

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
KELLY WALKER, ASSISTANT DISTRICT ATTORNEY # 95538
761 OCEAN ST. Rm. 200
SANTA CRUZ CA 95060
TELEPHONE NO.: 831 454-2559 FAX NO: 831 454-2227
ATTORNEY FOR (Name): STATE OF CALIFORNIA PEOPLE OF

FOR COURT USE ONLY

FILED

NOV 20 2012

ALEX CALVO, CLERK
BY DEBORAH ROJAS
DEPUTY, SANTA CRUZ COUNTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ
STREET ADDRESS: 701 OCEAN ST.
MAILING ADDRESS:
CITY AND ZIP CODE: SANTA CRUZ 95060
BRANCH NAME: SANTA CRUZ

CASE NAME:

CASE NUMBER:
CV 175 655

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)
Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

JUDGE:
DEPT:

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

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

- Auto Tort: Auto (22), Uninsured motorist (46)
- Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort: Asbestos (04), Product liability (24), Medical malpractice (45), Other PI/PD/WD (23)
- Non-PI/PD/WD (Other) Tort: Business tort/unfair business practice (07), Civil rights (08), Defamation (13), Fraud (16), Intellectual property (19), Professional negligence (25), Other non-PI/PD/WD tort (35)
- Employment: Wrongful termination (36), Other employment (15)
- Contract: Breach of contract/warranty (06), Rule 3.740 collections (09), Other collections (09), Insurance coverage (18), Other contract (37)
- Real Property: Eminent domain/Inverse condemnation (14), Wrongful eviction (33), Other real property (26)
- Unlawful Detainer: Commercial (31), Residential (32), Drugs (38)
- Judicial Review: Asset forfeiture (05), Petition re: arbitration award (11), Writ of mandate (02), Other judicial review (39)
- Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403): Antitrust/Trade regulation (03), Construction defect (10), Mass tort (40), Securities litigation (28), Environmental/Toxic tort (30), Insurance coverage claims arising from the above listed provisionally complex case types (41)
- Enforcement of Judgment: Enforcement of judgment (20)
- Miscellaneous Civil Complaint: RICO (27), Other complaint (not specified above) (42)
- Miscellaneous Civil Petition: Partnership and corporate governance (21), Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 2

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 11/20/12
KELLY WALKER
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

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

FILED

NOV 20 2012

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BY DEBORAH ROJAS
DEPUTY, SANTA CRUZ COUNTY

1 BOB LEE, DISTRICT ATTORNEY
2 KELLY J. WALKER, ASSISTANT DISTRICT ATTORNEY
3 STATE BAR NUMBER 95538
4 COUNTY OF SANTA CRUZ
5 701 OCEAN STREET, ROOM 200
6 SANTA CRUZ CALIFORNIA 95060
7 TELEPHONE: (831) 454-2400
8 FAX: (831)454-2227
9 EMAIL: KELLY.WALKER@CO.SANTA-CRUZ.CA.US

8 (For list of additional plaintiff's counsel,
9 see attached Exhibit 1)

10 Attorneys for Plaintiff

11 SUPERIOR COURT OF CALIFORNIA
12 IN AND FOR THE COUNTY OF SANTA CRUZ

13
14)
15)
16) THE PEOPLE OF THE STATE OF CALIFORNIA,) No. **CV 175 655**
17) Plaintiff,)
18) vs.) COMPLAINT FOR
19)) CIVIL PENALTIES
20) SENSEA PRODUCTS, LLC, a Delaware Limited)
21) Liability Company, INTELLIGENT BEAUTY INC.,)
22) a Delaware corporation and Does 1 through 30.)
23) Defendants.)

24 Plaintiff, the People of the State of California, appears through its attorneys: Bob Lee,
25 District Attorney of Santa Cruz County, by Kelly J. Walker, Assistant District Attorney;
26 Nancy E. O'Malley, District Attorney of Alameda County, by Scott D. Patton, Deputy District
27 Attorney; Edward S. Berberian, District Attorney of Marin County, by Andres H. Perez,
28 Deputy District Attorney; Dean Flippo, District Attorney of Monterey County, by John F.

1 Hubanks, Deputy District Attorney; Gary Lieberstein, District Attorney of Napa County, by
2 Catherine Borsetto, Deputy District Attorney; Tony Rackauckas, District Attorney of Orange
3 County, by Tracy E. Hughes, Deputy District Attorney; Jeffrey F. Rosen, District Attorney of
4 Santa Clara County, by Yen B. Dang, Deputy District Attorney; Donald A. du Bain, District
5 Attorney of Solano County, by Diane M. Taira, Deputy District Attorney; and Jill R. Ravitch,
6 District Attorney of Sonoma County, by Matthew T. Cheever, Deputy District Attorney, allege
7 on information and belief the following:

8 **JURISDICTION AND VENUE**

9 1. The authority of the District Attorneys to bring this action is derived from that
10 statutory law of the State of California, specifically Business & Professions Code §§17200,
11 17203, 17204, 17206, 17500, 17535 and 17536.

12 2. Defendants advertise, market, solicit sales, sell, distribute and ship products,
13 and do business within the counties of Orange, Alameda, Marin, Monterey, Napa, Santa
14 Clara, Santa Cruz, Solano and Sonoma, and elsewhere in the State of California. The
15 violations of law herein alleged have been carried out within these counties and elsewhere in
16 the State of California.

17 **DEFENDANTS**

18 3. Defendant, Sensa Products, LLC, is a Delaware limited liability company, with
19 its principal place of business at 2301 Rosecrans Avenue, Suite 1150, El Segundo, CA 90245,
20 and which at all times herein mentioned, caused and/or engaged in the violations of law
21 hereinafter alleged.

22 4. Defendant, Intelligent Beauty, Inc., is a Delaware corporation, with its principal
23 place of business at 2301 Rosecrans Avenue, Suite 5100, El Segundo, CA 90245 and which
24 at all times herein mentioned, caused and/or engaged in the violations of law hereinafter
25 alleged.

26 5. Defendants, DOES 1 through 15, are officers, directors, managers, employees,
27 agents, or representatives of Intelligent Beauty, Inc., and/or Sensa Products, LLC, who, at all
28 times herein mentioned, caused and/or engaged in the violations of law hereinafter alleged.

- 1 B. That taking Sensa helps a person lose weight without dieting.
- 2 C. That Sensa is clinically proven to help a person lose more than 30
- 3 pounds without dieting.
- 4 D. That taking Sensa caused, assisted, or contributed to a person losing
- 5 weight and getting a gym body without exercise.
- 6 E. That taking Sensa caused, assisted, or contributed to a person losing
- 7 weight without changing that person's lifestyle.
- 8 F. That taking Sensa helps a person control his or her hunger.
- 9 G. That taking Sensa helps a person get more satisfaction from eating less.

FIRST CAUSE OF ACTION
VIOLATIONS OF BUSINESS AND PROFESSIONS CODE
SECTION 17200 (UNFAIR COMPETITION)

15 13. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 12 of
16 this Complaint as though fully set forth herein.

17 14. Beginning at an exact date which is unknown to the People, but within four
18 years prior to the filing of this complaint, Defendants, and each of them, engaged in a course
19 of conduct constituting acts of unfair competition, as defined by Business & Professions Code
20 §17200, including but not limited to the following:

- 21 A. All of the activity and violations described in Paragraphs 2 through 12,
- 22 above;
- 23 B. Violating California Business and Professions Code §17537(a) by use
- 24 of the term "free" in an untrue or misleading manner.
- 25 C. Violating California Business and Professions Code §17537.11(a) by
- 26 offering a discount in an untrue or misleading manner.
- 27 D. Violating California Business and Professions Code §17537.11(b) by
- 28 offering a discount described as "free" and then requiring a consumer to pay money to obtain

1 or use the coupon.

2 E. Violating California Business and Professions Code § 17602 by failing
3 to present the automatic renewal offer terms or continuous service offer terms in a clear and
4 conspicuous manner.

5 F. Unfairly or fraudulently charging a consumer for goods on the Internet
6 through a negative option feature as referenced in Title 15, Chapter 110 Section 8403 of the
7 FTC Act (15 U.S.C. 8403).

8 G. Violating Civil Code §1584.5, by offering for sale goods where the offer
9 includes unsolicited sending of goods, and for failing to refund consumer monies for returns
10 of product within 30 days;

11 H. Violating Civil Code §1770(a)(5), by using deceptive representations or
12 representing that goods or services have sponsorship, approval, characteristics, ingredients,
13 uses, or benefits which they do not have.

14 I. Continuing to ship products to customers after customers requested to
15 be taken off defendant's mailing list.

16 J. Violating 16 C.F.R. Section 255.2(a) by disseminating testimonials with
17 results that are not representative of what the consumer can expect to achieve.

18 K. Unfairly or fraudulently using the term free as referenced in Title 16
19 CFR section 251.1 of the FTC Act.

20 15. Defendants are subject to civil penalties, pursuant to Business & Professions
21 Code §17206, and to injunctive relief, pursuant to Business & Professions Code §§17203 and
22 17204.

23 **SECOND CAUSE OF ACTION**

24 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE**

25 **SECTION 17500 (FALSE AND MISLEADING ADVERTISING)**

26 16. The People re-allege and incorporate by reference Paragraphs 1 through 15 of
27 this Complaint as though fully set forth herein.

28 17. Beginning at an exact date which is unknown to the People, but within three

1 years prior to the filing of this complaint, Defendants, with the intent directly or indirectly to
2 dispose of property or to perform services, or anything of any nature whatsoever, or to induce
3 members of the public to enter into obligations relating thereto, made or disseminated or
4 caused to be made or disseminated before the public in any state, by any manner or means
5 whatsoever, statements concerning such property, services, or any circumstance or matter of
6 fact connected with the proposed performance or disposition thereof, which were untrue or
7 misleading, and which Defendants knew or reasonably should have known were untrue or
8 misleading, in violation of Business & Professions Code §17500. These statements include
9 but are not limited to those set forth in paragraph 12, above.

10 18. Pursuant to Business & Professions Code §§17535 and 17536, the People are
11 entitled to injunctive relief and civil penalties.

12
13 WHEREFORE, the People pray as follows:

14 1. For a preliminary and permanent injunction, pursuant to Business &
15 Professions Code §§17203, 17204 and 17535, restraining and enjoining Defendants and all
16 those acting under, by, through, or on behalf of them, from making or disseminating any false
17 or misleading statements as set forth in the Second Cause of Action, above, or from engaging
18 in or performing, directly or indirectly, any acts of unfair competition as set forth in the First
19 Cause of Action, above.

20 2. That Defendants and each of them be ordered to pay a civil penalty of up to
21 \$2,500.00 for each act of unfair competition, pursuant to Business and Professions Code
22 §17206.

23 3. That Defendants and each of them be ordered to pay a civil penalty of up to
24 \$2,500.00 for each false or misleading statement made or disseminated by defendants to the
25 public, pursuant to Business & Professions Code §17536.

26 4. That Defendants and each of them be ordered to pay restitution to each person
27 who is a victim of Defendants' false or misleading statements and/or acts of unfair
28 competition.

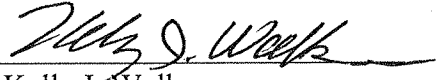
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5. That the People recover its costs of suit herein.

6. That the People be given such other and further relief as the nature of this case may require and this Court deems proper to fully and successfully dissipate the effects of the unlawful and unfair acts complained of in this complaint.

Date: November 20, 2012

BOB LEE
District Attorney
County of Santa Cruz

By: 
Kelly J. Walker
Assistant District Attorney

NOTICE: This complaint is deemed verified pursuant to CCP §446.

NOTICE: Pursuant to *People v. Beltz Travel Services, Inc.* (N.D. Cal. 1974) 379 F.Supp 948, this action cannot be removed to Federal Court.

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EXHIBIT 1

NANCY E. O'MALLEY
District Attorney, County of Alameda
Scott D. Patton, SBN 148468
Deputy District Attorney
7677 Oakport Street, Suite 650
Oakland CA 94621
(510) 777-2231

EDWARD S. BERBERIAN
District Attorney, County of Marin
Andres H. Perez, SBN 186219
Deputy District Attorney
3501 Civic Center Drive, Room 130
San Rafael CA 94903
(415) 499-6450

DEAN FLIPPO
District Attorney, County of Monterey
John F. Hubanks, SBN 170635
Deputy District Attorney
1200 Aguajito Road, Room 301
Monterey CA 93940
(831) 647-7770

TONY RACKAUCKAS
District Attorney, County of Orange
Tracy E. Hughes, SBN 180494
Deputy District Attorney
401 Civic Center Drive
Santa Ana CA 92701
(714) 834-6528

JEFFREY F. ROSEN
District Attorney, County of Santa Clara
Yen B. Dang, SBN 169388
Deputy District Attorney
70 W. Hedding St., West Wing
San Jose CA 95110
(408) 792-2818

GARY LIEBERSTEIN
District Attorney, County of Napa
Catherine Borsetto, SBN 176337
Deputy District Attorney
931 Parkway Mall
Napa CA 94559
(707) 299-1452

JILL R. RAVITCH
District Attorney, County of Sonoma
Matthew T. Cheever, SBN 191783
Deputy District Attorney
2300 County Center Dr., Suite B170
Santa Rosa, CA 95403
(707) 565-3161

DONALD A. du BAIN
District Attorney, County of Solano
Diane M. Taira, SBN 179926
Deputy District Attorney
675 Texas Street, Rm 4500
Fairfield CA 94533
(707) 784-6800