

CONFORMED COPY

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Attorneys for Plaintiff
 MIXED CHICKS LLC

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

MIXED CHICKS LLC, a California
 limited liability company,

Plaintiff,

vs.

SALLY BEAUTY SUPPLY LLC, a
 Delaware limited liability company;
 SALLY HOLDINGS LLC, a
 Delaware limited liability company;
 SILK ELEMENTS, INC., a Delaware
 corporation; and DOES 1-20,
 inclusive,

Defendants.

Case No.: **SACV11-00452 AG (FMOx)**

**COMPLAINT FOR DAMAGES
 AND INJUNCTIVE RELIEF:**

- (1) TRADEMARK
 INFRINGEMENT (15 U.S.C.
 § 1114);**
- (2) TRADE DRESS
 INFRINGEMENT (15 U.S.C.
 § 1125(a));**
- (3) TRADEMARK
 INFRINGEMENT
 (CALIFORNIA LAW); AND**
- (4) COMMON LAW UNFAIR
 COMPETITION**

JURY TRIAL DEMANDED

1 Plaintiff Mixed Chicks LLC (“Mixed Chicks”), for its claims against
2 defendants Sally Beauty Supply LLC (“Sally Beauty Supply”), Sally Holdings
3 LLC (“Sally Holdings”), Silk Elements, Inc. (“Silk Elements”), and DOES 1
4 through 20, inclusive (collectively, “Defendants”), alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Mixed Chicks files this action against Defendants for trademark
7 and trade dress infringement under the Lanham Act (15 U.S.C. § 1051 *et seq.*) and
8 under the common law of the State of California, and for related claims of unfair
9 competition under the common law of the State of California. This Court has
10 subject matter jurisdiction over the trademark and trade dress claims under 28
11 U.S.C. §§ 1331 and 1338(a), and over the remaining claims under 28 U.S.C.
12 §§ 1338(b) and 1367(a).

13 2. Mixed Chicks is informed and believes, and based thereon
14 alleges, that Defendant Sally Beauty Supply is a limited liability company doing
15 business in this judicial district and is thus subject to personal jurisdiction here.

16 3. Mixed Chicks is informed and believes, and based thereon
17 alleges, that Defendant Sally Holdings is a limited liability company doing
18 business in this judicial district and is thus subject to personal jurisdiction here.

19 4. Mixed Chicks is informed and believes, and based thereon
20 alleges, that Defendant Silk Elements is a corporation doing business in this
21 judicial district and is thus subject to personal jurisdiction here.

22 5. This action arises out of wrongful acts committed by
23 Defendants in this judicial district involving the sale of products which infringe
24 Mixed Chicks’ trademarks and trade dress. The Defendants reside in this judicial
25 district. Venue is therefore proper in this judicial district under 28 U.S.C.
26 §§ 1391(b).

27 6. Venue is further proper in the Southern Division of the Central
28 District because a substantial part of the acts and omissions giving rise to Mixed

1 Chicks' claims occurred in the Southern Division of the Central District.
2 Specifically, Defendants have sold infringing products in the Southern Division of
3 the Central District.

4 **THE PARTIES**

5 7. Mixed Chicks is a California limited liability company, with its
6 principal place of business in Los Angeles County, State of California, and was
7 authorized to do, and is doing, business in the State of California at all times
8 relevant to this Complaint.

9 8. Mixed Chicks is informed and believes, and based thereon
10 alleges, that Sally Beauty Supply is, and at all times relevant to this Complaint
11 was, a Delaware limited liability company with its principal place of business in
12 Denton, Texas, and doing business in Los Angeles County and Orange County,
13 California. Sally Beauty Supply is a retailer of professional beauty supplies and
14 owns and operates approximately 2,700 Sally Beauty Supply stores worldwide.
15 Sally Beauty Supply claims to be the world's largest retailer of professional beauty
16 supplies.

17 9. Mixed Chicks is informed and believes, and based thereon
18 alleges, that Sally Holdings is, and at all times relevant to this Complaint was, a
19 Delaware limited liability company with its principal place of business in Denton,
20 Texas, and doing business in Los Angeles County and Orange County, California.
21 Mixed Chicks is further informed and believes, and based thereon alleges, that the
22 operations of Sally Beauty Supply are conducted through Sally Holdings.

23 10. Mixed Chicks is informed and believes, and based thereon
24 alleges, that Silk Elements is, and at all times relevant to this Complaint was, a
25 Delaware corporation with its principal place of business in Roswell, Georgia, and
26 doing business in Los Angeles County and Orange County, California. Mixed
27 Chicks is further informed and believes, and based thereon alleges, that Silk
28 Elements is the manufacturer of the "Mixed Silk" line of hair care products.

1 11. The true names and capacities, whether individual, corporate,
2 associate or otherwise, of Defendants named as Does 1 through 20, inclusive, are
3 unknown to Mixed Chicks, which therefore sues these Defendants by such
4 fictitious names. Mixed Chicks will seek leave of this Court to amend this
5 Complaint to include their proper names and capacities when they have been
6 ascertained. Mixed Chicks is informed and believes, and on that basis alleges, that
7 each of the fictitiously named Defendants participated in some manner or is
8 responsible or liable for the acts and omissions described in this Complaint and the
9 damage resulting therefrom.

10 12. Mixed Chicks is informed and believes, and based thereon
11 alleges, that each of the Defendants named as Does 1 through 20, inclusive,
12 performed, participated in, aided or abetted, authorized, ratified, and/or acquiesced
13 in some manner, the acts and omissions alleged in this Complaint, proximately
14 caused the damages alleged below, benefited from such acts and omissions and is
15 liable to Mixed Chicks for the damages and relief sought in this Complaint.

16 13. Mixed Chicks is informed and believes, and based thereon
17 alleges, that in participating in and/or performing the acts and omissions alleged in
18 the Complaint, the Defendants, including the Doe Defendants, and each of them,
19 were acting as the agents, servants, employees, alter egos, successors or
20 predecessors in interest, and/or contractors of the other Defendants, and were
21 acting within the course and scope of such relationship, with the knowledge,
22 express or implied, of each such other Defendants, at all times relevant to this
23 Complaint.

24 GENERAL ALLEGATIONS

25 Mixed Chicks' Registered Trademark

26 14. Mixed Chicks designs, develops, manufactures, and markets
27 high-quality hair care products for curly hair, particularly the hair of multiracial or
28 "mixed" race individuals. Its products are the subject of trademark and trade dress

1 protections. Mixed Chicks sells its hair care products throughout the United States
2 and internationally, including in this judicial district.

3 15. Mixed Chicks owns the MIXED CHICKS trademark and
4 possesses a valid and enforceable registration with United States Patent and
5 Trademark Office (Registration No. 3,083,281).

6 16. Mixed Chicks has continuously used MIXED CHICKS in
7 connection with the promotion, advertising, and sale of Mixed Chicks' hair care
8 products since well before the acts of Defendants complained of herein.

9 Mixed Chicks' Hair Care Products

10 17. In or about 2004, Mixed Chicks introduced its line of
11 specialized, high-quality hair care products for multiracial or "mixed race"
12 individuals as well as for individuals of any race who have curly or frizzy hair.
13 Mixed Chicks has expended considerable resources in researching, developing,
14 manufacturing, testing, and advertising its hair care products, including Mixed
15 Chicks-brand Shampoo ("Mixed Chicks Shampoo"), Leave-In Conditioner
16 ("Mixed Chicks Leave-In Conditioner"), and Deep Conditioner ("Mixed Chicks
17 Deep Conditioner") (collectively, the "Mixed Chicks Hair Care Products"). In the
18 approximately seven years since the inception of Mixed Chicks, the company has
19 become the leader in the niche market of hair care products for multiracial
20 individuals and has built a reputation for manufacturing and selling hair care
21 products that are effective and of high quality.

22 18. The overall appearance of the Mixed Chicks Hair Care Products
23 is inherently distinctive and nonfunctional. The unique and distinctive appearance
24 of each of the Mixed Chicks Hair Care Products results from a combination of
25 individual features, including, but not limited to:

26 (a) Mixed Chicks Shampoo: (i) the size and shape of the bottle,
27 specifically, a cylindrical plastic bottle with straight sides that narrow at the cap
28 (ii) the color of the bottle, which is translucent such that the liquid product inside

1 the bottle itself gives the bottle the appearance of the liquid; (iii) the color, scent,
2 and texture of the liquid product inside the bottle; (iv) the Mixed Chicks® logo
3 appearing on the upper third of the side of the bottle in a colored, stylized font;
4 (v) the words “gentle clarifying” printed alongside “Shampoo” in advertisements
5 for the Mixed Chicks Shampoo; and (vi) the words “gently cleanse” printed
6 directly below the Mixed Chicks® logo and the word shampoo on the face of the
7 bottle;

8 (b) Mixed Chicks Leave-In Conditioner: (i) the size and shape of the
9 bottle, specifically, a cylindrical plastic bottle with straight sides that narrow at the
10 cap (ii) the color of the bottle, which is translucent such that the yellow liquid
11 product inside the bottle gives the bottle itself the appearance of the liquid; (iii) the
12 color, scent, and texture of the liquid product inside the bottle; (iv) the Mixed
13 Chicks® logo appearing on the upper third of the side of the bottle in a colored,
14 stylized font; and (v) the product name “Leave-in Conditioner”;

15 (c) Mixed Chicks Deep Conditioner: (i) the size and shape of the
16 container, specifically, a plastic cylindrical jar 3 inches in diameter and 2 ½ inches
17 high with screw-on lid; (ii) the color of the container, specifically, a translucent
18 plastic cylindrical jar with a matte, natural frosted white sticker around the entire
19 circumference of the container and a clear plastic screw-on lid containing an
20 opaque, white insert; (iii) the color, scent, and texture of the liquid product, which
21 is a white cream; (iv) the Mixed Chicks® logo appearing on the side of the bottle
22 in a colored, stylized font; (v) the name of the product, “Deep Conditioner,” in a
23 colored font (vi) the description of the product below the Mixed Chicks® logo and
24 the name of the product (*i.e.*, “Deep Conditioner”) on the face of the bottle,
25 commencing noticeably with the word “nourish.”

26 19. Through Mixed Chicks’ promotional and advertising efforts,
27 the overall appearance of the Mixed Chicks Hair Care Products has become widely
28 known and recognized, and the trade dress of the Mixed Chicks Hair Care Products

1 has acquired secondary meaning.

2 20. Mixed Chicks has continuously used the current overall
3 appearance of the Mixed Chicks Hair Care Products in connection with the
4 promotion, advertising, and sale of those products since well before the acts
5 complained of herein.

6 *Defendants' Infringing Products and Advertising*

7 21. Defendants are offering for sale, advertising, and selling
8 imitations of the Mixed Chicks Hair Care Products under the "Mixed Silk" brand,
9 including Gentle Cleansing Shampoo ("Mixed Silk Shampoo"), Leave-in
10 Conditioning Crème ("Mixed Silk Leave-In Conditioner"), and Nourishing Deep
11 Conditioner ("Mixed Silk Deep Conditioner") (collectively, the "Mixed Silk Hair
12 Care Products"). Mixed Chicks is informed and believes, and based thereon
13 alleges, that Defendants caused these imitation hair care products to enter into
14 interstate commerce.

15 22. The overall appearance of each of the Mixed Silk Hair Care
16 Products is virtually identical to the overall appearance of the corresponding Mixed
17 Chicks Hair Care Product.

18 23. Mixed Silk Hair Care Products strongly resemble genuine
19 Mixed Chicks Hair Care Products and are likely to confuse consumers as to the
20 affiliation, connection or association of the "Mixed Silk" brand hair care products
21 sold at Sally Beauty Supply stores with Mixed Chicks, or as to the origin,
22 sponsorship, or approval of the Mixed Silk Hair Care Products.

23 24. Mixed Silk Hair Care Products use and affix words or marks
24 which are confusingly similar to Mixed Chicks' Registered Trademark, in such a
25 way that these marks are likely to cause confusion, or to cause mistake, or to
26 deceive as to the origin of the Mixed Silk Hair Care Products.

27 25. The presence of Mixed Silk Hair Care Products in the
28 marketplace and in advertising injures and damages the value of Mixed Chicks'

1 exclusive rights in its Registered Trademark and in its trade dress for the overall
2 appearance of the Mixed Chicks Hair Care Products. Among other things, Mixed
3 Chicks has suffered advertising injury due to Mixed Chicks' selling, offering for
4 sale, and advertising of the Mixed Silk Hair Care Products.

5 *Defendants' Acts of Blatant Infringement and Unfair Competition*

6 26. Mixed Chicks is informed and believes, and based thereon
7 alleges, that Defendants have offered for sale, advertised, and sold the Mixed Silk
8 Hair Care Products with the intent to benefit from Mixed Chicks' goodwill and
9 reputation in the mixed race hair care product market, to deceive the public as to
10 the source or origin of Defendants' imitation hair care products, and to profit from
11 the demand created by Mixed Chicks' specialized, high-quality hair care products.

12 27. Defendants have used and affixed marks confusingly similar to
13 MIXED CHICKS in connection with advertising, sales and/or offers for sale of the
14 Mixed Silk Hair Care Products in such a way that these marks are likely to cause
15 confusion, or to cause mistake, or to deceive as to the origin of the Mixed Silk Hair
16 Care Products.

17 28. Mixed Chicks is informed and believes, and based thereon
18 alleges, that Defendants, and each of them, through their servants and/or agents,
19 have used in connection with sales and/or offers for sale of the Mixed Silk Hair
20 Care Products false designations of origin, false or misleading descriptions of fact,
21 and/or false or misleading representations of fact, which are likely to cause
22 confusion, or to cause mistake, or to deceive as to the origin of the Mixed Silk Hair
23 Care Products with the intent to benefit from Mixed Chicks' reputation and
24 goodwill in the curly hair and/or mixed race hair care product market, to deceive
25 the public as to the origin of Defendants' imitation hair care products, and to profit
26 from the demand created by Mixed Chicks for its specialized, high-quality hair
27 care products.

29. Defendants sell, offer to sell, and/or market the Mixed Silk Hair Care Products at, among other places and media, Sally Beauty Supply stores located nationwide and through the Internet website for Sally Beauty Supply stores, www.sallybeauty.com (the “Sally Beauty Website”). Each and every page of the Sally Beauty Website, including, without limitation, the “Home” page, contains a search engine in which a consumer can type in a product name or description and search the catalog of products sold by Sally Beauty Supply online and/or at Sally Beauty Supply stores based on the terms entered by the consumer. Sally Beauty Supply has programmed or caused to be programmed the search engine on the Sally Beauty Website so that, as of the date of the filing of this Complaint, when a consumer searches for the terms “mixed chicks,” the search returns three results (and no others) comprising of the three Mixed Silk Hair Care Products that are imitations of the trio of Mixed Chicks Hair Care Products. Similarly, when a consumer searches the Sally Beauty Website for the terms “mixed chicks shampoo,” “mixed chicks conditioner,” “mixed chicks deep conditioner,” and “mixed chicks leave in conditioner,” the search returns only the corresponding imitation Mixed Silk Hair Product. Mixed Chicks is informed and believes, and based thereon alleges, that Defendants, and each of them, programmed or caused the search engine on the Sally Beauty Website to operate in this manner to cause confusion or mistake, or to deceive as to the origin of the Mixed Silk Hair Care Products with the intent to benefit from Mixed Chicks’ reputation and goodwill. Indeed, the operation of the search engine on the Sally Beauty Website is likely to cause confusion, or to cause mistake, or to deceive as to the origin of the Mixed Silk Hair Care Products.

FIRST CLAIM FOR RELIEF

**(Infringement of Registered Trademark – Lanham Act § 32,
Against All Defendants)**

30. Mixed Chicks realleges and incorporates by reference the

1 allegations contained in paragraphs 1 through 29, inclusive, of this Complaint as if
2 fully set forth herein.

3 31. The MIXED CHICKS trademarks is inherently distinctive and
4 has acquired secondary meaning among consumers of beauty products. Purchasers
5 associate the MIXED CHICKS trademarks only with Mixed Chicks' products.
6 This is a result of the mark's inherent distinctiveness, and of extensive advertising
7 and sales throughout the United States and internationally of Mixed Chicks' Hair
8 Care Products bearing the MIXED CHICKS trademark.

9 32. By committing the acts alleged herein, Defendants, and each of
10 them, have intentionally, knowingly, and willfully infringed the MIXED CHICKS
11 trademark.

12 33. Because of Defendants' infringement, Mixed Chicks has been
13 irreparably harmed in its business. Moreover, Mixed Chicks will continue to
14 suffer irreparable harm unless Defendants are restrained from infringing the
15 MIXED CHICKS trademark.

16 **SECOND CLAIM FOR RELIEF**

17 **(Trade Dress Infringement and False Designation of Origin – Lanham Act**
18 **§ 43(a), Against All Defendants)**

19 34. Mixed Chicks realleges and incorporates by reference the
20 allegations contained in paragraphs 1 through 33, inclusive, of this Complaint as if
21 fully set forth herein.

22 35. By reason of Defendants' acts complained of herein concerning
23 the Mixed Silk line of hair care products, Defendants, and each of them, have
24 intentionally engaged in conduct that constitutes false advertising, a false
25 designation of origin, a false or misleading description of fact, a false or
26 misleading representation of fact tending wrongfully and falsely to describe or
27 represent a connection between Mixed Chicks' and Defendants' goods, and an
28 infringement of Mixed Chicks' trade dress rights in violation of 15 U.S.C. §

1 1125(a). Mixed Chicks believes that customers are likely to be confused by
2 Defendants' use of such false designations of origin, false descriptions or
3 representations regarding Mixed Chicks' and Defendants' goods, and by
4 Defendants' confusingly similar trade dress.

5 36. In addition, Defendants' trade dress infringement, coupled with
6 their false designations of origin, false descriptions, and misrepresentations,
7 including in advertising, regarding Mixed Chicks' and Defendants' goods, is likely
8 to confuse hair care product purchasers into thinking that Mixed Chicks is the
9 source of Defendants' Mixed Silk Hair Care Products, that Mixed Chicks has
10 sponsored those hair care products, that those hair care products are in some
11 manner affiliated with Mixed Chicks, or that those hair care products are the same
12 as Mixed Chicks' hair care products.

13 37. Because of Defendants' conduct, Mixed Chicks has been
14 irreparably harmed in its business. Moreover, Mixed Chicks will continue to
15 suffer irreparable harm unless Defendants are restrained from infringing Mixed
16 Chicks' trade dress and making false designations of origin, false descriptions, or
17 misrepresentations regarding Mixed Chicks' and Defendants' goods.

18 **THIRD CLAIM FOR RELIEF**

19 **(Trademark Infringement – California Law, Against All Defendants)**

20 38. Mixed Chicks realleges and incorporates by reference the
21 allegations contained in paragraphs 1 through 37, inclusive, of this Complaint as if
22 fully set forth herein.

23 39. By reason of the acts complained of herein, Defendants, and
24 each of them, have intentionally caused a likelihood of confusion among the
25 public, competed unfairly, and committed unconscionable, unfair and deceptive
26 acts in the conduct of trade or commerce in violation of California law.

27 40. Because of Defendants' conduct, Mixed Chicks has been
28 irreparably harmed in its business. Moreover, Mixed Chicks will continue to

1 suffer irreparable harm unless Defendants are restrained from competing unfairly
2 and committing unconscionable, unfair and deceptive acts.

3 **FOURTH CLAIM FOR RELIEF**

4 **(Common Law Unfair Competition, Against All Defendants)**

5 41. Mixed Chicks realleges and incorporates by reference the
6 allegations contained in paragraphs 1 through 40, inclusive, of this Complaint as if
7 fully set forth herein.

8 42. By reason of the acts complained of herein, Defendants, and
9 each of them, have unfairly competed with Mixed Chicks in violation of the
10 common law of the State of California.

11 43. Because of this unfair competition, Mixed Chicks has been
12 irreparably harmed in its business.

13 44. Mixed Chicks is informed and believes, and based thereon
14 alleges, that Defendants' acts have been done oppressively, fraudulently and
15 maliciously and with an intent to trade upon the goodwill of Mixed Chicks and to
16 injure Mixed Chicks.

17 45. Mixed Chicks is informed and believes, and based thereon
18 alleges, that Defendants will continue the acts of unfair competition described
19 above to the irreparable injury of Mixed Chicks and the public unless restrained
20 and enjoined.

21 **PRAYER**

22 WHEREFORE, Mixed Chicks prays for judgment against Defendants,
23 and each of them, as follows:

24 1. That Defendant, and all of Defendants' agents, servants,
25 employees, and attorneys, and all other persons in active concert or participation
26 with Defendant who receive actual notice of the injunction, be temporarily,
27 preliminarily and permanently enjoined from:
28

1 (a) advertising, promoting, marketing, offering for sale,
2 selling or otherwise disposing of the Mixed Silk Hair Care Products, or any of
3 them;

4 (b) infringing the MIXED CHICKS trademark;

5 (c) using a trade dress confusingly similar to Mixed Chicks'
6 trade dress in the overall appearance of its Mixed Chicks Shampoo, Mixed Chicks
7 Deep Conditioner, and Mixed Chicks Leave-In Conditioner in connection with the
8 advertising, promotion, marketing, sale, or other disposal of Defendants' products
9 or making any designations of origin, descriptions or representations that Mixed
10 Chicks is the source of Defendants' imitation hair care products, that Mixed Chicks
11 has sponsored Defendants' imitation hair care products, that Defendants' imitation
12 hair care products are in some manner affiliated with Mixed Chicks, or that
13 Defendants' imitation hair care products are the same as Mixed Chicks' hair care
14 products; and

15 (d) otherwise deceptively or unfairly competing with Mixed
16 Chicks in the sale of hair care products for individuals with curly hair or mixed
17 race individuals;

18 2. That Mixed Chicks be awarded damages in an amount to be
19 determined at trial based on Defendants':

20 (a) infringement of the MIXED CHICKS trademark;

21 (b) infringement of Mixed Chicks' distinctive trade dress in
22 the overall appearance of its Mixed Chicks Hair Care Products;

23 (c) false designations of origin, descriptions and
24 representations regarding the Mixed Silk Hair Care Products; and

25 (d) acts of unfair competition against Mixed Chicks;

1 3. That Mixed Chicks be awarded under 15 U.S.C. § 1117(a) the
2 total profits received by Defendants from, and any damages sustained by Mixed
3 Chicks as a result of, Defendants' sales of all products infringing the MIXED
4 CHICKS trademark or trade dress in the overall appearance of its Mixed Chicks
5 Hair Care Products, in an amount to be determined at trial;

6 4. That Mixed Chicks be awarded under 15 U.S.C. § 1117(a)
7 enhanced damages up to three times the amount found as actual damages for
8 Defendants' trade dress and trademark infringement and false designations of
9 origin, descriptions and representations, in an amount to be determined at trial;

10 5. That Mixed Chicks be awarded damages sustained as a result of
11 Defendants' unfair competition, in an amount to be determined at trial;

12 6. That Mixed Chicks be awarded punitive damages for
13 Defendants' oppressive, fraudulent and malicious acts of unfair competition;

14 7. That Defendants be ordered to deliver to Mixed Chicks for
15 destruction all labels, signs, prints, packages, wrappers, receptacles, advertising
16 materials, or products that bear trade dress confusingly similar to Mixed Chicks'
17 distinctive trade dress; bear marks confusingly similar to the MIXED CHICKS
18 registered trademark; or that result in any unfair competition by Defendants against
19 Mixed Chicks;

20 8. That Defendants be ordered to make a written report within a
21 reasonable period, to be filed with the Court, detailing the manner of their
22 compliance with the requested injunctive and mandatory relief above;

23 9. That Mixed Chicks be awarded its reasonable attorney fees and
24 costs of suit under 15 U.S.C. § 1117(a) and 35 U.S.C. § 285; and

25 10. That Mixed Chicks be awarded such other relief as the Court
26 may deem just and proper.

27
28

DEMAND FOR JURY TRIAL

Mixed Chicks hereby demands a jury trial in the above-captioned
action as to all issues triable to a jury.

DATED: March 22, 2011

HAYNES AND BOONE, LLP

By: _____


Kenneth G. Parker
Attorneys for Plaintiff
MIXED CHICKS LLC

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

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Andrew Guilford and the assigned discovery Magistrate Judge is Fernando M. Olguin.

The case number on all documents filed with the Court should read as follows:

SACV11- 452 AG (FMOx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☒ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Kenneth G. Parker (SBN 182911)
 Alan R. Wechsler (SBN 213701)
 HAYNES AND BOONE, LLP
 18100 Von Karman Ave., Suite 750
 Irvine, California 92612
 Tel: 949.202.3000 Fax: 949.202.3001

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

MIXED CHICKS LLC, a California limited liability
 company,

PLAINTIFF(S)

v.

SALLY BEAUTY SUPPLY LLC, a Delaware limited
 liability company; SALLY HOLDINGS LLC, a
 Delaware limited liability company; SILK
 ELEMENTS, INC., a Delaware corporation,
 DEFENDANT(S).

CASE NUMBER

SACV11-00452 AG (FMOx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Kenneth G. Parker, whose address is Haynes and Boone, LLP, 18100 Von Karman Ave., Suite 750, Irvine, CA 92612. If you fail to do so, 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, U.S. District Court

Dated: March 22, 2011

By: AMY DeAVILA
 Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)
MIXED CHICKS LLC**DEFENDANTS**

SALLY BEAUTY SUPPLY LLC, a Delaware limited liability company; SALLY HOLDINGS LLC, a Delaware limited liability company; SILK ELEMENTS, INC., a Delaware corporation

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)Kenneth G. Parker, Haynes and Boone, LLP
18100 Von Karman Avenue, Suite 750, Irvine, CA 92612
Tel: (949) 202-3000

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. 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 (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No☐ **MONEY DEMANDED IN COMPLAINT: \$****VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. §1114 et seq., trademark and trade dress infringement

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL PROPERTY	PETITIONS	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input checked="" type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights		<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

SACV11-00452-AG (FMOx)

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FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Mixed Chicks LLC - Los Angeles	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
SALLY BEAUTY SUPPLY LLC - Orange	
SALLY HOLDINGS LLC - Orange	
SILK ELEMENTS, INC. - Orange	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
All claims - Orange County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involvedX. SIGNATURE OF ATTORNEY (OR PRO PER):  Date March 22, 2011

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))