
20 regarding the existence and cause of the defect;
- 21 f. Award reasonable attorneys' fees and costs; and
- 22 g. Grant such further relief that this Court deems appropriate.

23 **JURY TRIAL DEMANDED**

24 Named Plaintiffs demand a trial by jury on all issues so triable.  
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1 Dated: June 8, 2015

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