

DION-KIMDEM & CROCKETT
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1 principal place of business in the County of San Bernardino, State of California and does
2 business throughout California, including Los Angeles County.

3 7. Plaintiff is unaware of the true names and capacities, whether individual,
4 corporate, associate or otherwise, of defendants sued herein as DOES 1 to 50 and therefore sues
5 such defendants by such fictitious names. Plaintiff will ask leave of the Court to amend this
6 Complaint to state the true names and capacities of said defendants when the same have been
7 ascertained. Plaintiff is informed and believe, and based upon such information and belief
8 alleges that each of the fictitiously named defendants is responsible in some manner for the
9 occurrences herein alleged and that Plaintiff's injuries were proximately caused thereby.

10 8. Plaintiff is informed and believes, and based on this information and belief
11 alleges, that at all times mentioned in this Complaint, defendants were the agents and
12 employees of their co-defendants, and in doing the things alleged in this Complaint were acting
13 within the course and scope of such agency and employment.

14 9. Plaintiff is informed and believes, and based upon such information and belief
15 alleges that DEFENDANTS, through their authorized agent Linda Sivrican (hereinafter referred
16 to as "Sivrican"), and Plaintiff entered into an oral contract in August 2006 to develop and
17 manufacture, including, but not limited to, filling bottles and providing raw materials, a hair
18 care line that was to include, but was not limited to, a sculpting clay, shampoo(s),
19 conditioner(s), a beach spray and aerosol hairsprays (hereinafter referred to as "the Contract").

20 10. On or around October 5, 2006, at DEFENDANTS' request, Plaintiff sent six (6)
21 product samples to DEFENDANTS including, but not limited to, a curling mousse, anti-
22 humidity spray, two (2) aerosol hairsprays, a moisturizing shampoo, and a volcanic ash
23 sculpting clay.

24 11. After several meetings with Sivrican, Plaintiff developed at least ten (10)
25 products for DEFENDANTS by November 3, 2006, including, but not limited to a Beach
26 Spray, Volcanic Ash Molding Paste, four (4) shampoos, a conditioner, two (2) types of aerosol
27 hairspray, and a styling mousse (hereinafter referred to as "the Products").
28

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CONFIDENTIAL

1 12. On or around November 3, 2007, DEFENDANTS informed Plaintiffs that the
2 scope of the Contract was to include providing the bottles that would be filled with the
3 Products.

4 13. On or around November 8, 2006, DEFENDANTS provided a script to Plaintiff
5 for a promotional video that DEFENDANTS would be using in promotion of the Products
6 being developed and manufactured by Plaintiff.

7 14. On or around November 14, 2006, DEFENDANTS requested and Plaintiff
8 provided pricing information on the three aerosol products Plaintiff developed and was to
9 manufacture for DEFENDANTS.

10 15. On or around November 15, 2006, Plaintiff, in furtherance of the Contract,
11 provided a marketing idea, based on volcanic ash Plaintiff brought back from an island in the
12 Vanuatu Island chain in the South Pacific and environmental life surrounding the ash, to
13 DEFENDANTS for use with the Products being developed and manufactured by Plaintiff
14 (hereinafter referred to as "Plaintiff's Story").

15 16. On or around November 16, 2006, Plaintiff provided DEFENDANTS with its
16 ingredient lists, marked as "Confidential", which included the ingredients of Plaintiff's
17 "Vanuatu Complex" consisting of the types of environmental life surrounding the volcanic ash,
18 to aid in the marketing of the Products being developed and manufactured by Plaintiff.

19 17. On or around November 16, 2006, in furtherance of the Contract and at
20 DEFENDANTS' request, Plaintiff developed, manufactured and delivered samples of the Beach
21 Spray Product and Stay Wet Silicone Spray to DEFENDANTS on a rush basis.

22 18. On or around December 7, 2006, Plaintiff provided video and photographs to
23 DEFENDANTS of its agents' trip to Vanuatu evidencing the collection of volcanic ash and the
24 surviving environmental life surrounding the ash, for use in promotion of the Products being
25 developed and manufactured by Plaintiff (hereinafter referred to as "Plaintiff's Footage").

26 19. On or around December 7, 2006, DEFENDANTS provided Plaintiff with a
27 website link to a promotional video and username and password for the website needed to view
28 the video that DEFENDANTS would use in promotion of the Products being developed and

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1 27. On or around January 6, 2007, Plaintiff provided the price quotes for all ten (10)
2 Products that Plaintiff had developed and was to manufacture for DEFENDANTS.

3 28. On or around January 6, 2007, DEFENDANTS requested an ingredient story
4 from Plaintiff.

5 29. On or around January 6, 2007, Plaintiff provided DEFENDANTS with its
6 ingredient story and marketing concept for the products Plaintiff had developed for
7 DEFENDANTS. The ingredient story and marketing concept were based on Plaintiff's research
8 and testing, and included a description of and list of ingredients for Plaintiff's "Vanuatu
9 Complex", which consists of the types of environmental life surrounding the volcanic ash
10 (hereinafter the ingredient story and marketing concept are referred to as "the Ingredient
11 Story"). The Ingredient Story was provided to DEFENDANTS to aid in the marketing of the
12 Products being developed and to be manufactured by Plaintiff for DEFENDANTS, all of which
13 included Plaintiff's "Vanuatu Complex".

14 30. On or around February 11, 2007, DEFENDANTS requested and Plaintiff
15 provided cost quotes for large quantity samples of the products they had developed for
16 DEFENDANTS and that were to be manufactured by Plaintiff for DEFENDANTS.

17 31. On or around April 4, 2007, DEFENDANTS informed Plaintiff that Sivrican
18 would no longer be representing them and that Plaintiff was to work only with DEFENDANTS
19 and Eric Steinhauser (hereinafter referred to as "Steinhauser") and David Kim of Beautymax
20 USA and FHI Heat (hereinafter referred to as "Kim" and hereinafter referred to collectively
21 with "Steinhauser" as "DB WILDAID") in the further development and manufacturing of the
22 Products and that Plaintiff would no longer be required to provide the bottles that were to be
23 filled with the Products.

24 32. On or around April 4, 2007, DEFENDANTS requested and, in furtherance of the
25 Contract, Plaintiff delivered samples of the Products for DEFENDANTS on a rush basis to
26 DEFENDANTS and DB WILDAID.

27 33. On or around April 17, 2007, Plaintiff, DEFENDANTS and DB WILDAID met
28 in person at Plaintiff's Hollywood office and Plaintiff provided DEFENDANTS and DB

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1 WILDAID with all previous price quotes and updated price quotes for the products it had
2 developed for DEFENDANTS and that were to be manufactured for DEFENDANTS, with
3 DEFENDANTS to provide the bottles that were to be filled with the Products.

4 34. On or around April 17, 2007, Plaintiff provided DEFENDANTS with updated
5 copies of Plaintiff's ingredient lists for the Products.

6 35. Plaintiff is informed and believes, and based upon such information and belief
7 alleges that on or before May 1, 2007, DEFENDANTS contacted UNIVERSAL to manufacture
8 Plaintiff's Products at a price lower than that offered by Plaintiff and provided UNIVERSAL
9 with Plaintiff's ingredient lists and/or samples of Plaintiff's Products that Plaintiff had provided
10 to DEFENDANTS and that were the property of Plaintiff.

11 36. On or around May 1, 2007, Plaintiff received an electronic mail communication
12 from UNIVERSAL, a competitor of Plaintiff's based in Chino, California, requesting samples
13 of Plaintiff's volcanic ash in both fine and coarse grades and stated that the ash was to be used
14 in "skin care" products.

15 37. Plaintiff is informed and believes, and based upon such information and belief
16 alleges that on or around May 2, 2007, Steinhauser, as DEFENDANTS' agent, represented to
17 Plaintiff that Plaintiff was the lab of DEFENDANTS' choice and that Plaintiff should continue
18 to hold off promoting Plaintiff's Story and the Ingredient Story to the public so that
19 DEFENDANTS could use them to promote the Products that Plaintiff had developed and was
20 going manufacture for them.

21 38. Plaintiff is informed and believes, and based upon such information and belief
22 alleges that on or around May 7, 2007, DEFENDANTS represented to Plaintiff that they were
23 moving forward with the project and approved all products except as to fragrance for the
24 Products.

25 39. On or around May 10, 2007, in furtherance of the Contract and at
26 DEFENDANTS' insistence, Plaintiff manufactured and delivered more samples of the Flexible
27 Hold Hairspray and Soft-Hold Hairspray products to DEFENDANTS.
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2025 RELEASE UNDER E.O. 14176

1 40. On or around June 7, 2007, in furtherance of the Contract and at
2 DEFENDANTS' insistence, Plaintiff manufactured and delivered more samples of the Beach
3 Spray product to DEFENDANTS.

4 41. Plaintiff is informed and believes, and based upon such information and belief
5 alleges that on or around June 14, 2007, DEFENDANTS approved the Beach Spray product.

6 42. On or around June 18, 2007, in furtherance of the Contract and at Steinhauser's
7 Request, Plaintiff manufactured more samples of the Beach Spray product for DEFENDANTS
8 and Steinhauser.

9 43. Plaintiff is informed and believes, and based upon such information and belief
10 alleges that on June 21, 2007, Plaintiff met with DEFENDANTS and DB WILDAID, to finalize
11 the price term of the Contract. At that time, DEFENDANTS provided Plaintiff with
12 promotional materials that had been released to the public about DEFENDANTS' new product
13 line, with Plaintiff's Products having been used as the basis for the promotions.

14 44. On or around June 21, 2007, Plaintiff provided DEFENDANTS and DB
15 WILDAID with a credit application to be filled out by Kim for the benefit of DEFENDANTS to
16 attain credit with Plaintiff to move forward in manufacturing the PRODUCTS on a large scale
17 basis.

18 45. On or around June 21, 2007, Defendants requested and Plaintiff manufactured
19 and delivered on June 27, 2007, more samples of the aerosol hairspray products for
20 DEFENDANTS on a rush basis.

21 46. Plaintiff is informed and believes, and based upon such information and belief
22 alleges that on or around June 21, 2007, DEFENDANTS and DB WILDAID met with
23 UNIVERSAL, without Plaintiff's knowledge, to discuss manufacturing Plaintiff's Products at a
24 lower price than would be charged by Plaintiff and to test the products UNIVERSAL had
25 manufactured for DEFENDANTS based on Plaintiff's samples and/or ingredient lists.

26 47. Plaintiff is informed and believes, and based upon such information and belief
27 alleges that on or around July 2, 2007, DEFENDANTS represented to Plaintiff that Steinhauser
28

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ENCLOSURE NO 83

1 was pushing Kim to finish the credit application and appropriate paper work to finalize the
2 finance part of the Contract.

3 48. On or around July 10, 2007, Kim, Defendant's financial investor, submitted a
4 credit application to Plaintiff for the purpose of obtaining Plaintiff's confidence that
5 DEFENDANTS would be performing their obligations under the Contract.

6 49. Plaintiff is informed and believes, and based upon such information and belief
7 alleges that in or around mid-July 2007, DEFENDANTS used Plaintiff's Footage in their
8 promotional materials at a trade show in Las Vegas, Nevada called "COSMOPROF" to promote
9 their product line based on Plaintiff's Story and the Ingredient Story.

10 50. Plaintiff is informed and believes, and based upon such information and belief
11 alleges that on or around August 9, 2007, Kim contacted Plaintiff requesting the price quotes
12 again for all of the Products.

13 51. Plaintiff is informed and believes, and based upon such information and belief
14 alleges that on or around August 23, 2007, Steinhauser contacted Plaintiff to discuss the
15 Contract and informed Plaintiff to call back either Steinhauser or Kim.

16 52. On or around August 27, 2007, DEFENDANTS informed Plaintiff that they
17 liked UNIVERSAL'S products better and would be using them for the development of their
18 non-aerosol products, while they still wanted Plaintiff to manufacture their two aerosol products
19 and the Beach Spray.

20 53. Plaintiff is informed and believes, and based upon such information and belief
21 alleges that on or around December 2007, HUDSON in an interview with Vogue magazine,
22 appearing in its January 2008 issue, represented that she was one of the developers, with
23 BABAIL, of DEFENDANTS' hair care products.

24 54. On or around January 8, 2008, UNIVERSAL requested to buy or obtain from
25 Plaintiff one (1) pound of Plaintiff's volcanic ash - fine grade.

26 55. DEFENDANTS and HUDSON released a line of hair care products in or around
27 mid-June 2008 called David Babaii for Wildaid, using the ingredients in Plaintiff's Vanuatu
28 Complex and volcanic ash in the products and Plaintiff's Story, the Ingredient Story and

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1 Plaintiff's Footage in promotional materials for David Babaii for Wildaid, without Plaintiff's
2 knowledge, consent or compensation to Plaintiff.

3 56. Plaintiff is informed and believes, and based upon such information and belief
4 alleges that BABAII appeared on the Home Shopping Network on or around July 3, 2008
5 through July 5, 2008, with HUDSON joining him via telephone during at least one appearance,
6 to promote the products in the hair care line David Babaii for Wildaid, using the Vanuatu
7 Complex as the marketed special ingredients in the products and Plaintiff's Story and Plaintiff's
8 Footage in promotional materials for David Babaii for Wildaid, without Plaintiff's prior
9 knowledge, consent or compensation to Plaintiff.

10 57. UNIVERSAL contacted Plaintiff on or around July 10, 2008, requesting
11 authenticating materials for the volcanic ash samples UNIVERSAL obtained from Plaintiff in
12 May 2007, including proof for UNIVERSAL'S client that the volcanic ash they received as a
13 sample from Plaintiff in May 2007 was actually from the Vanuatu Islands and that the ash has
14 benefits for "hair volumizing".

15 58. Plaintiff is informed and believes, and based upon such information and belief
16 alleges that DEFENDANTS and HUDSON continue to sell the David Babaii for Wildaid
17 products at various stores and through on-line retailers, including but not limited to, Home
18 Shopping Network's online store, HSN.com, using the Vanuatu Complex as the marketed
19 special ingredients in the products and Plaintiff's Story and Plaintiff's Footage in promotional
20 materials for David Babaii for Wildaid, without Plaintiff's consent or compensation to Plaintiff.

21 59. On or around July 28, 2008, Plaintiff received a request for a sample of
22 Plaintiff's volcanic ash from a competitor, Chicago Aerosol, who was "duplicating" an aerosol
23 hairspray product for DEFENDANTS that DEFENDANTS had provided to it, namely one of
24 Plaintiff's Products.

25 ///
26 ///
27 ///
28 ///

1 **FIRST CAUSE OF ACTION**

2 **MISAPPROPRIATION OF TRADE SECRETS**

3 **(Against BABAI, DBWA, HUDSON and DOES 1-25)**

4 60. Plaintiffs incorporate by reference all prior paragraphs as though fully set forth
5 herein.

6 61. At all times herein mentioned DEFENDANTS were clients of Plaintiff and privy
7 to the ingredient lists for Plaintiff's Products, made and developed in furtherance of the
8 Contract and at the instance of DEFENDANTS.

9 62. Plaintiff at all material times was in possession of confidential and proprietary
10 ingredient lists of all those ingredients which Plaintiff used to develop and create hair care
11 products with all natural and environmentally protective ingredients, including Plaintiff's
12 Vanuatu Complex. This list was the result of a substantial amount of time, energy, and money
13 spent by Plaintiffs.

14 63. DEFENDANTS, and their partner HUDSON, using Plaintiff's confidential and
15 proprietary ingredient lists had hair care products manufactured by another company for
16 wholesale and retail sale.

17 64. Plaintiff's ingredient lists had economic value in that they contained information
18 not generally known or easily ascertainable within the trade and represented years of research
19 and development. Plaintiff made reasonable efforts to insure that the ingredient lists remained
20 protected and confidential trade secrets by disclosing the list only to those customers who
21 required the information to market and/or promote products developed and to be manufactured
22 by Plaintiff and by marking them "Confidential" when provided to a customer.

23 65. Plaintiff's ingredient lists contained confidential and proprietary trade secrets
24 which merited legal protection from DEFENDANTS' and HUDSON'S misappropriation in that
25 (1) DEFENDANTS solicited the competitors of Plaintiff to produce Plaintiff's product with
26 intent to injure Plaintiffs; (2) Plaintiffs are informed and believe, and based upon such
27 information and belief allege that DEFENDANTS sought out competitors of Plaintiff to
28 produce hair care products using ingredients not known to the public or competitors as having

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1 the deliberate intent to injure Plaintiff's business and profit from Plaintiff's trade secrets in the
2 production of their hair care products. Plaintiff is therefore entitled to punitive damages in the
3 sum of twice the amount of any award and reasonable attorneys' fees, pursuant to California
4 Civil Code § 3426.3 and §3426.4.

5 71. DEFENDANTS and HUDSON, unless restrained, will continue to engage in the
6 acts complained of above, causing irreparable harm, not completely compensable in monetary
7 damages, to Plaintiff's goodwill, reputation, and business. Therefore, Plaintiff is entitled to
8 injunctive relief pursuant to California Civil Code § 3426.2, and request that this Court issue a
9 permanent injunction enjoining DEFENDANTS and HUDSON and any acting in concert with
10 them from (1) producing, manufacturing or selling any product developed by Plaintiff or
11 containing the Vanuatu Complex of Plaintiff; (2) using Plaintiff's Footage, Plaintiff's Story or
12 the Ingredient Story in any promotion of any of DEFENDANTS' and HUDSON'S hair care
13 products; (3) using samples of Plaintiff's Products to duplicate or develop other hair care
14 products; and (4) disclosing, transferring, or using for their own benefit, any proprietary and/or
15 confidential information belonging to Plaintiff.

16 SECOND CAUSE OF ACTION

17 CONSPIRACY TO MISAPPROPRIATE TRADE SECRETS

18 (Against BABAIL, DBWA, HUDSON and DOES 1-25)

19 72. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
20 herein.

21 73. Plaintiff is informed and believes, and based upon such information and belief
22 alleges that on or about May 2007, DEFENDANTS and HUDSON, and each of them,
23 knowingly and willfully conspired and agreed among themselves to misappropriate Plaintiff's
24 ingredient lists.

25 74. Plaintiff is informed and believes, and based upon such information and belief
26 alleges herein that BABAIL did the acts and things herein alleged above pursuant to, and in
27 furtherance of, the conspiracy and the above-alleged agreement.
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PLAINTIFF'S COUNSEL

1 75. Plaintiff is informed and believes, and based upon such information and belief
2 alleges that DBWA furthered the conspiracy by cooperating with and lending aid and
3 encouragement to BABAIL, in that DBWA (1) engaged in the solicitation of Plaintiff's
4 competitors to duplicate Plaintiff's Products at a lower price than that offered by Plaintiff; and
5 (2) represented to Plaintiff that Plaintiff was DEFENDANTS' lab of choice and that they would
6 be moving the project forward using Plaintiff's Products.

7 76. Plaintiff is informed and believes, and based upon such information and belief
8 alleges that HUDSON furthered the conspiracy by cooperating with and lending aid and
9 encouragement to DEFENDANTS, in that HUDSON (1) has promoted herself as one of the
10 developers of DEFENDANTS' hair care products; (2) is the spokesperson for the hair care
11 products developed using Plaintiff's misappropriated ingredient lists and promoted using the
12 ideas contained in Plaintiff's Story or the Ingredient Story; and (3) has partnered with
13 DEFENDANTS to profit from the sale of the hair care products, which were manufactured
14 using Plaintiff's misappropriated ingredient lists.

15 77. Plaintiff is informed and believes, and based upon such information and belief
16 alleges that the last overt act in pursuance of the above-described conspiracy occurred on or
17 about late-July 2008, when DEFENDANTS on or around July 28, 2008, provided an aerosol
18 hairspray product containing volcanic ash in it to Chicago Aerosol, Plaintiff's competitor, for
19 the purposes of duplicating the hairspray that Plaintiff developed for DEFENDANTS.

20 78. As a proximate result of the wrongful acts herein alleged, Plaintiff has suffered
21 damages.

22 79. As a further proximate result of the above-described actions, Plaintiff has
23 suffered the following special damages including, but not limited to: injury to Plaintiff's
24 business, trade and/or profession, including damages incurred in retaining counsel to prosecute
25 DEFENDANTS and HUDSON for entering into and acting in furtherance of this conspiracy,
26 the diminution in value of Plaintiff's Story, the Ingredient Story and Plaintiff's Footage, the loss
27 of use of Plaintiff's Story, the Ingredient Story and Plaintiff's Footage and loss of the benefit of
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1 exclusive possession of the ingredient lists and the ability to develop and manufacture products
2 that are first-to-market, all to Plaintiffs' injury in an amount to be proven.

3 80. In doing the things herein alleged, DEFENDANTS and HUDSON acted
4 willfully and with the intent to cause injury to Plaintiff. DEFENDANTS and HUDSON were
5 therefore guilty of malice, oppression, and fraud with conscious disregard of Plaintiff's rights,
6 thereby warranting an assessment of punitive damages in an amount appropriate to punish
7 DEFENDANTS and HUDSON and deter others from engaging in similar misconduct.

8 **THIRD CAUSE OF ACTION**

9 **FRAUD – INTENTIONAL MISREPRESENTATION**

10 **(Against BABAIL, DBWA and DOES 1-25)**

11 81. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
12 herein.

13 82. Plaintiff is informed and believes, and based upon such information and belief
14 alleges that throughout all relevant times herein, and specifically on or around April 2007,
15 DEFENDANTS, and each of them, through their agent Steinhauser, represented to Plaintiff that
16 DEFENDANTS, and each of them, would: (1) be using the samples of products developed by
17 Plaintiff and provided to DEFENDANTS, and each of them, and ingredient lists, marketing
18 ideas and pictorial evidence provided by Plaintiff, only in the promotion of products developed
19 and manufactured by Plaintiff; (2) pursuant to the Contract, be using Plaintiff to manufacture, as
20 described herein above, the Products developed by Plaintiff; and (3) compensate Plaintiff
21 according to the custom and usage in the industry.

22 83. Plaintiff is informed and believes, and based upon such information and belief
23 alleges that the above representations of DEFENDANTS were in fact false. The true facts were
24 that on or before May 1, 2007, DEFENDANTS, and each of them, unbeknownst to Plaintiff,
25 began shopping Plaintiff's Products to Plaintiff's competitors to obtain a lower price for the
26 manufacturing of the Products developed by Plaintiff and had no intention of having Plaintiff
27 manufacture the Products Plaintiff had developed in reliance on the fraudulent representations
28 of DEFENDANTS, and each of them.

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1 resources in an attempt to derive a profit from the development of the Products, including but
2 not limited to, manufacturing samples of the Products for DEFENDANTS and (2) forgo the
3 presentation of Plaintiff's Story, the Ingredient Story and Plaintiff's Footage to another client
4 for whom Plaintiff could have developed products that would have been first-to-market, all in
5 amounts to be proven at trial.

6 89. The aforementioned conduct of DEFENDANTS, and each of them, was an
7 intentional misrepresentation, deceit, or concealment of a material fact or facts known to the
8 DEFENDANTS, and each of them, with the intention on the part of DEFENDANTS, and each
9 of them, of thereby depriving Plaintiff of property or legal rights or otherwise causing injury,
10 and was despicable conduct that subjected Plaintiff to a cruel and unjust hardship in conscious
11 disregard of Plaintiff's rights, so as to justify an award of exemplary and punitive damages.

FOURTH CAUSE OF ACTION

BREACH OF CONTRACT

(Against BABAIL, DBWA and DOES 1-25)

15 90. Plaintiffs incorporate by reference all prior paragraphs as though fully set forth
16 herein.

17 91. Plaintiff is informed and believes, and based upon such information and belief
18 alleges that DEFENDANTS, through their authorized agent Sivrican, and Plaintiff entered into
19 an oral contract in August 2006 whereby Plaintiff agreed to develop and manufacture,
20 including, but not limited to, filling bottles and providing raw materials, a hair care line that was
21 to include, but was not limited to, a sculpting clay, shampoo(s), conditioner(s), a beach spray,
22 aerosol hairsprays and other hair styling products, with DEFENDANTS, and each of them, to
23 pay Plaintiff for the development and manufacturing of the Products at a price to be agreed
24 upon at a later time by Plaintiff and DEFENDANTS, as is the custom and practice in beauty
25 products development and manufacturing industry.

26 92. Plaintiff has performed all conditions, covenants and promises required on its
27 part to be performed in accordance with the terms and conditions of the Contract, except for the
28 manufacturing of the products (as defined herein above), the performance of which was excused

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1 benefit of developing and manufacturing products based on those ideas and items that are first-
2 to-market; and (4) has lost the profits they would have realized in the manufacturing of the
3 Products for DEFENDANTS, and each of them.

4 **FIFTH CAUSE OF ACTION**

5 **CONVERSION**

6 **(Against BABAIL, DBWA and DOES 1-25)**

7 98. Plaintiffs incorporate by reference all prior paragraphs as though fully set forth
8 herein.

9 99. Plaintiff is informed and believes, and at all times herein mentioned Plaintiff
10 was, and still is, the owner and was, and still is, entitled to possession of the following personal
11 property, namely: Plaintiff's product samples provided to and retained by DEFENDANTS,
12 Plaintiff's ingredient lists provided to and retained by DEFENDANTS, Plaintiff's video and
13 still photographic footage of Plaintiff's representative's trip to the Vanuatu Islands in the South
14 Pacific provided to and retained by DEFENDANTS and Plaintiff's Story and the Ingredient
15 Story provided to and retained by DEFENDANTS.

16 100. Plaintiff is informed and believes, and based upon such information and belief
17 alleges that throughout all relevant times herein, and specifically on or around April 2007,
18 DEFENDANTS, and each of them, through their agent Steinhauser, represented to Plaintiff that
19 DEFENDANTS, and each of them: (1) would be using the samples of products developed by
20 Plaintiff and provided to DEFENDANTS, and each of them, and ingredient lists, marketing
21 ideas and pictorial evidence provided by Plaintiff, only in the promotion of products developed
22 and manufactured by Plaintiff, and (2) would, pursuant to the Contract, be using Plaintiff to
23 manufacture, as described herein above, the Products developed by Plaintiff.

24 101. Plaintiff is informed and believes, and based upon such information and belief
25 alleges that the above representations of DEFENDANTS were in fact false. The true facts were
26 that on or around April 2007, DEFENDANTS, and each of them, unbeknownst to Plaintiff,
27 began shopping Plaintiff's Products to Plaintiff's competitors to obtain a lower price for the
28 manufacturing of the Products developed by Plaintiff and had no intention of having Plaintiff

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1 108. Plaintiff is informed and believes, and upon such information and belief alleges
2 that as a result of Plaintiff's actions as described above, DEFENDANTS, and each of them,
3 obtained samples of hair care products, ingredient lists and marketing ideas all of which were
4 developed by Plaintiff as a result of Plaintiff's work and the services furnished by Plaintiff and
5 its employees.

6 109. The services, materials, labor, ideas and samples of the Products provided by
7 Plaintiff had and continue to have a value that is believed to be no less than five hundred
8 thousand dollars (\$500,000.00).

9 110. Plaintiff has provided the reasonable value of the work as described above upon
10 the specific instance and request and promise to pay of the DEFENDANTS, and each of them,
11 and if said value is not paid to Plaintiff, DEFENDANTS, and each of them, will be unjustly
12 enriched in an amount to be proven at trial and interest thereon.

13 **SEVENTH CAUSE OF ACTION**
14 **BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**
15 **(Against BABAI, DBWA and DOES 1-25)**

16 111. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
17 herein.

18 112. The Contract referred to above contained an implied covenant of good faith and
19 fair dealing, which obligated DEFENDANTS, and each of them, to perform the terms and
20 conditions of the Contract fairly and in good faith and to refrain from doing any act that would
21 prevent or impede Plaintiff from performing any or all of the conditions of the contract that it
22 agreed to perform, or any act that would deprive Plaintiff of the benefits of the contract.

23 113. Plaintiff reasonably relied on the provisions and promises made by the
24 DEFENDANTS, and each of them, in the Contract and representations made by the
25 DEFENDANTS, and each of them, in inducing Plaintiff to enter into and perform its
26 obligations pursuant to the Contract.

27 114. Plaintiff has performed all conditions, covenants and promises required on its
28 part to be performed in accordance with the terms and conditions of the Contract, except for the

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UNIVERSAL

1 manufacturing of the products (as defined herein above), the performance of which was excused
2 on the ground that Plaintiff was unable to manufacture the products due to DEFENDANTS'
3 misappropriation of Plaintiff's trade secrets, subsequent failure to provide funding for the
4 manufacturing of the Products and failure order the Products from Plaintiff.

5 115. DEFENDANTS, and each of them, knew that Plaintiff had fulfilled all its duties
6 and conditions under the contract, except those which were excused as described above.

7 116. DEFENDANTS, and each of them, breach the implied covenant of good faith
8 and fair dealing under the Contract by soliciting and using Plaintiff's competitor, UNIVERSAL
9 Packaging, to manufacture hair care products, including, but not limited to shampoos,
10 conditions, and other styling products and thereafter using a manufacturer other than Plaintiff to
11 manufacture products developed by Plaintiff and using Plaintiff's Story, the Ingredients Story
12 and Plaintiff's Footage to market those products developed by Plaintiff and thereafter
13 manufactured by Plaintiff's competitor.

14 117. Additionally, DEFENDANTS, and each of them, after breaching the contract
15 unbeknownst to Plaintiff, continued to represent to Plaintiff, knowing said representations to be
16 false, that DEFENDANTS, and each of them, intended on fulfilling their obligation under the
17 Contract up to the time on or around August 27, 2007.

18 118. As a proximate result of the breach of the implied covenant of good faith and fair
19 dealing by DEFENDANTS, and each of them, Plaintiff has suffered, and continues to suffer
20 losses, including, but not limited to: (1) lost profits anticipated in the manufacturing of the
21 Products pursuant to the Contract; (2) the ability to develop and manufacture products for
22 another customer using Plaintiff's Story, the Ingredients Story and Plaintiff's footage and (3)
23 the loss of the benefit of developing and manufacturing products that are first-to-market, in an
24 amount to be proven at trial.

25 119. As a further proximate result of the breach of the implied covenant of good faith
26 and fair dealing by DEFENDANTS, and each of them, Plaintiff has incurred reasonable
27 attorney's fees in attempting to secure the benefits owed to it under the Contract in an amount to
28 be proven at trial.

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ENCLOSURE

1 120. DEFENDANTS acted with malice, oppression, and fraud. Therefore, Plaintiff is
2 entitled to punitive damages in an amount to be proven at trial.
3

4 **EIGHTH CAUSE OF ACTION**

5 **BREACH OF IMPLIED CONTRACT**

6 **(Against BABAIL, DBWA and DOES 1-25)**

7 121. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
8 herein.

9 122. DEFENDANTS are liable to Plaintiff under Section 1621 of the Civil Code for
10 the damages to Plaintiff for breach of an implied contract as alleged below.

11 123. On or around November 15, 2006, Plaintiff, at DEFENDANTS request, provided
12 to DEFENDANTS, Plaintiff's Story, conceived and devised by Plaintiff based on volcanic ash
13 Plaintiff brought back from an island in the Vanuatu Island chain in the South Pacific and
14 environmental life surrounding the ash, for use with the Products being developed and
15 manufactured by Plaintiff for DEFENDANTS.

16 124. On or around January 6, 2007, Plaintiff, at DEFENDANTS request, provided
17 DEFENDANTS with the Ingredient Story for the products Plaintiff had developed for
18 DEFENDANTS based on their research and testing, conceived and devised by Plaintiff for the
19 marketing of Plaintiff's "Vanuatu Complex" when used in hair care products.

20 125. Plaintiff's Story and the Ingredient Story (hereinafter referred to collectively as
21 "the Ideas") were submitted by Plaintiff to DEFENDANTS with the expectation, fully and
22 clearly understood by DEFENDANTS, and each of them, that the Ideas were to be used only in
23 marketing the Products developed by Plaintiff for manufacture by Plaintiff, and Plaintiff would
24 be compensated for their use by DEFENDANTS, and each of them.

25 126. DEFENDANTS, and each of them, breach the implied contract by using, and
26 continuing to use, Plaintiff's Story, the Ingredient Story and Plaintiff's Footage to market hair
27 care products that are not the Products developed by Plaintiff and that were manufactured by a
28 person or entity other than Plaintiff using Plaintiff's misappropriated ingredient lists.

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1 133. The Ideas were submitted by Plaintiff to DEFENDANTS with the expectation,
2 fully and clearly understood by DEFENDANTS, that they were to be used only in marketing
3 the Products developed by Plaintiff and Plaintiff would be compensated for their use by
4 DEFENDANTS.

5 134. DEFENDANTS, and each of them, accepted the submission of the Ideas in
6 complete confidence and on the understanding that the Ideas, and each of them separately,
7 would not be used without Plaintiff's consent or in the marketing or promotion of products
8 other than the Products developed by Plaintiff and for which Plaintiff was to be the
9 manufacturer.

10 135. DEFENDANTS, and each of them, breach the implied contract by using, and
11 continuing to use, Plaintiff's Story and the Ingredient Story to market hair care products that are
12 not the Products developed by Plaintiff and that were manufactured by a person or entity other
13 than Plaintiff using Plaintiff's misappropriated ingredient lists.

14 136. Plaintiff has performed all obligations to DEFENDANTS, and each of them,
15 except those obligations Plaintiff was prevented or excused from performing, as described
16 herein.

17 137. The reasonable value of the Ideas is in an amount to be proven at trial, and is an
18 amount not easily quantifiable due to the novelty of the Ideas, in that they were firsts of their
19 kind in the industry. By reason of the use of the Ideas and breach of the implied contract,
20 DEFENDANTS became obligated to pay Plaintiff the amount to be proven at trial.

21 138. As a proximate result of the breach of the implied contract by DEFENDANTS,
22 and each of them, Plaintiff has been damaged as follows: Plaintiff has suffered irreparable
23 harm, in an amount to be proven at trial, in that due to the use of Plaintiff's Story and the
24 Ingredient Story by DEFENDANTS, and each of them: (1) Plaintiff will no longer be able to
25 use these ideas with another client and it therefore is uncompensated for its rendering service to
26 DEFENDANTS, and each of them; and (2) Plaintiff has lost the benefit of developing and
27 manufacturing products using these ideas that are first-to-market.

28 ///

1 **TENTH CAUSE OF ACTION**

2 **ACCOUNTING**

3 **(Against BABAIL, DBWA, HUDSON and DOES 1-25)**

4 139. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
5 herein.

6 140. On or around November 15, 2006, Plaintiff, at DEFENDANTS request, provided
7 to DEFENDANTS, Plaintiff's Story, conceived and devised by Plaintiff based on volcanic ash
8 Plaintiff brought back from an island in the Vanuatu Island chain in the South Pacific and
9 environmental life surrounding the ash, for use with the Products being developed and
10 manufactured by Plaintiff for DEFENDANTS.

11 141. On or around January 6, 2007, Plaintiff, at DEFENDANTS request, provided
12 DEFENDANTS with the Ingredient Story for the products Plaintiff had developed for
13 DEFENDANTS based on their research and testing, conceived and devised by Plaintiff for the
14 marketing of Plaintiff's "Vanuatu Complex" when used in hair care products.

15 142. Plaintiff's Story and the Ingredient Story (hereinafter referred to collectively as
16 "the Ideas") were submitted by Plaintiff to DEFENDANTS with the expectation, fully and
17 clearly understood by DEFENDANTS, and each of them, that the Ideas were to be used only in
18 marketing products developed by Plaintiff and Plaintiff would be compensated for their use by
19 DEFENDANTS, and each of them.

20 143. Plaintiff is informed and believes, and upon such information and belief alleges
21 that DEFENDANTS, and each of them, using a laboratory other than Plaintiff, thereafter
22 manufactured products, using Plaintiff's ingredient lists, beginning on or around August 27,
23 2007.

24 144. DEFENDANTS and HUDSON, and each of them, having used Plaintiff's Story,
25 the Ingredient Story and Plaintiff's Footage to market said products beginning on or around
26 June 2007, released the above described products to the public under a product line entitled
27 "David Babail for Wildaid" on or around June 13, 2008, and as a result of such release and the
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1 products continued availability at least to the present time, DEFENDANTS and HUDSON, and
2 each of them, have received sums of money, a portion of which is due and owing to Plaintiff.

3 145. The exact amounts of money received by the DEFENDANTS and HUDSON,
4 and each of them, is unknown to Plaintiff and can be determined only by an accounting.

5 **ELEVENTH CAUSE OF ACTION**

6 **INJUNCTIVE RELIEF**

7 **(Against BABAIL, DBWA, and DOES 1-25)**

8 146. Plaintiffs incorporate by reference all prior paragraphs as though fully set forth
9 herein.

10 147. On or around the date this action was filed, Plaintiff demanded that
11 DEFENDANTS, and each of them, stop their wrongful conduct as described above.
12 DEFENDANTS, and each of them, refused and still refuse to refrain from their wrongful
13 conduct.

14 148. DEFENDANTS' wrongful conduct, unless and until enjoined and restrained by
15 order of the Court, will continue to cause great and irreparable injury to Plaintiff as the
16 improper acts of DEFENDANTS, and each of them, as alleged above, have threatened the
17 utility and marketing capacity of Plaintiff's volcanic ash and the Vanuatu Complex and caused
18 Plaintiff monetary loss.

19 149. Plaintiff has no adequate remedy at law that will compensate for this continuing
20 damage.

21 150. As a direct and proximate result of the wrongful conduct of DEFENDANTS, and
22 each of them, Plaintiff has suffered damages. Plaintiff will be further damaged in like manner
23 so long as DEFENDANTS' conduct continues. The full amount of this damage is not now
24 known to Plaintiff, however, Plaintiff is entitled to damages proximately resulting from
25 DEFENDANTS' conduct for so long as it continues, in an amount according to proof at trial.

26 ///

27 ///

28 ///

1 **TWELFTH CAUSE OF ACTION**

2 **FRAUD – INTENTIONAL MISREPRESENTATION**

3 **(Against UNIVERSAL and DOES 26-50)**

4 151. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
5 herein.

6 152. On or around May 1, 2007, Ricardo Minaya of UNIVERSAL contacted Plaintiff
7 and requested samples and Plaintiff delivered samples of Plaintiff's volcanic ash, of which
8 Plaintiff is the only supplier in North America, in both fine and coarse grade.

9 153. When Plaintiff's President, Ian Fishman, inquired as to what the ash was to be
10 used for, Ricardo Minaya of UNIVERSAL represented that the ash was to be used in end
11 products for "skin care".

12 154. Plaintiff is informed and believes, and based upon such information and belief
13 alleges that on before May 1, 2007, DEFENDANTS contacted UNIVERSAL to manufacture
14 Plaintiff's Products at a price lower than that offered by Plaintiff and provided UNIVERSAL
15 with Plaintiff's ingredient lists and/or samples of Plaintiff's Products that Plaintiff had provided
16 to DEFENDANTS.

17 155. Bridget Gomez of UNIVERSAL contacted Plaintiff on or around July 10, 2008,
18 requesting authenticating materials for the volcanic ash samples UNIVERSAL fraudulently
19 obtained from Plaintiff in May 2007, including proof for UNIVERSAL'S client that the
20 volcanic ash they received as a sample from Plaintiff in May 2007 was actually from the
21 Vanuatu Islands and that the ash has benefits for "hair volumizing".

22 156. Plaintiff is informed and believes, and based upon such information and belief
23 alleges that the above representations of UNIVERSAL were in fact false. The true facts were
24 that on or before May 1, 2007, UNIVERSAL, unbeknownst to Plaintiff, obtained samples of
25 Plaintiff's Products and/or Plaintiff's ingredient lists from DEFENDANTS and were asked to
26 manufacture hair care products for DEFENDANTS based on Plaintiff's Products and/or
27 ingredient lists.
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1 157. Plaintiff is informed and believes, and based upon such information and belief
2 alleges that when UNIVERSAL made these representations it knew them to be false and made
3 these representations with the intention to deceive and defraud Plaintiff and to induce Plaintiff
4 to act in reliance on these representations in the manner hereafter alleged, or with the
5 expectation that Plaintiff would so act.

6 158. Plaintiff, at the times these representations were made by UNIVERSAL, and at
7 the time Plaintiff took the actions herein alleged, was ignorant of the falsity of UNIVERSAL'S
8 representations and believed them to be true. In reliance on these representations, Plaintiff was
9 induced to part with and deliver to UNIVERSAL, samples of Plaintiff's volcanic ash in fine and
10 coarse grade, in amounts sufficient to allow a large scale first run production of hair care
11 products containing the ash. Had Plaintiff known the actual facts, it would not have taken such
12 action.

13 159. Plaintiff's reliance on UNIVERSAL'S representations was justified because in
14 Plaintiff's industry it is the normal custom and practice to deliver samples of raw materials to
15 requesting third parties, even competitors, when one is the only supplier of the of those raw
16 materials in North America. Further, based on the representations being made to Plaintiff by
17 DEFENDANTS, and each of them, at the time Plaintiff had no, and could not reasonably
18 anticipate any, reason to believe that UNIVERSAL was acting in a fraudulent and deceitful
19 manner.

20 160. As a proximate result of the fraudulent conduct of UNIVERSAL, as alleged
21 herein, Plaintiff was induced to deliver to UNIVERSAL samples of both their fine and coarse
22 grade volcanic ash, which ash was then wrongfully used to develop hair care products with
23 DEFENDANTS, and each of them, resulting in Plaintiff's loss of the benefit of the Contract
24 with DEFENDANTS, and each of them, and further the loss of the ability to present Plaintiff's
25 Story, the Ingredient Story and Plaintiff's Footage, all of which are based on the use of the
26 volcanic ash and/or other natural and exotic ingredients found surviving near the ash, to another
27 client for whom Plaintiff could develop products and have been the first-to-market, all in
28 amounts to be proven at trial.

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1 161. The aforementioned conduct of UNIVERSAL, was an intentional
2 misrepresentation, deceit, or concealment of a material fact or facts known to the UNIVERSAL,
3 with the intention on the part of UNIVERSAL of thereby depriving Plaintiff of property or legal
4 rights or otherwise causing injury, and was despicable conduct that subjected Plaintiff to a cruel
5 and unjust hardship in conscious disregard of Plaintiff's rights, so as to justify an award of
6 exemplary and punitive damages.

7 **THIRTEENTH CAUSE OF ACTION**

8 **CONVERSION**

9 **(Against UNIVERSAL and DOES 26-50)**

10 162. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
11 herein.

12 163. Plaintiff is informed and believes, and at all times herein mentioned Plaintiff
13 was, and still is, the owner and was, and still is, entitled to possession of the following personal
14 property, namely: Volcanic ash from the Vanuatu Islands in the South Pacific.

15 164. On or around May 1, 2007, Ricardo Minaya of UNIVERSAL contacted Plaintiff
16 and requested samples, and Plaintiff delivered samples, of Plaintiff's volcanic ash, of which
17 Plaintiff is the only supplier in North America, in both fine and coarse grade.

18 165. When Plaintiff's President inquired as to what the ash was to be used for,
19 Ricardo Minaya of UNIVERSAL represented that the ash was to be used in end products for
20 "skin care".

21 166. Plaintiff is informed and believes, and based upon such information and belief
22 alleges that the above representations of UNIVERSAL were in fact false. The true facts were
23 that on or before May 1, 2007, UNIVERSAL, unbeknownst to Plaintiff, obtained samples of
24 Plaintiff's Products and/or Plaintiff's ingredient lists from DEFENDANTS and were asked to
25 manufacture hair care products for DEFENDANTS based on Plaintiff's Products and/or
26 ingredient lists.

27 167. Plaintiff is informed and believes, and based upon such information and belief
28 alleges that Plaintiff justifiably relied on UNIVERSAL'S representations and was thereby

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1 174. Plaintiff is informed and believes, and based upon such information and belief
2 alleges that said acts of interference were independently wrongful.

3 175. Plaintiff is informed and believes, and based upon such information and belief
4 alleges that the conduct of DEFENDANTS, HUDSON and UNIVERSAL, and each of them,
5 resulted in actual disruption of Plaintiff's actual and potential business relationships, in that
6 Plaintiff is unable to use the ideas and items provided to and misappropriated by
7 DEFENDANTS, HUDSON and UNIVERSAL, and each of them, with another client in the
8 development of a hair care product line as DEFENDANTS, HUDSON and UNIVERSAL, and
9 each of them, have already manufactured, marketed and distributed Plaintiff's ideas and
10 products into the market and presented the ideas as their own.

11 176. As a proximate result of such intentional interference with Plaintiff's prospective
12 business and economic advantage, Plaintiff suffered injury and damages to its trade and
13 business, including, but not limited to, costs of time spent on research and development of its
14 Products and the materials used to create the Products and the diminution of the novelty of its
15 Products that it would otherwise have enjoyed in the absence of the conduct of DEFENDANTS,
16 HUDSON, and UNIVERSAL, and each of them, all in an amount according to proof at trial.

17 177. The conduct of DEFENDANTS, HUDSON, and UNIVERSAL, and each of
18 them, as alleged herein, was done in conscious disregard of Plaintiff's rights, and constitutes
19 malice, oppression, fraud, and/or despicable conduct, entitling Plaintiffs to punitive and
20 exemplary damages.

21 **FIFTEENTH CAUSE OF ACTION**

22 **CONSPIRACY TO INTERFERE WITH PROSPECTIVE BUSINESS ADVANTAGE**

23 **(Against All Defendants)**

24 178. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
25 herein.

26 179. Plaintiff is informed and believes, and based upon such information and belief
27 alleges that on or before May 1, 2007, DEFENDANTS, HUDSON and UNIVERSAL, and each
28 of them, knowingly and willfully conspired and agreed among themselves to interfere with

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1 Plaintiff's prospective economic relationships as described above by inducing Plaintiff's
2 reliance on the representations of DEFENDANTS, and each of them, that Plaintiff was the
3 laboratory of choice for the DEFENDANTS, and each of them, to manufacture the products to
4 be used in DEFENDANTS' and HUDSON'S hair care products line and by inducing Plaintiff
5 not to present the Ideas, Plaintiff's Footage, or Plaintiff's ingredient lists to other potential hair
6 care product line developers.

7 180. Plaintiff is informed and believes, and based upon such information and belief
8 alleges that DEFENDANTS, HUDSON and UNIVERSAL, and each of them, did the acts and
9 things herein alleged above pursuant to, and in furtherance of, the conspiracy and the above-
10 alleged agreement.

11 181. Plaintiff is informed and believes, and based upon such information and belief
12 alleges that UNIVERSAL furthered the conspiracy by cooperating with and lending aid and
13 encouragement to DEFENDANTS, and each of them, in that UNIVERSAL induced Plaintiff to
14 deliver to UNIVERSAL samples of volcanic ash so that UNIVERSAL could manufacture a
15 large scale first run production of hair care products containing the ash and DEFENDANTS and
16 HUDSON, and each of them, could get products out to market before Plaintiff could obtain
17 another client to develop and manufacture hair care products for using the ash and the Ideas.

18 182. Plaintiff is informed and believes, and based upon such information and belief
19 alleges that the last overt act in pursuance of the above-described conspiracy occurred on or
20 about July 10, 2008, when Bridget Gomez of UNIVERSAL contacted Plaintiff, requesting
21 authenticating materials for the volcanic ash samples UNIVERSAL fraudulently obtained from
22 Plaintiff in May 2007, including proof for UNIVERSAL'S client that the volcanic ash they
23 received as a sample from Plaintiff in May 2007 was actually from the Vanuatu Islands and that
24 the ash has benefits for "hair volumizing", only a few days after DEFENDANTS and
25 HUDSON, and each of them, appeared on the Home Shopping Network to promote the
26 products manufactured and released by DEFENDANTS, HUDSON, and UNIVERSAL, and
27 each of them.
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1 183. As a proximate result of the wrongful acts of DEFENDANTS, HUDSON and
2 UNIVERSAL, and each of them, pursuant to the conspiracy herein alleged, Plaintiff has been
3 damaged in an amount to be proven at trial.

4 184. As a further proximate result of the above-described actions, Plaintiffs have
5 suffered the following special damages including, but not limited to: Plaintiff suffered injury
6 and damages to its trade and business, including, but not limited to, costs of time spent on
7 research and development of its Products and the materials used to create the Products and the
8 diminution of the novelty of its Products that it would otherwise have enjoyed in the absence of
9 the conduct of DEFENDANTS, HUDSON, and UNIVERSAL, and each of them, all in an
10 amount according to proof at trial.

11 185. DEFENDANTS, HUDSON, and UNIVERSAL, and each of them, acted with
12 malice, oppression, and fraud. Therefore Plaintiff is entitled to punitive damages in an amount
13 to be proven.

14 **SIXTEENTH CAUSE OF ACTION**
15 **NEGLIGENT INTERFERENCE WITH PROSPECTIVE BUSINESS ADVANTAGE**
16 **(Against All Defendants)**

17 186. Plaintiff incorporates by reference all prior paragraphs as though fully set forth
18 herein.

19 187. Plaintiff possess prospective relationships with third parties with probable future
20 economic benefit to Plaintiffs, as set forth above, including but not limited to third parties
21 developing hair care product lines.

22 188. Plaintiff is informed and believes, and based upon such information and belief
23 alleges that DEFENDANTS, HUDSON, UNIVERSAL, and each of them, at all material times
24 possessed knowledge of the foregoing relationships and intended to disrupt said relationships,
25 as alleged herein above.

26 189. Said acts of interference were independently wrongful.

27 190. The conduct of DEFENDANTS, HUDSON and UNIVERSAL, and each of
28 them, resulted in actual disruption of Plaintiff's actual and potential business relationships, in

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- 1 2. For general damages and the amount necessary to prevent unjust enrichment of
- 2 DEFENDANTS, HUDSON and DOES 1-25, and each of them, in an amount
- 3 according to proof; and
- 4 3. For punitive damages, jointly and severally, according to proof.

SECOND CAUSE OF ACTION

**[Conspiracy to Misappropriate Trade Secrets - Against BABAIL, DBWA, HUDSON and
DOES 1-25]**

As against BABAIL, DBWA, HUDSON and DOES 1-25, jointly and severally:

- 9 1. For general damages according to proof;
- 10 2. For special damages according to proof; and
- 11 3. For punitive damages according to proof.

THIRD CAUSE OF ACTION

[Fraud - Against BABAIL, DBWA and DOES 1-25]

As against BABAIL, DBWA and DOES 1-25, jointly and severally:

- 15 4. For general damages according to proof;
- 16 5. For special damages for Plaintiff's expense of hours of its time and energy in an
- 17 attempt to derive a profit from the development of the Products, including but not limited to,
- 18 manufacturing samples of the Products for DEFENDANTS and forging the presentation of
- 19 Plaintiff's Story, the Ingredient Story and Plaintiff's Footage to another client for whom
- 20 Plaintiff could develop products, according to proof; and
- 21 6. For punitive damages in an amount appropriate to punish DEFENDANTS, and
- 22 each of them, and deter others from engaging in similar misconduct, according to proof.

FOURTH CAUSE OF ACTION

[Breach of Contract - Against BABAIL, DBWA and DOES 1-25]

As against BABAIL, DBWA and DOES 1-25, jointly and severally:

- 26 1. For compensatory damages according to proof; and
- 27 2. For interest at the legal rate from and after August 27, 2007, and alternatively no
- 28 later than June 13, 2008, according to proof.

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1 **FIFTH CAUSE OF ACTION**

2 **[Conversion – Against BABAIL, DBWA and DOES 1-25]**

3 As against BABAIL, DBWA and DOES 1-25, jointly and severally:

- 4 3. For the value of the property converted according to proof;
- 5 4. For interest at the legal rate, pursuant to Section 3336 of the Civil Code, from
- 6 and after August 27, 2007;
- 7 5. For damages for the proximate and foreseeable loss resulting from
- 8 DEFENDANTS', and each of their, conversion in an amount to be proven at trial;
- 9 6. For interest at the legal rate pursuant to Section 3287(a) of the Civil Code, from
- 10 and after August 27, 2007, according to proof; and
- 11 7. For punitive and exemplary damages.

12 **SIXTH CAUSE OF ACTION**

13 **[Quantum Meruit – Against BABAIL, DBWA and DOES 1-25]**

14 As against BABAIL, DBWA and DOES 1-25, jointly and severally:

- 15 1. For general and compensatory damages plus interest thereon at the highest legal
- 16 rate according to proof at time of trial, from August 27, 2007, or in the alternative no later than
- 17 June 13, 2008, to the date of judgment; and
- 18 2. For incident and consequential damages according to proof at trial.

19 **SEVENTH CAUSE OF ACTION**

20 **[Breach of Covenant of Good Faith and Fair Dealing – Against BABAIL, DBWA and**

21 **DOES 1-25]**

22 As against BABAIL, DBWA and DOES 1-25, jointly and severally:

- 23 1. For damages resulting from lost profits anticipated in the manufacturing of the
- 24 Products pursuant to the Contract and the lost ability to develop and manufacture products for
- 25 another customer using Plaintiff's Story, the Ingredients Story and Plaintiff's footage according
- 26 to proof; and
- 27 2. For punitive damages according to proof.

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EIGHTH CAUSE OF ACTION

[Breach of Implied Contract – Against BABAIL, DBWA and DOES 1-25]

As against BABAIL, DBWA and DOES 1-25, jointly and severally:

1. For damages according to proof; and
2. For interest at the legal rate from and after August 27, 2007, according to proof.

NINTH CAUSE OF ACTION

[Breach of Confidence- Against BABAIL, DBWA and DOES 1-25]

As against BABAIL, DBWA and DOES 1-25, jointly and severally:

1. For damages according to proof; and
2. For interest at the legal rate from and after August 27, 2007, according to proof.

TENTH CAUSE OF ACTION

[Accounting – Against BABAIL, DBWA, HUDSON and DOES 1-25]

As against BABAIL, DBWA, HUDSON and DOES 1-25, jointly and severally:

3. For an accounting between Plaintiff, DEFENDANTS, HUDSON and DOES 1-25, and each of them,; and
4. For payment over to Plaintiff of the amount due from DEFENDANTS, HUDSON and DOES 1-25, and each of them, as a result of the account and interest on that amount from and after June 13, 2008, according to proof.

ELEVENTH CAUSE OF ACTION

[Injunctive Relief – Against BABAIL, DBWA and DOES 1-25]

As against BABAIL, DBWA and DOES 1-25, jointly and severally:

1. For permanent injunctive relief enjoining all DEFENDANTS, and each of them as follows:
 - a. Soliciting the competitors of Plaintiff to produce Plaintiff's products;
 - b. Using, or contracting with, competitors of Plaintiff to produce hair care products using ingredients not known to the public or competitors as having the properties discovered by Plaintiff's research;

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c. Using Plaintiff's Story, the Ingredients Story, and Plaintiff's Footage (all as defined herein above) to sell, market, promote or produce hair care products; and

d. Disclosing, transferring, or using for their own benefit any proprietary and/or confidential information properly belonging to Plaintiff.

TWELFTH CAUSE OF ACTION

[Fraud - Against UNIVERSAL and DOES 26-50]

As against UNIVERSAL and DOES 1-25, jointly and severally:

1. For general damages according to proof;
2. For special damages for Plaintiff's loss of the benefit of the Contract with DEFENDANTS, and each of them and further the loss of the ability to present Plaintiff's Story, the Ingredient Story and Plaintiff's Footage, all of which are based on the use of the volcanic ash, to another client for whom Plaintiff could develop products, according to proof; and
3. For punitive damages in an amount appropriate to punish UNIVERSAL and deter others from engaging in similar misconduct, according to proof.

THIRTEENTH CAUSE OF ACTION

[Conversion - Against UNIVERSAL and DOES 26-50]

As against UNIVERSAL and DOES 1-25, jointly and severally:

1. For the value of the property converted according to proof;
2. For interest at the legal rate, pursuant to Section 3336 of the Civil Code, from and after August 27, 2007;
3. For damages for the proximate and foreseeable loss resulting from UNIVERSAL'S conversion in an amount according to proof;
4. For interest at the legal rate pursuant to Section 3287(a) of the Civil Code, from and after August 27, 2007, according to proof; and
5. For punitive and exemplary damages.

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