

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

BRYON BELTON; and RANDALL)	
COLLINS, on behalf of themselves and all)	
others similarly situated,)	
)	
Plaintiffs,)	CASE NO.: _____
)	
v.)	
)	
COMBE INCORPORATED; COMBE)	JURY TRIAL DEMANDED
PRODUCTS, INC.; COMBE)	
LABORATORIES, INC.; and)	
COMBE INTERNATIONAL LTD)	
)	
Defendants.)	

CLASS ACTION COMPLAINT

Plaintiffs BRYON BELTON and RANDALL COLLINS, on behalf of themselves and all others similarly situated and for their class action Complaint alleges as follows:

NATURE OF THE ACTION

1. This is an action for damages suffered by Plaintiffs and Class Members as a direct and proximate result of the Defendants’ negligent and wrongful conduct in connection with the design, development, manufacture, testing, packaging, promoting, marketing, distribution, labeling, and/or sale of the hair care products and hair dyes known as Just For Men® and/or other Just For Men® branded products herein collectively referred to as Just For Men®.

2. Just For Men® hair care products and dyes are manufactured and/or sold by Combe Incorporated, Combe Products, Inc., Combe Laboratories, Inc., and/or Combe International LTD.

3. At all times relevant hereto, Just For Men® was designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labeled, and/or sold by the Defendants Combe Incorporated, Combe Products, Inc., Combe Laboratories, Inc., and/or Combe International LTD.

PARTIES, JURISDICTION, AND VENUE

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all Members of the putative Classes are in excess of \$5,000,000.00, exclusive of interest and costs, and many of the Members of the putative Classes are citizens of different states than Defendants. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d).

5. Venue is properly set in this District pursuant to 28 U.S.C. § 1391(b) since Defendants transacts business within this judicial district. Likewise, a substantial part of the events giving rise to the claim occurred within this judicial district.

6. Consistent with the Due Process Clause of the Fifth and Fourteenth Amendments, the Court has personal jurisdiction over Defendants, because Defendants are present in the State of Missouri, such that requiring an appearance does not offend traditional notions of fair play and substantial justice.

7. This court has personal jurisdiction over Defendants pursuant to and consistent with the Constitutional requirements of Due Process in that Defendants, acting through their agents or apparent agents, committed one or more of the following:

- a. The transaction of any business within the state;
- b. The making of any contract within the state;
- c. The commission of a tortious act within this state; and
- d. The ownership, use, or possession of any real estate situated within this state.

8. Requiring Defendants to litigate these claims in Missouri does not offend traditional notions of fair play and substantial justice and is permitted by the United States Constitution. All

Plaintiff and Class Members' claims arise in part from conduct Defendants purposefully directed to Missouri. On information and belief, Defendants Just For Men[®] hair care products and dyes are sold at hundreds of local and national retailers, including, but not limited to Wal-Mart, Target, Walgreens, CVS, Schnuck's and Dierberg's, throughout the State of Missouri. On information and belief, Defendants avail themselves of numerous advertising and promotional materials regarding their defective products specifically intended to reach consumers in Missouri, including but not limited to advertisements on local Missouri television programs, advertisements on local Missouri radio broadcasts, advertisements on billboards in Missouri and advertisements in print publications delivered to consumers in the State of Missouri. Finally, Defendant Combe Incorporated has availed itself as a plaintiff in the courts of the State of Missouri on several occasions. On information and belief, those lawsuits were brought as a result of contracts made with health and beauty supply businesses and distribution businesses located in the State of Missouri.

9. Plaintiffs and Class Members' claims arise out of Defendants' design, marketing and sale of Just For Men[®] hair care products and dyes in the State of Missouri.

10. Defendants regularly conduct or solicit business and derive substantial revenue from goods used or consumed in, inter alia, the State of Missouri.

11. Defendant Combe Incorporated is a Delaware corporation which has its principle place of business at 1101 Westchester Ave., White Plains, New York 10604.

12. At all times relevant hereto, Defendant Combe Incorporated was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Just For Men[®] hair care and dye products.

13. Upon information and belief, at all relevant times, Defendant Combe Incorporated was present and doing business in the State of Missouri.

14. At all relevant times, Defendant Combe Incorporated, transacted, solicited, and conducted business in the State of Missouri and derived substantial revenue from such business.

15. At all times relevant hereto, Defendant Combe Incorporated expected or should have expected that its acts would have consequences within the United States of America, and the State of Missouri in particular.

16. Defendant Combe International LTD is a Delaware corporation which has its principal place of business at 1101 Westchester Ave., White Plains, New York 10604.

17. At all times relevant hereto the Defendant Combe International LTD was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Just For Men[®] hair care and dye products.

18. Upon information and belief, at all relevant times, Defendant Combe International LTD was present and doing business in the State of Missouri.

19. At all relevant times, Defendant Combe International LTD, transacted, solicited, and conducted business in the State of Missouri and derived substantial revenue from such business.

20. At all times relevant hereto, Defendant Combe International LTD expected or should have expected that its acts would have consequences within the United States of America, and the State of Missouri in particular.

21. Defendant Combe Products, Inc. is a Delaware corporation which has its principle place of business at El Duque Industrial Park Carr, 971 Calle A, Naguabo, Puerto Rico 00718.

22. At all times relevant hereto the Defendant Combe Products, Inc. was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Just For Men[®] hair care and dye products.

23. Upon information and belief, at all relevant times, Defendant Combe Products, Inc. was present and doing business in the State of Missouri.

24. At all relevant times, Defendant Combe Products, Inc. transacted, solicited, and conducted business in the State of Missouri and derived substantial revenue from such business.

25. At all times relevant hereto, Defendant Combe Products, Inc. expected or should have expected that its acts would have consequences within the United States of America, and the State of Missouri in particular.

26. Defendant Combe Laboratories, Inc. is a Delaware corporation which has its principle place of business at 200 Shellhouse Dr., Rantoul, IL 61866.

27. At all times relevant hereto, Defendant Combe Laboratories, Inc. was engaged in the business of designing, developing, manufacturing, testing, packaging, promoting, marketing, distributing, labeling, and/or selling Just For Men[®] hair care and dye products.

28. Upon information and belief, at all relevant times, Defendant Combe Laboratories, Inc. was present and doing business in the State of Missouri.

29. At all relevant times, Defendant Combe Laboratories, Inc. transacted, solicited, and conducted business in the State of Missouri and derived substantial revenue from such business.

30. At all times relevant hereto, Defendant Combe Laboratories, Inc. expected or should have expected that its acts would have consequences within the United States of America, and the State of Missouri in particular.

31. Defendants Combe Incorporated, Combe Products, Inc., Combe Laboratories, Inc., and Combe International LTD shall herein be collectively referred to as "Defendants."

FACTUAL ALLEGATIONS

32. Defendants developed, designed, formulated, manufactured, packaged, labeled,

advertised, marketed, instructed on, warned about, distributed and sold Just For Men[®] hair care and dye products since at least 1987.

33. Just For Men[®] is a cosmetic hair care dye intended to improve appearance and alter hair and facial hair color.

34. Even if used as directed, Defendants failed to adequately warn against the negative effects and risks associated with this product including, but not necessarily limited to, long term usage and the cumulative effects of long term usage, all discussed elsewhere in this Complaint.

35. Defendants knew or should have known that Just For Men[®] products create an unnecessary risk of burns, scarring, allergic reactions, anaphylactic shock, skin depigmentation, and other severe injuries with use including, but not limited to, prolonged and cumulative usage.

36. In omitting, concealing, and inadequately providing critical safety information regarding the use of Just For Men[®] in order to induce its purchase and use, Defendants engaged in and continue to engage in conduct likely to mislead consumers including Plaintiffs and Class Members. This conduct is fraudulent, unfair, and unlawful.

37. Defendants, the self-proclaimed “champions of facial hair,” knew or should have known that Just For Men[®] created an increased risk of injury but Defendants failed to disclose to consumers, including Plaintiffs and Class Members, the risk of injury, rates of adverse reaction, and other problems known to Defendants.

38. Defendants boast that Just For Men[®] products are backed by “three decades of research and have delivered great results over 50 million times” despite the knowledge that thousands of consumers a year are severely and permanently injured by their Just For Men[®] products. Further, this statement is inaccurate, misleading, and not supported by any scientific facts or knowledge.

39. Defendants knew or should have known that the chemicals in their Just For Men[®] products, including, but not limited to, p-Phenylenediamine (herein “PPD”), are associated with health risks yet, Defendants did not adequately warn consumers, including Plaintiffs and Class Members.

40. Just For Men[®] is permanent hair coloring which utilizes oxidation in the dyeing process.

41. The EPA lists several links between PPD and several acute and chronic injuries including but not limited to:

- a. Severe dermatitis;
- b. Renal failure;
- c. Acute Contact Dermatitis;
- d. Vitiligo;
- e. Convulsions and comas; and
- f. Eczematoid contact dermatitis;

42. Defendants do not warn about any of the conditions listed in the preceding paragraph on their packaging or product inserts.

43. A 2006 article published in the Journal of Toxicology and Environmental Health found a link in at least one study between hair dyes and certain cancers including bladder cancer, non-Hodgkin’s lymphoma, and blood cancers such as myeloma and leukemia.

44. In 2006, PPD was named allergen of the year by the American Contact Dermatitis Society.

45. PPD is one of five substances listed as a “strong sensitizer” by the Consumer Product Safety Commission.

46. As defined by 16 CFR 1500.13, “strong sensitizer” substances have a significant potential for causing hypersensitivity.

47. Throughout Europe PPD is widely known as an “extreme sensitizer.”

48. Defendants place no restrictions concerning cumulative or repeated use of their products or PPD on their packaging, despite the known risks of repeated exposure to their products and PPD.

49. Defendants knew or should have known that more than 5% of the population will have an adverse reaction to PPD, yet, Defendants concealed and withheld this information from the public.

50. PPD has been linked to severe and sudden allergic reactions including serious skin irritation, anaphylaxis and even death.

51. Defendants do not properly warn consumers on their product labels, inserts, or marketing materials that PPD in Just For Men[®] Products can cause anaphylaxis and death.

52. Defendants knew or should have known about the increased risk created by cumulative use, but Defendants failed to put instructions or warnings related to such use or the number of times a person could use their Just For Men[®] products safely.

53. Although, consistent with 21 U.S.C. 361(a), Defendants instruct users to conduct a preliminary test to help determine whether a user will have an adverse reaction to Defendants’ product, the preliminary test Defendants recommend and the directions and instructions for its administration are inadequate.

54. Defendants recommend a self-applied “skin patch test” on a consumer’s arm prior to use. Defendants recommend this test despite knowing that facial skin is more sensitive and may react differently than the arm or other parts of the body. Defendants provide no guidelines on how

to test their Just For Men[®] products on a consumer's face prior to use.

55. Defendants knew or should have known that their skin patch test is an inadequate method to determine if a user will have an adverse reaction to PPD.

56. The universal standard for identifying skin allergies, including acute contact dermatitis to PPD, is the patch test which is administered and monitored by a dermatologist or similar trained medical professional over 7-10 days.

57. During a patch test, a trained medical professional places small quantities of known allergens on the patient's back. The test areas are then covered with special hypoallergenic adhesive tape so the patches stay in place undisturbed for 48 hours.

58. Generally, a patch test administered by a medical professional requires two to three appointments so that the reactions can be carefully monitored by the dermatologist.

59. Despite the knowledge that more accurate patch tests conducted by trained medical professionals are done over the course of several days or even weeks, Defendants wrongly and negligently fail to advise Just For Men[®] consumers of the benefits of having a patch test done by a medical professional.

60. In December 2007, the European Commission Scientific Committee on Consumer Products released an Opinion titled "Sensitivity to Hair Dyes – Consumer Self Testing." The Committee concluded that at home skin tests, given for the purpose of providing an indication as to whether an individual consumer may or may not have a contact allergy to hair dye chemicals, were unreliable. The committee specifically found that:

- a. Self-Testing leads to misleading and false-negative results thus giving individuals who are allergic to hair dye substances the false impression that they are not allergic and not at risk of developing an allergic reaction by dyeing their hair;

- b. There is a potential risk that “self-tests” result in induction of skin sensitization to hair dye substances;
- c. The self-test recommendations were not standardized and uncontrolled allowing for large variations in dose, number of applications, and duration of exposure;
- d. False negative results from self-testing are considered to be the largest problem;
- e. 48 hours known to be too short as patch test reactions may develop up to seven days after application;
- f. Self-test locations on the arm or behind the ear are not reliable, while patch testing done on the back is good for reproducibility; and
- g. Self-tests are not performed or observed by trained observers.

61. Defendants do not warn or disclose that self-testing, such as the test recommended by Defendants, is not as effective or reliable as a doctor performed test as described elsewhere in this Complaint.

62. Nowhere on their product packaging or inserts, webpage, or marketing materials do Defendants recommend that consumers undergo a patch test with a dermatologist before using Just For Men[®] products.

63. Defendants advise that a consumer “not wash, cover, or disturb the test area for 48 hours.” The burden to comply with Defendants’ version of an allergy test is too high and essentially unfeasible. The risk of accidental contamination renders the “test” useless.

64. For example, during Defendants’ version of an allergy test, for two days, Consumers are unrealistically expected to:

- a. Not shower;
- b. Not wear long sleeve shirts;

- c. Not accidentally rub against anything;
- d. Not sweat; and
- e. Not close the elbow.

65. Defendants knew or should have known that a percentage of consumers would have an allergic reaction to their products but fail to advise consumers to undergo proper allergy testing before using their products.

66. Despite knowing that a certain percentage of the population would have an allergic reaction to their products, Defendants failed to warn or disclose such rates of reaction to consumers and the public in general.

67. Defendants knew or should have known that their recommended skin patch test is inadequate to accurately identify potential reactions to their products.

68. Defendants, knew or should have known that their test was not adequate because:

- a. The instructions and directions for use did not disclose that Defendants' at-home test was not a substitute for a patch-test administered or monitored by a trained medical professional and that more accurate results could be obtained by a test administered by a trained medical professional;
- b. The risk that the test would be performed in the wrong area;
- c. the risk that the amount of product used would be wrong;
- d. the arm is not the appropriate location for a skin allergy test;
- e. the risk of false negatives or false positives is high;
- f. The area that is tested is not covered or protected during the test; and
- g. The risk that the product would be disturbed by clothing or daily activities is high.

69. Consumers, including Plaintiffs and Class Members, detrimentally relied on

Defendants' instructions and patch test.

70. Defendants knew or should have known that it is highly unlikely that a consumer would be able to perform Defendants' version of the patch test properly and obtain reliable results.

71. In addition, Defendants know or should have known that sensitization to PPD during a skin patch test is likely to occur in a certain percentage of the population.

72. When sensitization occurs during a patch test, the consumer will have a late reaction to the PPD more than 48 hours, or not at all, after exposure rendering the Defendants testing procedure useless.

73. Due to sensitization during a patch test, it is possible for consumers to have a negative skin patch test result and still have a severe reaction to Defendants' products including but not limited to Just For Men[®].

74. Despite this, Defendants do not warn or disclose the risks of sensitization during a skin patch test.

75. Defendants' provide inadequate instructions on how to combine the Color Base and Color Developer before application. Defendants use ambiguous words such as "small" and "equal" parts but provide no tools or methods to measure the actual amount of each chemical or to ensure that equal amounts are being applied.

76. Defendants provide no instructions on what is meant by a "small" amount of chemicals leaving the consumer to guess at the proper testing procedure.

77. Without precise measuring tools, it is impossible to determine if "equal" amounts of each chemical are being mixed for application.

78. Even if the product's patch test was adequate and reliable, which it is not, the vague, ambiguous, and inadequate instructions for its use render the test inadequate at best and useless at

worst.

79. Defendants fail to warn or disclose the probability that a user will have an adverse reaction to Just For Men[®] products.

80. Defendants spend millions of dollars to advertise nationally via television and internet, but do not warn about any adverse reactions on their website or their television commercials.

81. Defendants do not have any information about adverse reactions or any warning or precautions in their FAQ section on their website. In fact, their website is completely devoid of safety information or information related to adverse reactions regarding their Just For Men[®] products.

82. There are safer and cheaper alternatives to PPD available to Defendants for use in Just For Men[®] products. However, despite the known risks of PPD, Defendants continue to use PPD in their products.

83. Safer known alternatives include but are not limited to:

- a. Henna based hair dyes;
- b. Para-toluenediamine sulfate hair dyes; and
- c. Other semi-permanent dyes.

84. Defendants fail to warn about or disclose the true nature and extent of the risk of serious adverse reactions posed by Just For Men[®] products in the general population of users or consumers.

85. Defendants also fail to warn or disclose that certain colors of Just For Men[®] products contain an increased amount of PPD posing a greater risk of an adverse reaction for consumers who use those particular colors.

86. Furthermore, Defendants fail to warn or disclose that African American consumers are at dramatically higher risk of an acute reaction to PPD than those of Caucasian decent.

87. In 2001 a study performed by the Cleveland Clinic concluded that the sensitization rate of PPD in African American users overall (men and women) was 10.6% versus 4.5% in Caucasians. The study further concluded that the sensitization rate of PPD in African American men in particular was 21.2% compared to 4.2% in Caucasians.

88. Just For Men® products have an unacceptable and unreasonable rate of adverse reaction in the general population. Further, the unacceptable and unreasonable rate of adverse reaction is even higher in certain population groups, such as African American men.

89. Despite knowing that the overall population of consumers were already at an increased risk of experiencing an adverse reaction to PPD, and that African American men in particular were five times as likely to experience an adverse reaction to PPD, Defendants aggressively targeted the African American community in their marketing and advertising.

90. In addition, other scientific studies have found increased sensitization rates to predominately dark-haired populations including 11.5% in India and 15.2% in Spain.

91. In fact, PPD is now known as one of, if not the most, common allergens in the African American population, even rivaling nickel which is the leading cause of Allergic Contact Dermatitis (“ACD”) in the world.

92. Defendants knew or should have known that consumers were at a greater risk of experiencing an adverse reaction while using PPD compared to other hair dye products, and Defendants knew or should have known that consumers with darker hair, including but not limited to African Americans, were at an even greater risk of experiencing an adverse reaction to PPD.

93. Despite this knowledge, Defendants failed to warn or disclose to their consumers

that they were exposed to a significantly increased risk of suffering an adverse reaction.

94. Defendants also knew or should have known that there is a substantial likelihood of serious bodily injury when using Just For Men[®] products because they contains PPD. However, Defendants failed to warn or disclose this to consumers and the public in general.

95. Instead, Defendants represented that their product was safe and effective when used as directed even though Defendants knew or should have known that their 48 hour allergy test was flawed and ineffective.

96. Defendants also failed to warn or disclose to consumers and the public in general that African Americans are more than two times as likely to have a severe reaction to their products as other consumers, and that African-American men are five times more likely to have such a reaction.

97. Defendants' warning label for Just For Men[®] inadequately addresses and warns of potential adverse health risk associated with the use of the product, as set forth in this Complaint. Even when such risks are mentioned, they are minimized and downplayed, further reducing the utility, if any, of the products' warnings.

98. Defendants actively marketed Just For Men[®] to consumers knowing that it would cause serious and severe reactions to consumers and failed to warn or disclose this fact to consumers and the public in general.

99. Defendants have an internal claims process in place to obtain liability releases and compensate consumers who are injured by Just For Men[®] products.

100. Defendants' claim process is in place to cover up any problems associated with their Just For Men[®] products and prevent consumers who are injured from taking legal action.

101. Plaintiffs and Class Members are unaware of a single clinical trial or study

performed by Defendants related to the injury rate and/or safety of any of their Just For Men[®] products.

102. Defendants have a duty to monitor the safety of their products and it is reasonable for them to conduct multiple clinical trials and/or studies related to the safety of their Just For Men[®] products. However, Defendants have failed to do so.

103. Defendants knew or should have known of the high number of adverse reactions and injuries related to their Just For Men[®] products from a multitude of sources, including but not limited to their internal claims process, making their failure to conduct any studies or clinical trials particularly egregious.

PLAINTIFFS' USE OF JUST FOR MEN

104. Plaintiff Bryon Belton is and was at all times alleged herein a citizen of the State of Missouri and currently resides in St. Louis County.

105. Plaintiff Bryon Belton purchased Just For Men[®] on numerous occasions, including but not limited to, in or about July 2015 within St. Louis County. Plaintiff Bryon Belton applied Just For Men[®] as directed in or about July 2015 within St. Louis County.

106. Plaintiff Randall Collins is and was at all times alleged herein a citizen of the State of Missouri and currently resides in St. Louis County.

107. Plaintiff Randall Collins purchased Just For Men[®] on numerous occasions, including but not limited to, in or about September 2014 within St. Louis County. Plaintiff Randall Collins applied Just For Men[®] as directed in or about September 2014 within St. Louis County.

CLASS ACTION ALLEGATIONS

108. Plaintiffs bring this action on their own behalf and, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of the following class:

All persons who purchased a Just For Men[®] product in the State of Missouri for personal use.

Excluded from the Class are Defendants and its affiliates, parents, subsidiaries, employees, officers, agents, and directors. Also excluded is any trial judge who may preside over this cause.

109. The Members of the Class are so numerous that joinder of all Members is impracticable. On information and belief, hundreds of thousands of consumers have purchased a Just For Men[®] product in the State of Missouri for personal use. Disposition of the claims of the proposed Class in a class action will provide substantial benefits to both the parties and the Court.

110. The rights of each member of the proposed Class were violated in a similar fashion based upon Defendants' uniform wrongful actions and/or inaction.

111. The following questions of law and fact are common to each proposed Class Member and predominate over questions that may affect individual Class Members:

- a. Whether Defendants engaged in marketing and promotional activities which were likely to deceive consumers by omitting, suppressing, and/or concealing the true efficacy and safety of Just For Men[®] products;
- b. Whether Defendants omitted, suppressed, and/or concealed material facts concerning Just For Men[®] products from consumers;
- c. What the fair market value of ongoing and future diagnostic testing to determine whether their exposure to Just For Men[®] products has caused or is in the process of causing sensitization to PPD;
- d. Whether Defendants' conduct was willful and wanton; and
- e. Whether the Class has been damaged and, if so, the extent of such damages.

112. Plaintiffs' claims are typical of the claims of absent Class Members. If brought individually, the claims of each Class Member would necessarily require proof of the same material and substantive facts, and seek the same remedies.

113. Plaintiffs are willing and prepared to serve the Court and the proposed Class in a representative capacity. Plaintiffs will fairly and adequately protect the interest of the Class and

have no interests adverse to, or which directly and irrevocably conflicts with, the interests of other Members of the Class. Further, Plaintiffs have retained counsel experienced in prosecuting complex class action litigation.

114. Defendants have acted or refused to act on grounds generally applicable to the proposed Class, thereby making appropriate equitable relief with respect to the Class.

115. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual claims by the Class Members are impractical, as the costs of prosecution may exceed what any Class Member has at stake.

116. Members of the Class are readily ascertainable through Defendants' records and files and from other sources.

117. Prosecuting separate actions by individual Class Members would create a risk of inconsistent or varying adjudications that would establish incomparable standards of conduct for Defendants. Moreover, adjudications with respect to individual Class Members would, as a practical matter, be dispositive of the interests of other Class Members.

TOLLING OF THE STATUTE OF LIMITATIONS

118. The filing of this Class Action Complaint serves to toll and preserve the claims of the Class and other purchasers who were defrauded and injured by Defendants' wrongful and unlawful acts, and the commencement of this action suspends the applicable statute of limitations as to all asserted members of the Class who would have been parties had the suit been permitted to continue as a class action until a district judge declines to certify a class, or certifies a class that excludes particular persons.

119. Defendants at all relevant times knew or should have known of the problems and defects with Just For Men® products, and the falsity and misleading nature of Defendants'

statements, representations and warranties with respect to Just For Men® products. Defendants concealed and failed to notify Plaintiffs, the Class members, and the public of such defects.

120. Any applicable statute of limitation has therefore been tolled by Defendants' knowledge, active concealment and denial of the facts alleged herein, which behavior is ongoing.

COUNT I
Medical Monitoring

121. Plaintiffs and Class Members incorporate by reference each and every paragraph of this Complaint as if fully set forth herein and further alleges as follows.

122. Plaintiffs and Class Members have a common and legally protected interest in avoiding physical injury and a similar interest in avoiding expensive medical evaluations.

123. Plaintiffs and Class Members common exposure to Just For Men® products has subjected them to a significant risk of sensitization to PPD and other related chemicals and other related illnesses in the future.

124. Many injuries and illnesses associated with sensitization to PPD and other related chemical are not immediately apparent

125. Defendants' tortious conduct, as alleged herein, has invaded Plaintiffs and Class Members' interest in avoiding physical injury and illness as well as avoiding the costs and expenses associated with the diagnostic testing and medical evaluations.

126. Plaintiffs and Class Members will require ongoing diagnostic testing to determine whether their exposure to Just For Men® products has caused or is in the process of causing sensitization to PPD and other related chemicals.

127. The future costs that will be incurred by Plaintiffs and Class Members for ongoing diagnostic testing to determine whether their exposure to Just For Men® products has caused or is in the process of causing sensitization to PPD and other related chemicals are

reasonably certain to incur.

128. Defendants, through their own studies, research, clinical trials, post-marketing surveillance, analysis, and/or testing, possess knowledge of the sensitization and other risks from exposure to Just For Men[®] products. Defendants caused the necessity of continued medical surveillance of those who have been exposed to Just For Men[®] products to effectively diagnose and/or detect the associated risks, including sensitization to PPD and other related chemicals.

129. The future costs that will be incurred by Plaintiffs and Class Members in the foregoing regard are the proximate cause and consequence of Defendants' tortious conduct alleged herein.

130. Defendants' actions and omissions as alleged in this Complaint demonstrate a reckless disregard for the rights and safety of consumers such as Plaintiffs and Class Members or were in willful and wanton disregard of the rights and safety of persons who may be harmed by Defendants' products including Plaintiffs and Class Members. Such conduct justifies the imposition of punitive or exemplary damages against Defendants.

WHEREFORE, Plaintiffs and the Class pray that this court require Defendants to pay or create a pool of money or otherwise fund Plaintiffs and the Class' ongoing diagnostic testing necessary to determine whether the common exposure to Just For Men[®] products has caused or is in the process of causing sensitization to PPD and other related chemicals; for punitive or exemplary damages; for costs, expenses and attorney fees as allowed by law; and for such other and further relief as this Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs and Class Members demand a jury trial as to all claims and issues triable of right by a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the Members of the proposed Class pray that this Honorable Court do the following:

- A. Certify the matter as a class action pursuant to the provisions of Rule 23 of the Federal Rules of Civil Procedure and order that notice be provided to all Class Members;
 - B. Designate Plaintiffs as representatives of the Class and the undersigned counsel as Class Counsel;
 - C. Award Plaintiffs and the Class compensatory and punitive damages in an amount to be determined by the trier of fact;
 - D. Award Plaintiffs and the Class statutory interest and penalties;
 - E. Award Plaintiffs and the Class appropriate injunctive and/or declaratory relief;
 - F. Award Plaintiffs and the Class their costs, prejudgment interest, and attorney fees;
- and
- G. Grant such other relief as is just and proper.

Respectfully submitted,

THE DRISCOLL FIRM, P.C.

By: /s/John J. Driscoll

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

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Plaintiff,)	
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v.)	Case No.
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Defendant,)	
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ORIGINAL FILING FORM

THIS FORM MUST BE COMPLETED AND VERIFIED BY THE FILING PARTY WHEN INITIATING A NEW CASE.

THIS SAME CAUSE, OR A SUBSTANTIALLY EQUIVALENT COMPLAINT, WAS PREVIOUSLY FILED IN THIS COURT AS CASE NUMBER _____ AND ASSIGNED TO THE HONORABLE JUDGE _____.

THIS CAUSE IS RELATED, BUT IS NOT SUBSTANTIALLY EQUIVALENT TO ANY PREVIOUSLY FILED COMPLAINT. THE RELATED CASE NUMBER IS _____ AND THAT CASE WAS ASSIGNED TO THE HONORABLE _____. THIS CASE MAY, THEREFORE, BE OPENED AS AN ORIGINAL PROCEEDING.

NEITHER THIS SAME CAUSE, NOR A SUBSTANTIALLY EQUIVALENT COMPLAINT, HAS BEEN PREVIOUSLY FILED IN THIS COURT, AND THEREFORE MAY BE OPENED AS AN ORIGINAL PROCEEDING.

The undersigned affirms that the information provided above is true and correct.

Date: _____

Signature of Filing Party

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

Plaintiff(s),
vs.
Defendant(s).
Case No.

DISCLOSURE OF ORGANIZATIONAL INTERESTS
CERTIFICATE

Pursuant to Local Rule 3-2.09 of the Local Rules of the United States District Court for the Eastern District of Missouri and Federal Rule of Civil Procedure 7.1, Counsel of record for _____ hereby discloses the following organizational interests:

- 1. If the subject organization is a corporation,
a. Its parent companies or corporations (if none, state "none"):
b. Its subsidiaries not wholly owned by the subject corporation (if none, state "none"):
c. Any publicly held company or corporation that owns ten percent (10%) or more of the subject corporation's stock (if none, state "none"):
2. If the subject organization is a limited liability company or a limited liability partnership, its members and each member's state of citizenship:

Signature (Counsel for Plaintiff/Defendant)
Print Name:
Address:
City/State/Zip:
Phone:

Certificate of Service

I hereby certify that a true copy of the foregoing Disclosure of Organizational Interests Certificate was served (by mail, by hand delivery, or by electronic notice) on all parties on:
_____, 20_____.

Signature

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Civil Cover Sheet

Bryon Belton, et al. v. Combe Incorporated, et al.

I. (c) Attorneys (*Firm Name, Address, and Telephone number*) - attachment

John J. Driscoll, #54729
Philip Sholtz, #57375
THE DRISCOLL FIRM, P.C.
211 N. Broadway, 40th Floor
St. Louis, Missouri 63102
314-932-3232 telephone
314-932-3233 facsimile
john@thedriscollfirm.com
phil@thedriscollfirm.com

Attorneys for Plaintiffs

Richard W. Schulte (Ohio Bar #0066031)
(pro hac to be applied for)
WRIGHT & SCHULTE, LLC
865 S. Dixie Dr.
Vandalia, Ohio 45377
937-435-7500 telephone
937-435-7511 facsimile
rschulte@yourlegalhelp.com

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

_____)	
Plaintiff (s),)	
)	
v.)	Case No.
)	
)	
_____)	
Defendant(s).)	

NOTICE OF INTENT TO USE
PROCESS SERVER

Comes now _____ and notifies the court of the intent to use
(Plaintiff or Defendant)

(name and address of process server)

To serve:
_____ in the
(name of defendants to be served by this process server)

above-styled cause. The process server listed above possesses the
requirements as stated in Rule 4 of the Federal Rules of Civil Procedure.

The undersigned affirms the information provided above is true and correct.

(date)

(attorney for Plaintiff)

(attorney for Defendant)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

_____)	
Plaintiff (s),)	
)	
v.)	Case No.
)	
)	
_____)	
Defendant(s).)	

NOTICE OF INTENT TO USE
PROCESS SERVER

Comes now _____ and notifies the court of the intent to use
(Plaintiff or Defendant)

(name and address of process server)

To serve:
_____ in the
(name of defendants to be served by this process server)

above-styled cause. The process server listed above possesses the
requirements as stated in Rule 4 of the Federal Rules of Civil Procedure.

The undersigned affirms the information provided above is true and correct.

(date)

(attorney for Plaintiff)

(attorney for Defendant)

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff

v.

Defendant

)
)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: