

1 Devin Bolton (SBN 290037)
dbolton@weitzlux.com
2 **WEITZ & LUXENBERG, PC**
1880 Century Park East, Suite 700
3 Los Angeles, CA 90067
Phone: (310) 247-0921
4 Fax: (212) 344-5461

5 [Additional Attorneys for Plaintiff Listed on Back Cover]

6 *Attorneys for Plaintiff*

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

9 SUMNER DAVENPORT, individually and
on behalf of all others similarly situated,

Civil Action No.: 2:22-CV-1195

10 Plaintiff,

COMPLAINT FOR DAMAGES

11 v.

12 L'OREAL USA, INC.,

13 Defendant.

DEMAND FOR JURY TRIAL

14
15 Plaintiff, Sumner Davenport, on behalf of herself and all others similarly situated, files this
16 class action complaint against Defendant L'Oreal USA, Inc. On personal knowledge of her own
17 circumstances and upon investigation and information and belief of her counsel, Plaintiff Davenport
18 alleges the following:

19 **JURISDICTION AND VENUE**

20 1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
21 1332(d)(2) because this civil action is a class action in which the matter in controversy exceeds
22 \$5,000,000 exclusive of interest and costs, and Plaintiff is a citizen of a state that is different than
23 the state of which Defendant is a citizen.

24 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial
25 part of the events or omissions giving rise to Plaintiff's and the Class Members' claims occurred in
26 this District, and Defendant is subject to the Court's personal jurisdiction.

27 3. As a result of Defendant's designing, developing, advertising, selling, and
28 distributing the cosmetic products described herein to consumers throughout California, either

1 directly or indirectly through third parties or related entities, Defendant obtained the benefits of
2 California law and profited from California commerce.

3 4. Defendant conducted systematic and continuous business activities in and
4 throughout the State of California and otherwise intentionally availed itself of the markets of the
5 State of California through the promotion and marketing of its products.

6 **PARTIES**

7 5. Plaintiff Sumner Davenport resides in California, as she did at all relevant times
8 during the conduct alleged in this Complaint.

9 6. Defendant L’Oreal USA, Inc. is a Delaware corporation with a principal place of
10 business in New York, New York. At all times relevant to this Complaint, L’Oreal USA, Inc. has
11 transacted business in this judicial district and throughout the United States, including in California.

12 **STATEMENT OF THE CASE**

13 7. L’Oreal USA, Inc., one of the largest cosmetics companies in the world, intentionally
14 fails to disclose to consumers that its popular waterproof mascara products contain Per and
15 Polyfluoroalkyl Substances, or “PFAS,” despite the fact that L’Oreal knew or should have known
16 that this information is material to consumers.

17 8. Instead, L’Oreal represented that its waterproof mascaras were safe, effective, high
18 quality, and appropriate for use on consumers’ eyelashes.

19 9. However, what L’Oreal did not tell consumers is that PFAS, which can have adverse
20 effects on humans and can bioaccumulate in human’s bodies, are present in detectable amounts in
21 its waterproof mascaras. Even very low levels of PFAS can be toxic to humans.

22 10. This is true even where PFAS are not ingested but are rather applied to skin because
23 PFAS can be absorbed through the skin. This risk is particularly high where the PFAS are applied
24 near the eyes, as is the case with mascara products.

25 11. From at least 2018 through the present, Defendant’s waterproof mascara was
26 misleadingly and fraudulently advertised because it failed to disclose the presence of PFAS in
27 L’Oreal’s waterproof mascara products. This failure to warn injured reasonable consumers,
28 including Plaintiff, who reasonably relied upon Defendant’s misleading packaging and ingredient

1 list that did not disclose that the waterproof mascara products contained harmful PFAS. Had Plaintiff
2 and the putative Class known that L’Oreal’s waterproof mascara products contained PFAS, they
3 would not have purchased the products and/or would have paid less for them.

4 **I. THE COSMETICS INDUSTRY**

5 **A. Cosmetics are a Multi-Billion Dollar Industry that is Largely Unregulated**

6 12. Personal care products are a multi-billion-dollar industry in the United States. In
7 2019 alone, the retail value of personal care products was estimated to be greater than \$100 billion
8 in North America, approximately \$20 billion of which came from cosmetic products.

9 13. In the United States, women spend, on average, \$313 per month on beauty products,
10 including cosmetics, and that number is only growing. The most popular products are eye products,
11 particularly mascaras, and lip products.¹

12 14. The cosmetics industry is dominated by large, multinational companies with
13 significant brand recognition and correspondingly significant sales, including L’Oreal USA, Inc.
14 (which owns both L’Oreal and Maybelline branded products), Coty (which owns the CoverGirl
15 brand) and Revlon.

16 15. A recent study from 2021 found that U.S. consumers were both most aware of, and
17 had actually purchased products within the last year from, the CoverGirl, Maybelline, L’Oreal and
18 Revlon brands.²

19 16. The use and labeling of cosmetic products ingredients in the United States is
20 regulated by the Federal Food, Drug, and Cosmetics Act of 1938 and the Fair Packaging and
21 Labeling Act of 1967. Cosmetic products are those that are “intended to be rubbed, poured,
22 sprinkled, sprayed on, introduced into, or otherwise applied to the human body...for cleansing,
23 beautifying, promoting attractiveness, or altering the appearance.” FD&C Act, sec. 201(i).

24 17. However, with the exception of some color additives, the FDA does not require
25 cosmetic ingredients or cosmetics products to have FDA approval prior to entering the market, and

26 _____

27 ¹ <https://www.byrdie.com/average-cost-of-beauty-maintenance>

28 ² <https://www.statista.com/topics/1008/cosmetics-industry/>

1 federal regulations also do not regulate the type or kind of testing that is needed to determine the
2 safety of cosmetic ingredients or products.³

3 18. The only oversight that exists is entirely voluntary on the part of cosmetics
4 companies. The Voluntary Cosmetic Reporting Program is a “voluntary registration system for
5 cosmetic products” where companies can register the brand name and ingredients of their products.

6 19. The identification of cosmetic product ingredients in the United States generally
7 follow conventions set forth by the International Nomenclature of Cosmetic Ingredients (ICNI),
8 which established standards for naming cosmetic ingredients. The ICNI list is maintained by the
9 Personal Care Products Council, an industry trade group comprised of over 600 member companies.

10 20. The Personal Care Products Council also funds the Cosmetic Ingredient Review,
11 which purportedly assesses the safety of cosmetic ingredients. But, again, participation is entirely
12 voluntary, meaning that, in general, the cosmetics industry is subject to essentially no oversight and
13 consumers are left to simply trust the manufacturers of cosmetics products that the products are safe
14 for use.

15 **B. Consumers Value Safe and Healthy Cosmetic Products**

16 21. The global market for natural cosmetics and personal care products has increased
17 substantially over the past three years, increasing from almost 34.5 billion dollars in 2018 to roughly
18 54.5 billion dollars expected in the year 2027.⁴

19 22. This growth has been driven by increased consumer demand for natural ingredients
20 and “green” products in general.⁵ One study found that approximately 70% of U.S. consumers ages
21 18-29 would prefer to use natural or organic cosmetics.⁶

22 23. The growth has also been driven by legitimate concerns that consumers have about
23 the contents of the products they use on their skin and body. For example, consumers have pursued
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25 ³ <https://www.fda.gov/cosmetics/voluntary-cosmetic-registration-program>

26 ⁴ <https://www.statista.com/statistics/673641/global-market-value-for-natural-cosmetics/>

27 ⁵ <https://www.futuremarketinsights.com/reports/organic-cosmetics-market>

28 ⁶ <https://disturbmenot.co/beauty-industry-statistics/>

1 high profile lawsuits like the one against Johnson & Johnson related to its baby powder causing
2 ovarian cancer (*see, e.g., Ingham v. Johnson & Johnson*, 608 S.W.3d 663, 724 (Mo. Ct. App. 2020),
3 *reh'g and/or transfer denied* (July 28, 2020), *transfer denied* (Nov. 3, 2020), *cert. denied*, No. 20-
4 1223, 2021 WL 2194948 (U.S. June 1, 2021) or the class action case against Wen hair care company
5 alleging that its products made people's hair fall out (*see, e.g., Collazo v. Wen by Chaz Dean, Inc.*,
6 No. 215CV01974ODWAGR, 2015 WL 4398559, at *1 (C.D. Cal. July 17, 2015). These types of
7 high-profile lawsuits have made consumers afraid of chemicals and more interested in products that
8 are "natural" and "safe."⁷

9 24. In response, many companies are replacing synthetic chemicals with natural
10 ingredients.

11 25. For example, popular beauty retailer Sephora has created an internal "seal of
12 approval" to designate "clean" beauty brands. As of July 2021, one of Sephora's requirements for
13 that designation is that the product does not contain PFAs.⁸ Sephora's website lists 374 cosmetics
14 products, including mascara and lip products, that have attained its "clean" designation.⁹

15 26. Ulta Beauty, another large cosmetics retailer, also maintains a "clean ingredients"
16 list of cosmetics made without certain harmful ingredients, including PFAS.¹⁰

17 27. Similarly, this increased demand has spurred the expansion of retailers dedicated to
18 "clean" beauty, including Credo, which launched in 2015 and currently has ten brick and mortar
19 retail locations in the U.S. and sells 418 separate cosmetics products on its website, all of which it
20 contends are free of any of the 2,700 ingredients on its "Dirty List," including PFAs.¹¹

21 28. Even retailers like Target and CVS have dedicated additional shelf-space to natural
22

23 ⁷ [https://www.vox.com/the-goods/2018/9/18/17866150/natural-clean-beauty-products-feinstein-](https://www.vox.com/the-goods/2018/9/18/17866150/natural-clean-beauty-products-feinstein-cosmetics-bill-fda)
24 [cosmetics-bill-fda](https://www.vox.com/the-goods/2018/9/18/17866150/natural-clean-beauty-products-feinstein-cosmetics-bill-fda)

25 ⁸ <https://www.sephora.com/beauty/clean-beauty-products>

26 ⁹ <https://www.sephora.com/shop/clean-makeup>

27 ¹⁰ <https://www.ulta.com/conscious-beauty/clean-ingredients/>

28 ¹¹ [https://cdn.shopify.com/s/files/1/0637/6147/files/The_Dirty_List_PDF_August_Update.pdf?v=1](https://cdn.shopify.com/s/files/1/0637/6147/files/The_Dirty_List_PDF_August_Update.pdf?v=1598294504)
[598294504](https://cdn.shopify.com/s/files/1/0637/6147/files/The_Dirty_List_PDF_August_Update.pdf?v=1598294504)

1 beauty offerings.¹²

2 29. Retailer willingness to incorporate and promote “clean” beauty products is due in
3 part to consumers’ willingness to pay more for these products that they perceive as a safer and
4 healthier alternative to traditional brands. For example, a popular brand called Benefit, which is not
5 “clean,” sells a highly-rated foundation for \$30, whereas Tarte, another popular brand, sells a highly-
6 rated, but “clean” foundation for \$39.¹³

7 **II. PFAS ARE TOXIC AND POSE SUBSTANTIAL HEALTH RISKS TO HUMANS**
8 **AND THE ENVIRONMENT**

9 30. PFAS are human-made, synthetic chemicals that do not exist naturally in the
10 environment. They have been used for decades in industrial processes and to produce consumer,
11 household, and commercial products.

12 31. Consumer products manufactured with PFAS were often promoted as being resistant
13 to heat and stains, long-lasting, and capable of repelling water, oil, and grease. Companies have
14 utilized PFAS to make, among other things, carpets, clothing, fabrics for furniture, paper packaging
15 for food, and other materials such as cookware that are resistant to water, grease, or stains.

16 32. Although there are thousands of unique PFAS in existence, the details of many of
17 these compounds are proprietary and known only to manufacturers and industrial users. But, what
18 all PFAS share is that they contain multiple carbon-fluorine bonds, considered one of the strongest
19 in chemistry, making them highly persistent in the environment and in human and animal bodies. In
20 addition, the shared, characteristic chemistry common to all PFAS confers on each of these
21 compounds hydrophobic and oleophobic properties, making PFAS effective surface protectors.

22 33. PFAS are extremely soluble in water, which has led to their discovery in
23 groundwater, rivers, and the ocean, as well as drinking water resources, fish, and marine mammals.

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25

26 ¹² <https://www.vox.com/the-goods/2018/9/18/17866150/natural-clean-beauty-products-feinstein-cosmetics-bill-fda>

27 ¹³https://www.huffpost.com/entry/why-clean-beauty-is-more-expensive_1_5fdb7307c5b6f24ae35e39d8
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1 34. PFAS can be categorized as either “long-chain” or “short-chain” based on the
2 number of carbon atoms they contain. Long-chain PFAS contain 7 or more carbon atoms, while
3 PFAS containing fewer than 7 carbon atoms are considered short chain.

4 35. Long-chain PFAS such as perfluorooctanoic acid (PFOA) and perfluorooctane
5 sulfonate (PFOS) have been widely detected in environmental samples, wildlife, and humans across
6 the globe. Long-chain PFAS bioaccumulate and bio-magnify in both humans and in wildlife.

7 36. In the Stockholm Convention on Persistent Organic Pollutants, PFOS is listed in
8 Annex B. Annex B consists of persistent organic pollutants whose production, use, import, and
9 export the Convention aims to restrict.

10 37. The European Union specifically regulates products containing PFAS, restricting the
11 manufacture or import of products containing more than 25 parts per billion (ppb) of PFOA.

12 38. In October 2021, the US government announced its “PFAS Strategic Roadmap,”
13 which is an interagency plan to combat the continued use and release of PFAS. As part of the
14 Strategic Roadmap, the Environmental Protection Agency (EPA) committed to designating PFOA
15 and PFOS as “hazardous substances” under the Comprehensive Environmental Response,
16 Compensation, and Liability Act (CERCLA); finalizing a PFAS reporting rule under the Toxic
17 Substances Control Act (TSCA) section 8(e); and publishing toxicity assessments for 7 widely-used
18 PFAS, including the short-chain compound GenX, PFBA, PFHxA, PFHxS, PFNA, and PFDA.

19 39. Following announcement of the Strategic Roadmap, a majority of the EPA’s Science
20 Advisory Board (SAB) agreed with the EPA that PFOA is a “likely carcinogen,” with some
21 members supporting a designation of “carcinogen.” For PFOS, the SAB indicated that the evidence
22 supports a label of “likely carcinogen.”

23 40. Short-chain PFAS unfortunately pose health and safety risks that are similar to their
24 long-chain counterparts.

25 41. Short-chain PFAS consist of multiple carbon-fluorine bonds, which, like long-chain
26 PFAS, makes them highly persistent in the environment. They also bioaccumulate in human and
27 animal bodies.

28 42. A 2019 study conducted by the U.S. Department of Health and Human Services’

1 National Toxicology Program found that short-chain PFAS have the same adverse effects as long-
2 chain compounds. This study determined that both long and short-chain PFAS compounds affect
3 the same organ systems, with the greatest impact observed in the liver and thyroid hormone.¹⁴

4 43. Humans may be exposed to PFAS through a variety of pathways, including ingestion,
5 inhalation, and skin absorption. Studies dating back at least a decade have indicated that PFAS can
6 be absorbed through skin, with evidence showing that PFAS in the blood increase after application
7 to skin.

8 44. Many PFAS, both long and short chain, are toxic to humans at extremely low levels.
9 Exposure to certain PFAS is associated in the medical and scientific literature with harmful and
10 serious health effects in humans and animals, including but not limited to: (a) altered growth; (b)
11 impacts to learning and behavior of infants and older children; (c) lowering a woman's chance of
12 getting pregnant; (d) interference with the body's natural hormones; (e) increased cholesterol levels;
13 (f) modulation of the immune system; (g) testicular and kidney cancers; (h) thyroid disease; (i) high
14 uric acid levels; (j) elevated liver enzymes; (k) ulcerative colitis; and (l) pregnancy-induced
15 hypertension.

16 45. The International Agency for Research on Cancer (IARC) has classified PFOA as
17 possibly carcinogenic to humans.¹⁵

18 46. There is also evidence in the scientific literature that PFAS exposure is positively
19 correlated with certain metabolic diseases, such as diabetes, overweight, obesity, and heart disease.

20 47. The Center for Disease Control's Agency for Toxic Substances and Disease Registry
21 has recognized that exposure to PFAS may impact the immune system and reduce antibody response
22 to vaccines. This is especially significant given the current public health risks posed by COVID-19
23 and efforts to protect against the virus with vaccines.

24 48. PFAS is capable of crossing the placenta, meaning pregnant women transfer PFAS
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26 ¹⁴ <https://ntp.niehs.nih.gov/whatwestudy/topics/pfas/index.html>

27 ¹⁵ [https://monographs.iarc.who.int/wp-content/uploads/2018/06/mono110-](https://monographs.iarc.who.int/wp-content/uploads/2018/06/mono110-01.pdf?source=post_page)
28 [01.pdf?source=post_page](https://monographs.iarc.who.int/wp-content/uploads/2018/06/mono110-01.pdf?source=post_page)

1 to their unborn children. Women exposed to PFAS during pregnancy have higher risks of gestational
2 diabetes and pre-eclampsia, and their babies are more likely to undergo abnormal growth in utero,
3 leading to low birth weight, and later face an increased risk of childhood obesity and infections.

4 49. Researchers have begun to find significant increases of certain short-chain PFAS in
5 the blood of sample populations, raising concerns that short-chain PFAS are assuming the body
6 burden once exclusively occupied by long-chain compounds.

7 50. Consumers are rightfully concerned about the presence or risk of PFAS in various
8 products.

9 51. However, PFAS are essentially unregulated at the federal level. For example, the
10 Safe Drinking Water Act (“SDWA”) protects public water supplies across the U.S. and is enforced
11 by the Environmental Protection Agency (EPA). Under this law, the EPA has not (although it could)
12 formally created a Maximum Contaminant Level for PFAS in the water supply. Rather, the EPA
13 has issued a health advisory for PFOA and PFOS that serve as “informal technical guidance” to
14 assist government officials and water system managers in sampling and treating PFOA and PFOS
15 in drinking water.¹⁶

16 52. Over the past decade, several states have enacted maximum contaminant levels
17 regulating certain PFAS, including PFOA and PFOS, in drinking water.

18 53. California has been on the forefront of enacting legislation to manage and lessen the
19 health and safety risks of PFAS for its citizens.

20 54. The California Office of Environmental Health Hazard Assessment (OEHHA), for
21 example, has proposed a Public Health Goal for PFOA in drinking water of 0.007 parts per trillion
22 (ppt) and a Public Health Goal for PFOS of 1 ppt.¹⁷

23 55. California Health and Safety Code 116378 provides that the state can order public
24 water systems to monitor for PFAS. California’s Proposition 65 requires products to carry a warning
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26 ¹⁶ <https://www.epa.gov/pfas/pfas-laws-and-regulations>

27 ¹⁷ <https://oehha.ca.gov/water/report/perfluorooctanoic-acid-pfoa-and-perfluorooctane-sulfonic-acid-pfos-drinking-water>
28

1 that they contain PFOA and PFOS if they are sold in California and, if not, private enforcement
2 action is permitted. In 2020, California began requiring public water suppliers to notify customers
3 if their water contains PFAS.

4 56. In October 2020, California passed a law titled the Toxic Free Cosmetics Act,
5 Assembly Bill 2762, that, starting January 1, 2025, will prohibit the manufacturing or selling of any
6 cosmetic product with any intentionally added amount of 24 specified chemicals, including PFAS.

7 57. In March 2021, California’s OEHHA released a Notice of Intent to list PFOA as a
8 carcinogen under Proposition 65. In December 2021, the OEHHA approved the listing of PFOS as
9 a carcinogen under Proposition 65.

10 58. California recently passed legislation banning the use of PFAS in paper-based food
11 packaging as well as the disclosure of the presence of PFAS in cookware.¹⁸ This bill, Assembly
12 Bill 1200, builds off similar food-packaging legislation passed in 2020 in New York.¹⁹

13 59. The State of New York was one of the first to recognize that PFAS were harmful to
14 humans and should be regulated. In 2016, it took steps to regulate when and how PFAS could
15 knowingly be released into the environment, for example for firefighting purposes.²⁰ Then, in 2020,
16 New York enacted a law prohibiting the sale of food packaging containing PFAS, effective Dec. 31,
17 2022.²¹

18 60. Similarly, in July of 2021, the State of Connecticut signed a bill into law banning the
19 use of firefighting foam and food packaging that contains PFAS.²² An even broader law was passed
20 in Maine in July 2021 that bans PFAS in nearly all products, stating as of Jan. 1, 2030, “a person
21

22 _____
23 ¹⁸ <https://www.nrdc.org/experts/avinash-kar/ca-bill-reduce-toxic-pfas-exposures-passed-legislature>

24 ¹⁹ *Id.*

25 ²⁰ <https://www.dec.ny.gov/chemical/108831.html>

26 ²¹ <https://www.natlawreview.com/article/new-york-bans-pfas-food-packaging#:~:text=New%20York%20State%20Governor%20Andrew,%2C%20effective%20December%2031%2C%202022>

27 ²² <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2021/07-2021/Governor-Lamont-Signs-Legislation-Banning-Use-Of-PFAS>
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1 may not sell, offer for sale or distribute for sale” in Maine products where PFAS has been
2 “intentionally added” except in cases of “unavoidable use.”²³ Similar legislation has also been
3 passed in Vermont and Washington.²⁴

4 61. In 2018, 3M reached an \$850 million settlement with the State of Minnesota brought
5 by the Attorney General alleging that 3M’s production of PFAS damaged the drinking water and
6 resources throughout the Minneapolis/St. Paul area, including within residential areas.²⁵

7 62. A similar personal injury case was filed on behalf of citizens of West Virginia against
8 DuPont related to discharges of PFAS from a manufacturing site into local water sources. That case
9 settled in 2017 for \$671 million.²⁶

10 63. As the risks associated with PFAS become more widely known, it is likely that
11 consumer awareness will continue to grow. It is reasonable for consumers to be concerned about
12 these chemicals, which carry significant health risks and are often undisclosed by manufacturers.

13 **III. THE USE OF PFAS IN COSMETIC PRODUCTS**

14 64. PFAS have long been used in a variety of cosmetic products that come into contact
15 with the skin, including lotions, cleansers, nail polish, shaving cream, foundation, lipstick, eyeliner,
16 eyeshadow, and mascara.

17 65. PFAS are used in cosmetic products as emulsifiers, antistatics, stabilizers,
18 surfactants, film formers, viscosity regulators, and solvents. PFAS may be added to products to
19 make them more water-resistant, durable, and spreadable.

20 66. Certain commonly used PFAS may be identified on a cosmetic product’s label or on
21 its ingredient list.

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23
24 ²³<https://www.reuters.com/legal/litigation/maine-outlaws-pfas-products-with-pioneering-law-2021-07-16/>

25
26 ²⁴ <https://www.natlawreview.com/article/connecticut-and-vermont-ban-pfas-food-packaging>

27 ²⁵ <https://3msettlement.state.mn.us/>

28 ²⁶ <https://www.reuters.com/article/us-du-pont-lawsuit-west-virginia/dupont-settles-lawsuits-over-leak-of-chemical-used-to-make-teflon-idUSKBN15S18U>

1 67. The most common PFAS identified and/or disclosed as ingredients in cosmetic
2 products are polytetrafluoroethylene (PTFE), perfluorooctyl triethoxysilane, perfluorononyl
3 dimethicone, perfluorodecalin, and perfluorohexane.

4 68. PTFE is known by its brand name, Teflon. According to a 2018 market analysis,
5 Teflon was disclosed as an ingredient in 66 different cosmetic products from 15 brands. Teflon was
6 the most common PFAS compound identified in a product's ingredient list.²⁷

7 69. This 2018 market analysis identified 13 different PFAS compounds in nearly 200
8 products from 28 brands.²⁸ These compounds were intentionally added ingredients disclosed in
9 each product's ingredient list. That said, a reasonable consumer would be unlikely to identify most
10 of the compounds as part of the PFAS family simply by looking at the name of the ingredient.

11 70. Even where PFAS are identified in a product's ingredient list, the quantity of the
12 PFAS contained in the product is not disclosed.

13 71. Because there are no formal federal regulations governing what cosmetic labels must
14 disclose, many cosmetic products that contain PFAS do not disclose this on the product label or on
15 the ingredient list.

16 72. The 2018 market analysis reviewed only PFAS ingredients that were disclosed in an
17 ingredient list or product label. Disclosed PFAS ingredients, however, make up only a fraction of
18 the PFAS contained in cosmetic products.

19 73. PFAS occurs in cosmetic products both as an intended ingredient and as degradation
20 products and impurities from the production of certain PFAS precursors used in certain products.

21 74. Prior to 2021, no scientific research had been published analyzing whether PFAS
22 were present in cosmetic products where the label did not disclose the presence of any such

23

24 ²⁷ https://www.ewg.org/skindeep/contents/is-teflon-in-your-cosmetics/#.Wqk_bb3wajT

25 ²⁸ PFAS compounds identified by the analysis included: (i) PTFE, (ii) perfluorononyl dimethicone,
26 (iii) perfluorodecalin, (iv) C9-15 fluoroalcohol phosphate, (v) octafluoropentyl methacrylate, (vi)
27 perfluorohexane, (vii) pentafluoropropane, (viii) polyperfluoroethoxymethoxy difluoroethyl peg
28 phosphate, (ix) polyperfluoroethoxymethoxy peg-2 phosphate, (x) methyl perfluorobutyl ether, (xi)
perfluorononylethyl carboxydecyl peg-10 dimethicone, (xii) perfluorodimethylcyclohexane, and
(xiii) perfluoroperhydrophenanthrene.

1 compounds.

2 75. In June 2021, researchers at Notre Dame published a peer-reviewed analysis of 231
3 cosmetic products using particle-induced gamma ray emission (PIGE) to screen for total fluorine.
4 Researchers analyzed lip products, eye products, foundations, face products, mascaras, concealers,
5 and eyebrow products purchased from retailers such as Ulta Beauty, Sephora, Target, and Bed Bath
6 & Beyond.²⁹

7 76. Because all PFAS are comprised of carbon-fluorine bonds, analyzing a product for
8 total fluorine is a method to investigate whether PFAS are present.

9 77. Foundations produced the highest median total fluorine concentration, while
10 mascaras produced the largest range of total fluorine measurements. Several mascaras gave the
11 highest fluorine concentrations measured. The three product categories with the highest proportion
12 of fluorine concentrations were foundations, mascaras, and lip products.

13 78. Researchers found high fluorine levels in products commonly advertised as “wear-
14 resistant” to water and oils or “long-lasting,” including foundations, liquid lipsticks, and waterproof
15 mascaras. Industrial and consumer products containing PFAS are often described as water or stain-
16 resistant.

17 79. Researchers performed a further analysis of 29 foundations, mascaras, and lip
18 products using liquid chromatography-tandem mass spectrometry and gas chromatographic mass
19 spectrometry.

20 80. This further analysis revealed that short-chain PFAS were most commonly detected
21 in these products.

22 81. However, researchers also found that the 29 products also contained long-chain
23 PFAS.

24 82. Only 8% of the 231 cosmetics screened for total fluorine listed any PFAS as an
25 ingredient and only 3% of the 29 products in the second round of testing listed any PFAS as an
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²⁹ <https://pubs.acs.org/doi/10.1021/acs.estlett.1c00240>

1 ingredient. Long and short-chain PFAS were detected in all 29 products analyzed in the second
2 round of testing, meaning that very few disclosed that PFAS were present in the product.

3 83. Some cosmetic product ingredients, such as mica, talc, silica, Nylon-12, and color
4 additives, are treated with PFAS to provide hydrophobic properties.

5 84. The use of PFAS in cosmetic products is likely to cause unwanted or unforeseen
6 human exposures. Consumers may inadvertently ingest PFAS from liquid lips products or absorb
7 PFAS from mascara through their tear ducts. PFAS may be absorbed through the skin from
8 foundations or other products that require dermal applications.

9 85. In addition, PFAS in cosmetic products contributes to PFAS entering wastewater
10 streams and cause ecosystem exposures when those products are discarded in landfills.

11 86. Because many PFAS are not disclosed on product labels or in a product's ingredient
12 list, consumers are likely unaware of their personal exposure, as well as their contribution to
13 ecosystem exposures.

14 87. Following publication of the June 2021 research, the federal government moved to
15 curtail the widespread inclusion of PFAS in cosmetic products.

16 88. In June 2021, bipartisan legislation was introduced in the U.S. Senate by Senator
17 Susan Collins (R-ME) and Senator Richard Blumenthal (D-CT) that would ban PFAS in cosmetic
18 products, including makeup, moisturizer and perfume. That proposed legislation would direct the
19 FDA to issue a proposed rule banning the intentional addition of PFAS in cosmetics within 270 days
20 of the law's enactment and require a final rule to be issued 90 days thereafter.³⁰ Similar legislation
21 was introduced in the House of Representatives as well by Representatives Debbie Dingell (D-MI),
22 Brian Fitzpatrick (R-PA), Annie Kuster (D-NH), and John Katko (R-NY).³¹

23 89. Members of the scientific community support this proposed legislation. Arelene
24 Blum, PhD, who is the executive director of the Green Science Policy Institute and a co-author of
25

26 ³⁰ [https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-](https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-cosmetics)
27 [cosmetics](https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-cosmetics)

28 ³¹ <https://debbiedingell.house.gov/news/documentsingle.aspx?DocumentID=3097>

1 the Notre Dame study, stated, “PFAS chemicals are not necessary for makeup. Given their large
2 potential for harm, I believe they should not be used in any personal care products.” And Scott
3 Faber, the Senior Vice President of Government Affairs for the Environmental Working Group
4 stated, “Toxic forever chemicals have no place in personal care products.”³²

5 **IV. INDEPENDENT LAB TESTING CONFIRMS PRESENCE OF PFAS IN CERTAIN**
6 **L’OREAL COSMETIC PRODUCTS**

7 90. After reviewing the study conducted by Notre Dame researchers, Plaintiff sought
8 independent third-party testing to determine whether certain L’Oreal cosmetic products contained
9 PFAS.

10 91. To perform this testing, Plaintiff sought out an independent laboratory that utilized
11 industry standard techniques to detect PFAS constituents in cosmetic products.

12 92. Plaintiff’s independent testing from a third-party lab determined that PFAS,
13 including certain long-chain PFAS like PFOA, were present within several popular L’Oreal
14 waterproof mascara products, including L’Oreal Voluminous Waterproof Mascara, Voluminous
15 Lash Paradise™ Waterproof Mascara, Maybelline Volum’ Express the Falsies Waterproof Mascara,
16 Maybelline Volum’ Express Total Temptation Waterproof Mascara, Maybelline Great Lash
17 Waterproof Mascara, and Maybelline Total Temptation Waterproof Mascara (collectively, the
18 “Waterproof Mascara Products”).

19 93. The presence of PFAS in a cosmetic product that is applied to the eye is material to
20 Plaintiff, customers, and members of the putative class.

21 94. As set forth below, none of the waterproof mascara products identified herein
22 disclose to the consumer that they contain PFAS that was detected in Plaintiff’s testing.

23 **V. L’OREAL’S MISLEADING ADVERTISING OF ITS WATERPROOF MASCARA**
24 **PRODUCTS**

25 95. Defendant L’Oreal is one of the largest cosmetics companies in the world, generating
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27 ³² [https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-](https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-cosmetics)
28 [cosmetics](https://www.collins.senate.gov/newsroom/collins-blumenthal-introduce-bill-ban-pfas-chemicals-cosmetics)

1 over \$7 billion in sales per year in the U.S. alone.³³ It owns and operates over 30 different beauty
2 brands from its headquarters in New York City, and employs over 12,000 people in facilities across
3 14 different states.³⁴

4 96. According to L’Oreal, its mission is to bring “innovative, effective, high-quality
5 products to our consumers around the world,” and to do this L’Oreal selects suppliers “who are
6 experts in their field” to ensure “the quality, effectiveness and traceability of our products.”³⁵

7 97. L’Oreal develops all of its own products and employs 4,000 people in its Research
8 & Innovation centers around the world. L’Oreal claims its research “provid[es] a continuously
9 improving response to the Beauty needs and aspirations of consumers, while the products they create
10 are ever more effective, and provide the highest standards of quality and safety.”³⁶

11 98. L’Oreal touts its commitment to research, proudly declaring on its website that it
12 employs over 470 U.S.-based researchers and scientists.³⁷ The L’Oreal Paris brand website states
13 that its products are “Rooted in Science” and “based on the deepest knowledge thanks to its 4000
14 researchers and 21 scientific research centers around a [sic] world.”³⁸

15 99. L’Oreal claims that “The Quality and Safety of Our Products Are Our Priority” and
16 that it is “Going above and beyond industry standards” by “providing the best [] ingredients,
17 formulation, and performance [] in each and every one of our products.”³⁹

18 100. One of L’Oreal’s brands is its popular “L’Oreal Paris” cosmetics line, consisting of
19 makeup (including mascara, lipstick, foundation, etc.), skin care (including eye cream, moisturizer,
20 sunscreen etc.), hair color (including permanent and semi-permanent color, hair highlights, and root
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22 ³³ <https://www.loreal.com/en/usa/>

23 ³⁴ *Id.*

24 ³⁵ <https://www.loreal.com/en/audiences/suppliers/>

25 ³⁶ <https://www.loreal.com/en/beauty-science-and-technology/beauty-research-and-innovation/>

26 ³⁷ *Id.*

27 ³⁸ <https://www.loreal.com/en/consumer-products-division/loreal-paris/>

28 ³⁹ <https://www.loreal.com/en/commitments-and-responsibilities/for-our-products/product-quality-and-safety/>

1 touch up etc.), hair care (including shampoo, conditioner, hair masks etc.), and hair style (including
2 hair gel, hair spray, heat protectant etc.).⁴⁰

3 101. Within its “L’Oreal Paris” branded makeup line, L’Oreal offers ten different
4 “Waterproof” mascara products out of its 27 mascara products.⁴¹ L’Oreal also owns the Maybelline
5 cosmetic brand and offers a number of “waterproof” mascaras under this brand.

6 102. Of these products, Plaintiff’s testing has thus far determined that the Waterproof
7 Mascara Products contain undisclosed PFAS.

8 103. Upon information and belief, discovery is likely to reveal that additional Waterproof
9 Mascara Products contain PFAS that is not disclosed on the product label or packaging.

10 104. Defendant formulated, developed, manufactured, labeled, distributed, marketed,
11 advertised and sold the Waterproof Mascara Products throughout the United States, including in this
12 District, during the Class Period.

13 105. The packaging, labeling and ingredient lists of the Waterproof Mascara Products that
14 Plaintiff and the Class relied upon when making their purchases of the Waterproof Mascara Products
15 were prepared, reviewed, and/or approved by Defendant and their agents, and were disseminated by
16 Defendant and their agents through the packaging, labeling and ingredient lists that contained the
17 misrepresentations and omissions alleged herein.

18 106. Defendant intended for consumers, such as Plaintiff, to rely on the statements and
19 omissions on the packaging, labeling and ingredient lists of the Waterproof Mascara Products when
20 deciding to purchase them. As a result of Defendant’s misrepresentations and omissions, reasonable
21 consumers, including the Plaintiff and the Class, were misled into purchasing the Waterproof
22 Mascara Products when, if they had known the truth about the presence of PFAS, they would not
23 have purchased them at all or would have paid less for those products.

24 107. L’Oreal owns, manufactures, and distributes the Waterproof Mascara Products and
25 created, allowed, negligently oversaw, and/or authorized the unlawful, fraudulent, unfair,

26 _____

27 ⁴⁰ <https://www.lorealparisusa.com/>

28 ⁴¹ *See* <https://www.lorealparisusa.com/makeup/eye/mascara?page=2>.

1 misleading, and/or deceptive packaging, labeling, and ingredient lists of the Waterproof Mascara
2 Products.

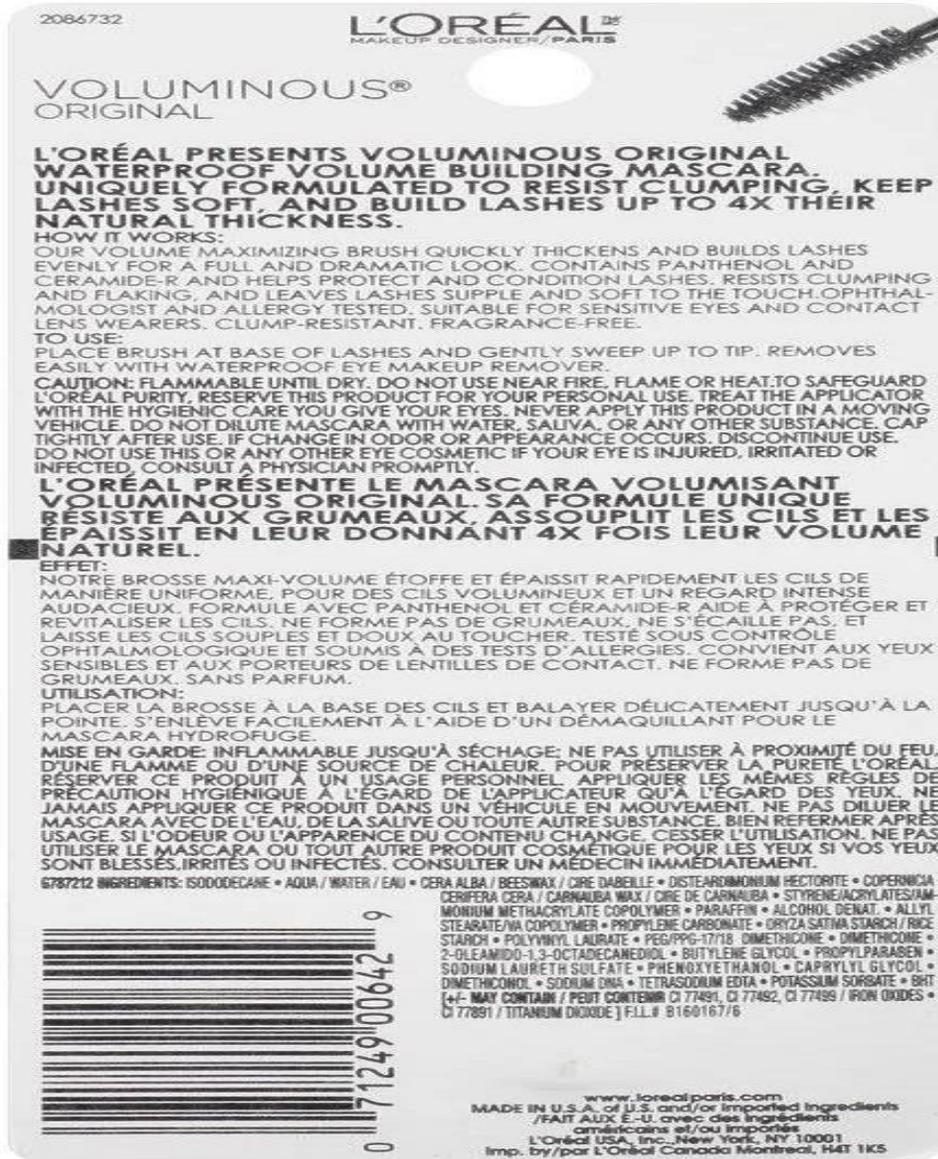
3 108. Defendant is responsible for selecting and sourcing the ingredients used in the
4 Waterproof Mascara Products and for conducting all relevant quality assurance protocols, including
5 testing, for the Waterproof Mascara Products. Therefore, Defendant knew, or should have known,
6 that failing to disclose the presence of detectable levels of PFAS was a material omission and that
7 it was concealing the true quality, nature, and safety of the Waterproof Mascara Products.

8 109. None of the Waterproof Mascara Products disclose on the packaging, labeling or
9 ingredient list that the mascara contains detectable levels of the PFAS detected, including PFOA,
10 PFHxA, PFDoS, and NEtFOSE, among others.

11 110. In addition, several of the Waterproof Mascara Products contain misrepresentations
12 that would lead a reasonable consumer to conclude the products are safe and do not contain harmful
13 carcinogenic PFAS compounds.

14 111. L’Oreal’s Voluminous Waterproof Mascara, for example, states that the product is
15 “ophthalmologist and allergy tested. Suitable for sensitive eyes and contact lens wearers.”

16 112. An image of the product packaging is set forth below:
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113. L’Oreal’s Voluminous Lash Paradise Waterproof Mascara contains similar misrepresentations, stating that it is “ophthalmologist and allergy tested. Suitable for sensitive eyes. Tested under dermatological control for safety.”

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114. Maybelline's Volum' Express the Falsies Waterproof Mascara and Maybelline the Colossal Waterproof Mascara both state that the product is "ophthalmologist tested. Suitable for contact wearers."

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the FALSIES™
 ◀ FALSE LASH EFFECT MASCARA ▶
 ◀ MASCARA EFFET FAUX CILS ▶
 ◀ MASCARA EFECTO PESTAÑAS POSTIZAS ▶
 VOLUME EXPRESS®

**VERY BLACK
 NOIR INTENSE
 NEGRO INTENSO**
 0727211



WASHABLE MASCARA

▶ **INSTANT FALSE LASH LOOK:** Kera-fiber infused formula builds corner to corner volume and fills gaps, does not clump. Flexible spoon brush easily glides through lashes, scooping and coating from root to tip. Ophthalmologist tested. Suitable for contact lenses.

▶ **TO USE:** For best results, hold brush with spoon side against lashes and sweep from root to tip. Repeat until desired look is achieved. Do not let dry between coats.

TO SAFEGUARD MAYBELLINE PURITY, RESERVE THIS PRODUCT FOR YOUR PERSONAL USE. TREAT THE APPLICATOR WITH THE HYGIENIC CARE YOU GIVE YOUR EYES. NEVER APPLY THIS PRODUCT IN A MOVING VEHICLE. DO NOT DILUTE MASCARA WITH WATER, SALIVA OR ANY OTHER SUBSTANCE. CAP TIGHTLY AFTER USE. IF CHANGE IN ODOR OR APPEARANCE OCCURS, DISCONTINUE USE. DO NOT USE THIS OR ANY OTHER EYE COSMETIC IF YOUR EYE IS INJURED, IRRITATED, OR INFECTED. CONSULT A PHYSICIAN PROMPTLY.

MASCARA LAVABLE

▶ **LOOK FAUX CILS INSTANTANÉ :** La formule enrichie de kéra-fibre procure un volume d'un coin à l'autre et remplit les espaces, sans grumeaux. La brosse flexible en forme de cuillère glisse facilement sur les cils, les soulève et les enrobe de la racine à la pointe. Testé sous contrôle ophtalmologique. Convient au port de lentilles cornéennes.

▶ **MODE D'EMPLOI :** Pour de meilleurs résultats, tenez la brosse avec le côté incurvé contre les cils et appliquez de la racine à la pointe. Répétez jusqu'à l'obtention de l'effet désiré. Ne laissez pas sécher entre les applications des différentes couches.

POUR CONSERVER LA PURETÉ DE VOTRE PRODUIT MAYBELLINE, N'EMPLOYEZ CE PRODUIT QUE POUR VOTRE UTILISATION PERSONNELLE. APPLIQUEZ LES MÊMES RÈGLES D'HYGIÈNE POUR L'APPLICATEUR QUE POUR VOS YEUX. N'APPLIQUEZ JAMAIS CE PRODUIT DANS UN VÉHICULE EN MOUVEMENT. NE LE DILUEZ PAS AVEC DE L'EAU, DE LA SALIVE OU TOUTE AUTRE SUBSTANCE. REFERMEZ HERMETIQUEMENT APRÈS USAGE. CESSEZ L'UTILISATION SI VOUS CONSTATEZ UN CHANGEMENT DANS L'ODEUR OU L'APPARENCE DU PRODUIT. N'UTILISEZ PAS CE PRODUIT OU TOUT AUTRE PRODUIT COSMÉTIQUE POUR LES YEUX SI VOUS AVEZ UNE BLESSURE, UNE IRRITATION OU UNE INFECTION À L'ŒIL. DANS UN TEL CAS, CONSULTEZ IMMÉDIATEMENT UN PROFESSIONNEL DE LA SANTÉ.

MASCARA DE PESTAÑAS LAVABLE

▶ **LOOK PESTAÑAS POSTIZAS AL INSTANTE:** Fórmula con fibras pro-keratina, rellena los espacios entre las pestañas y aporta volumen al instante de extremo a extremo sin grumos. Cepillo flexible en forma de cuchara, se extiende fácilmente entre las pestañas, cubriéndolas de la raíz a la punta. Probado bajo control oftalmológico. Adecuado para usuarias de lentes de contacto.

▶ **MODO DE USO:** Para mejores resultados, utiliza el cepillo con el lado curvo hacia las pestañas y extiende de la raíz a la punta. Repite hasta lograr el look deseado. No dejes secar entre capas.

PARA PRESERVAR LA PUREZA DE ESTE PRODUCTO MAYBELLINE, RESÉRVALO PARA USO PERSONAL. TRATA AL APLICADOR CON EL MISMO CUIDADO HIGIÉNICO QUE TUS OJOS. NO APLIQUES EL PRODUCTO EN UN VEHICULO EN MOVIMIENTO. NO DILUYAS LA MASCARA CON AGUA, SALIVA U OTRA SUSTANCIA. CIERRA BIEN LA TAPA DESPUÉS DE USARLA. SI EXISTE UN CAMBIO EN OLOR O APARIENCIA, SUSPENDE SU USO. NO UTILICES ESTE NI OTRO PRODUCTO COSMÉTICO SI TIENES LOS OJOS LASTIMADOS, INFECTADOS O IRRITADOS. CONSULTA A UN MEDICO DE INMEDIATO.

INGREDIENTS: G3156 1 AQUA/WATER/EAU, PARAFFIN, POTASSIUM CETYL PHOSPHATE, CERA ALBA/BEEWAX/CIRE D'ABEILLE, COPERNICIA CERIFERA CERA/CARNAUBA WAX/CIRE DE CARNAUBA, ACACIA SENEGAL GUM, GLYCERIN, CETYL ALCOHOL, ACRYLATES COPOLYMER, HYDROXYETHYLCELLULOSE, PHENOXYETHANOL, PEG/PPG-17/18 DIMETHICONE, STEARETH-20, HYDROLYZED CORN STARCH, SILICA, CAPRYLYL GLYCOL, SODIUM POLYMETHACRYLATE, SODIUM DEHYDROACETATE, HYDROGENATED JOJOBA OIL, HYDROGENATED PALM OIL, SMETHICONE, RAYON, DISODIUM EDTA, STEARYL ALCOHOL, ARGININE, SERINE, MYRISTYL ALCOHOL, GLUTAMIC ACID, 2-OLEAMIDO-1-3-OCTADECANEDIOL, PANTHENOL, LAURETH-21, BHT. [4-] MAY CONTAIN/PEUT CONTENIR: CI 77491, CI 77492, CI 77499/IRON OXIDES, CI 77007/ULTRAMARINES, CI 75470/CARMINÉ, CI 77891/TITANIUM DIOXIDE, MICA, CI 77288/CHROMIUM OXIDE GREENS, CI 77289/CHROMIUM HYDROXIDE GREEN, CI 77742/MANGANESE VIOLET, CI 77510/FERRIC FERROCYANIDE] F.I.L.# 037314/5




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the COLOSSAL VOLUM' EXPRESS®

GLAM BLACK
NEGRO GLAMOROSO
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WATERPROOF MASCARA

- Mega Brush instantly zooms on 7x the volume, without clumps.
- Volume-plumping waterproof formula contains collagen.
- Ophthalmologist tested • Contact lens safe

To use: For best results, sweep Mega Brush from root to tip for instant volume. Do not let dry between coats. Removes easily with Maybelline® New York Expert Eyes® Moisturizing Eye Makeup Remover.
TO SAFEGUARD MAYBELLINE® PURITY, RESERVE THIS PRODUCT FOR YOUR PERSONAL USE. TREAT THE APPLICATOR WITH THE HYGIENIC CARE YOU GIVE YOUR EYES. NEVER APPLY THIS PRODUCT IN A MOVING VEHICLE. DO NOT DILUTE MASCARA WITH WATER, SALIVA, OR ANY OTHER SUBSTANCE. CAP TIGHTLY AFTER USE. IF CHANGE IN ODOR OR APPEARANCE OCCURS, DISCONTINUE USE. DO NOT USE THIS OR ANY OTHER EYE COSMETIC IF YOUR EYE IS INJURED, IRRITATED, OR INFECTED. CONSULT A PHYSICIAN PROMPTLY.

MASCARA A PRUEBA DE AGUA

- El Mega Cepillo le da a las pestañas 7 veces más volumen al instante, sin grumos.
- La fórmula a prueba de agua que aumenta el volumen contiene colágeno.
- Sometida a pruebas oftalmológicas • Adecuada para quienes usan lentes de contacto

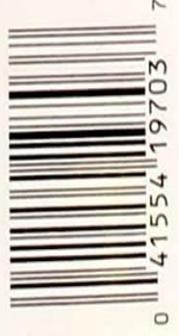
Aplicación: Para mejores resultados, desliza el Mega Cepillo desde la raíz hacia la punta de las pestañas para aumentar el volumen al instante. No dejes secar entre capas.
 Se retira fácilmente con Maybelline® New York Expert Eyes® Moisturizing Eye Makeup Remover.
PARA ASEGURAR LA PUREZA DE ESTE PRODUCTO MAYBELLINE®, RESERVALO PARA TU USO PERSONAL. AL USAR EL APLICADOR RIGETE POR LAS MISMAS NORMAS DE HIGIENE QUE USAS PARA TUS OJOS. NO TE APLIQUES ESTE PRODUCTO MIENTRAS TE ENCUENTRES EN UN VEHICULO EN MOVIMIENTO. NO DILUYAS LA MASCARA CON AGUA, SALIVA U OTRA SUSTANCIA. CIERRA BIEN LA TAPA DESPUES DE USARLA. SI OBSERVAS ALGUN CAMBIO EN SU OLORES O APARIENCIA, DESCONTINUA SU USO. SI TIENES LOS OJOS LASTIMADOS, IRRITADOS O INFECTADOS NO UTILICES ESTE NI OTRO PRODUCTO COSMETICO PARA OJOS. CONSULTA CON UN MEDICO DE INMEDIATO.

MASCARA HYDROFUGE

- La Mega brosse fournit aux cils 7 fois plus de volume, sans grumeaux.
- La formule volumisante hydrofuge contient du collagène.
- Testé par des ophtalmologistes • Convient aux porteurs de lentilles

Mode d'emploi : Pour des résultats optimaux, balayez la Mega Brosse de la racine vers la pointe pour donner un volume instantané. Ne laissez pas sécher le produit entre les couches.
 S'enlève facilement avec le démaquillant hydratant Expert Eyes® de Maybelline® New York.
POUR PRÉSERVER LA PURETÉ DE CE PRODUIT MAYBELLINE®, NE RÉSERVEZ CE PRODUIT QU'À VOTRE USAGE PERSONNEL. TRAITÉZ CE PRODUIT SELON LES MÊMES RÈGLES D'HYGIÈNE QUE POUR VOS YEUX. N'APPLIQUEZ JAMAIS CE PRODUIT DANS UN VEHICULE EN MOVEMENT. NE DILUYEZ PAS LE MASCARA AVEC DE L'EAU, DE LA SALIVE OU AUCUNE AUTRE SUBSTANCE. VISSEZ BIEN LA BROUSSE APRES USAGE. EN CAS DE CHANGEMENT DE L'ODEUR OU DE L'APPARENCE DU PRODUIT, CESSEZ D'UTILISER. N'UTILISEZ PAS CE PRODUIT NI AUCUN AUTRE PRODUIT COSMETIQUE POUR LES YEUX EN CAS DE BLESSURE, D'IRRITATION OU D'INFECTION. CONSULTEZ IMMEDIATEMENT UN MEDECIN.

G3146 1 INGREDIENTS: ISODODECANE, CERA MICROCRISTALLINA/MICROCRYSTALLINE WAX/CIRE MICROCRISTALLINE, C8-9 ISOPARAFFIN, CERA ALBA/BEESWAX/CIRE D'ABELLE, DISTEARDIMONIUM HECTORITE, CERA CARNAUBA/CARNAUBA WAX/CIRE DE CARNAUBA, AQUA/WATER/EAU, PROPYLENE CARBONATE, ALLYL STEARATE/VA COPOLYMER, LECITHIN, SODIUM POLYMETHACRYLATE, HYDROGENATED JOJOBA OIL, PHENOXYETHANOL, PEG/PPG-17/18 DIMETHICONE, ETHYLENEDIAMINE/STEARYL DIMER DILINOLEATE COPOLYMER, ETHYL PARABEN, POLYVINYL LAURATE, SILICA, POLYQUATERNIUM-10, SOLUBLE COLLAGEN, PANTHENOL, PROPYL PARABEN, ISOBUTYL PARABEN, METHYL PARABEN, BUTYL PARABEN, ORYZA SATIVA STARCH/RICE STARCH, (-)-MAY CONTAIN/PEUT CONTENIR: CI 77499, CI 77492, CI 77491/IRON OXIDES, CI 77742/MANGANESE VIOLET, CI 77007/ULTRAMARINES, CI 77891/TITANIUM DIOXIDE, CI 77288/CHROMIUM OXIDE GREENS, CI 77289/CHROMIUM HYDROXIDE GREEN, CI 77510/FERRIC FERROCYANIDE, MICA|F.L.L. 016225/5 U.S. PATENTS/BREVETS AMERICAINS: 6,099,183; 6,227,735; 6,296,411; 6,299,370; 6,299,371; 6,305,662; 6,309,123; 6,325,562; 6,331,086; 6,345,923; 5,462,798



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115. Maybelline Great Lash Waterproof Mascara states that it is “contact lens safe” and “hypoallergenic.”



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116. These misrepresentations are likely to mislead a reasonable consumer, including Plaintiff, into believing the Waterproof Mascara Products are safe for use and do not contain carcinogenic and/or toxic PFAS compounds not disclosed on the product label or packaging.

VI. PLAINTIFF’S USE OF L’OREAL’S WATERPROOF MASCARA PRODUCTS

117. After viewing in-store advertisements and product packaging for L’Oreal’s Voluminous Waterproof Mascara (the “Waterproof Mascara”) regarding its purported contents and benefits, including the statements that it is “ophthalmologist and allergy tested” and “Suitable for sensitive eyes and contact lens wearers,” Plaintiff began purchasing the Waterproof Mascara in

1 approximately 2017.

2 118. As a result of Defendants' misrepresentations and omissions, Plaintiff purchased the
3 Waterproof Mascara because she reasonably believed it was safe for her use around, adjacent to and
4 near her eyes.

5 119. Plaintiff would not have purchased the Waterproof Mascara, or would have paid less
6 for it, had she known that it contained and/or had a material risk of containing dangerous PFAS.

7 120. Plaintiff had not used any Waterproof Mascara products previously.

8 121. Plaintiff followed the instructions and applied the Waterproof Mascara Products
9 around her eyes.

10 122. Plaintiff estimates that during summer 2017, 2018, 2019, 2020 and 2021, she
11 purchased the Waterproof Mascara in total on approximately seven occasions. Prior to purchase,
12 Plaintiff saw and relied upon Defendant's packaging and the Products' ingredient list when making
13 her decision to purchase one of the Waterproof Mascara Products.

14 123. Plaintiff was unaware that the Waterproof Mascara Products contained detectable
15 levels of PFAS.

16 124. Plaintiff, like other reasonable consumers, reasonably relied on Defendant's
17 packaging, labeling, ingredient list, and disclosures when deciding to purchase the Waterproof
18 Mascara Products.

19 125. L'Oreal's Waterproof Mascara Products were misleadingly advertised. As a result of
20 Defendant's negligent, reckless, and/or knowingly deceptive conduct, Plaintiff was injured by
21 purchasing, at a premium price, the Waterproof Mascara Products that were not of the quality and
22 safety promised and that Plaintiff would not have purchased if she had not been misled by
23 Defendant.

24 126. If Plaintiff or the members of the putative Class were to encounter the Waterproof
25 Mascara Products in the future, they could not reasonably rely on the truthfulness of the packaging
26 unless Defendant's packaging and labeling corrected the misleading packaging omission.

27 **VII. DEFENDANT'S PACKAGING CLAIMS MISLED AND DECEIVED CONSUMERS**

28 127. Defendant's packaging claims, representations, and omissions were misleading to

1 consumers because the Products contained and/or had a material risk of containing PFAS.

2 128. Reasonable consumers, including the Plaintiff and the Class, paid Defendant a price
3 premium for the Products because the consumers relied on the accuracy and disclosures on
4 Defendant's packaging.

5 129. Reasonable consumers, including the Plaintiff and the Class, considered the above
6 packaging claims to be material to their decision to purchase the Products.

7 130. Defendant knew or should have known, yet failed to disclose, that the Products
8 contained and/or had a material risk of containing PFAS, and thus did not conform to the packaging
9 claims.

10 131. Defendant also knew or should have known that the presence or material risk of
11 PFAS were a material consideration to consumers like Plaintiff and the Class when they purchased
12 the Products.

13 132. A reasonable consumer would not have paid the price premium for the Products if
14 they had known that the Products contained or had a material risk of containing PFAS.

15 133. In fact, reasonable consumers, including Plaintiff and the Class, would have refused
16 to purchase the Products entirely if they had known that the Products contained or had a material
17 risk of containing PFAS.

18 134. As a result of Defendant's misleading packaging claims and omissions, consumers
19 like Plaintiff and the Class suffered substantial financial losses by paying premium prices for the
20 Products that did not conform to their packaging claims.

21 **VIII. CONSUMER RELIANCE WAS REASONABLE AND FORESEEABLE**

22 135. Plaintiff and the Class reasonably relied upon Defendant's misleading packaging
23 claims and omissions when making their decision to purchase the Products.

24 136. Any reasonable consumer would consider the packaging and labeling of a cosmetics
25 product and, similarly, could not know the omitted information about the presence or risk of PFAS,
26 at the time of purchase.

27 137. Consumers reasonably relied upon Defendant's misleading packaging claims as
28 objective statements that communicated, represented and advertised that the Products had specific

1 product characteristics.

2 138. Defendant knew, or should have known, that Plaintiff and the Class would rely on
3 their misleading packaging claims. Defendant designed the Products' packaging, including omitting
4 information about the presence or risk of PFAS, in order to target and induce consumers like Plaintiff
5 and the Class to purchase the Product at the advertised price.

6 139. Plaintiff and the Class are intended third-party beneficiaries of any implied warranty
7 between L'Oreal and retailers. Retailers were not intended to be the ultimate consumers of the
8 Waterproof Mascara Products as any implied warranty that exists was intended to benefit
9 consumers.

10 **IX. DEFENDANT'S KNOWLEDGE OF THE MISREPRESENTATIONS AND**
11 **OMISSIONS**

12 140. Defendant had exclusive knowledge of the contents and formula of its Products,
13 including whether they contained or were at a risk of containing PFAS.

14 141. Defendant also had exclusive knowledge of its ingredient suppliers and could have
15 obtained information from their suppliers about the contents of the ingredients, including whether
16 they contained or were at risk of containing PFAS.

17 142. Consumers like Plaintiff and the Class were unable to determine or identify that
18 Defendant's Products contained or were at risk of containing PFAS given the Product's mislabeling
19 and failure to disclose the presence or risk of PFAS.

20 **X. DEFENDANT ACTED NEGLIGENTLY AND/OR INTENTIONALLY TO**
21 **MISLEAD CONSUMERS**

22 143. Defendant acted negligently and/or intentionally to deceive consumers, including
23 Plaintiff and the Class, by its misleading Product packaging that did not disclose the presence or
24 risk of PFAS in the Products.

25 144. Defendant did so despite knowing that the presence and/or material risk of PFAS in
26 the Products, as well as knowing that PFAS could be eliminated from its Products. Defendant knew
27 that consumers like Plaintiff and the Class trusted and relied on Defendant to ensure that the
28

1 Products conformed to their packaging claims and did not contain undisclosed PFAS.

2 **XI. TOLLING OF STATUTES OF LIMITATIONS**

3 145. Any applicable statute of limitations has been tolled by Defendant’s knowing and
4 active concealment of the presence or risk of PFAS in the Waterproof Mascara Products and the
5 misrepresentations and omissions alleged herein. Through no fault or lack of diligence, Plaintiff and
6 members of the Class were deceived regarding the Waterproof Mascara Products and could not
7 reasonably discover that they contained, or may contain, PFAS.

8 146. Plaintiff and members of the Class did not discover and did not know of any facts
9 that would have caused a reasonable person to expect that the Defendant was concealing the
10 presence or risk of PFAS in the Waterproof Mascara Products. As alleged herein, the presence or
11 risk of PFAS was material to Plaintiff and members of the Class at all relevant times. Within the
12 time period of any applicable statute of limitations, Plaintiff and members of the Class would not
13 have discovered through the existence of reasonable diligence that the Waterproof Mascara Products
14 contain, or may contain, PFAS.

15 147. At all times, Defendant is and was under a continuous duty to disclose to Plaintiff
16 and the Class the true standard, quality, and grade of the Waterproof Mascara Products and to
17 disclose the presence or risk of PFAS due to its exclusive and superior knowledge of the contents
18 and ingredient sourcing for the Waterproof Mascara Products.

19 148. Defendant knowingly, actively, and affirmatively concealed the facts alleged herein.
20 Plaintiff and members of the Class reasonably relied on Defendant’s knowing, active, and
21 affirmative concealment.

22 149. For these reasons, all applicable statutes of limitation have been tolled based on the
23 discovery rule and Defendant’s fraudulent concealment, and Defendant is estopped from relying on
24 any statutes of limitations in defense of this action.

25 **CLASS ACTION ALLEGATIONS**

26 150. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules
27 of Civil Procedure on behalf of herself and the classes. This action satisfies the requirements set
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1 forth in Rule 23(a) and Rule 23(b)(3).

2 151. Plaintiff brings this action on behalf of the following class(es) (together referred to
3 as the “Class”):

4 All individuals in the State of California who purchased the Waterproof Mascara
5 Products from 2018 to the present.

6 152. Excluded from the Class are Defendant, its legal representatives, assigns and
7 successors and any entity in which Defendant has a controlling interest. Also excluded is the judge
8 to whom this case is assigned and any member of the judge’s immediate family and judicial staff.
9 Claims for personal injury are specifically excluded from the Class.

10 153. This action is brought and may be properly maintained as a class action. There is a
11 well-defined community of interests in this litigation and the members of the Class are easily
12 ascertainable.

13 154. Numerosity (Rule 23(a)(1)): Although the actual size of the Class is uncertain,
14 Plaintiff is informed and believes that the Class is comprised of at least thousands of purchasers of
15 the Waterproof Mascara Products, making joinder impracticable. The disposition of the claims of
16 the Class in a single action will provide substantial benefits to the parties and the Court.

17 155. Commonality (Rule 23(a)(2)): Questions of law and fact common to Plaintiff and the
18 Class include, but are not limited to, the following:

- 19 a. Whether Defendant owed a duty of care to Plaintiff and the Class;
- 20 b. Whether the Waterproof Mascara Products contained detectable levels of PFAS;
- 21 c. Whether Defendant knew or should have known that the Waterproof Mascara
22 Products contained detectable levels of PFAS not disclosed on the product label
23 and/or packaging;
- 24 d. Whether Defendant failed to test, or require its suppliers to test, the Waterproof
25 Mascara Products and their ingredients for the presence of PFAS;
- 26 e. Whether Defendant failed to disclose that the Waterproof Mascara Products
27 contained PFAS;
- 28 f. Whether Defendant wrongfully represented that the Waterproof Mascara Products

- 1 were safe for use and did not include toxic PFAS substances;
- 2 g. Whether Defendant wrongfully represented, and continues to represent, that the
- 3 Waterproof Mascara Products are safe for use on eyes and high-quality;
- 4 h. Whether reasonable consumers would consider that the Waterproof Mascara
- 5 Products containing detectable levels of PFAS to be a material fact in purchasing the
- 6 Waterproof Mascara Products;
- 7 i. Whether Defendant continued to manufacture and sell the Waterproof Mascara
- 8 Products despite knowing that they contain detectable levels of PFAS;
- 9 j. Whether Defendant’s omission of the presence of PFAS in the Waterproof Mascara
- 10 Products was likely to mislead, deceive, confuse, or confound consumers acting
- 11 reasonably;
- 12 k. Whether Defendant violated California law;
- 13 l. Whether Defendant engaged in unfair trade practices;
- 14 m. Whether Defendant engaged in false advertising;
- 15 n. Whether Defendant made fraudulent omissions;
- 16 o. Whether Defendant unjustly enriched itself at consumers’ expense;
- 17 p. Whether Defendant’s conduct was negligent per se;
- 18 q. Whether Defendant had a duty to disclose the material omission regarding the
- 19 presence of detectable levels of PFAS in the Waterproof Mascara Products;
- 20 r. Whether Plaintiff and the Class are entitled to actual, statutory, and treble damages;
- 21 and
- 22 s. Whether Plaintiff and the Class are entitled to declaratory and injunctive relief.

23 156. Typicality (Rule 23(a)(3)): The claims of the representative Plaintiff are typical of

24 the claims of members of the Class, in that the representative Plaintiff, like all members of the Class,

25 purchased the Waterproof Mascara Products from Defendant without knowing that it contained

26 detectable levels of PFAS and, if Plaintiff, like all members of the Class, had known that

27 information, she would not have purchased the products or would have paid less for them. Thus, the

28 representative Plaintiff, like all members of the Class, has suffered a common injury. The factual

1 basis of Defendant's misconduct is common to all members of the Class.

2 157. Adequacy (Rule 23(a)(4)): Plaintiff will fairly and adequately represent and protect
3 the interests of the Class. Plaintiff has retained counsel with substantial experience in prosecuting
4 consumer class actions, including actions involving mislabeling and false advertising, product
5 liability, and violation of consumer protection statutes. Plaintiff and her counsel are committed to
6 vigorously prosecuting this action on behalf of the Class and have the financial resources to do so.
7 Neither Plaintiff nor her counsel have any interests adverse to those of the Class.

8 158. Predominance of Common Questions (Rule 23(b)(3)): Common questions of law and
9 fact predominate over any questions involving individualized analysis. There are no fundamental
10 questions of fact or law that are not common to members of the Class. The undisclosed presence of
11 PFAS in the Waterproof Cosmetics Products is a common question, as is the Defendant's knowledge
12 regarding the presence of detectable levels of PFAS in its Waterproof Mascara Products and
13 Defendant's uniform omission to members of the Class of this material fact. Common questions of
14 law include whether Defendant's conduct violates state consumer protection statutes and other laws,
15 and the Class members' entitlement to damages and remedies.

16 159. Superiority (Rule 23(b)(3)): Plaintiff and members of the Class have suffered and
17 will continue to suffer harm and damages as a result of Defendant's unlawful and wrongful conduct.
18 A class action is superior to other available methods for the fair and efficient adjudication of the
19 subject controversy. Most members of the Class likely would find the cost of litigating their
20 individual claims to be prohibitive and will have no adequate remedy at law. Thus, absent a class
21 action, members of the Class will continue to incur damages and Defendant's misconduct will
22 proceed without remedy. Class treatment of common questions of fact and law is superior to
23 multiple individual actions or piecemeal litigation because it will conserve the resources of the
24 courts and the litigants and promote consistency and efficiency of adjudication. There is no
25 impediment to the management of this action as a class action because the questions of fact and law
26 are virtually identical for Plaintiff and all Class members.

27 160. Injunctive Relief (Rule 23(b)(2)): Defendant has engaged in, and continues to engage
28 in, business practices which are unfair and fraudulent by, among other things, failing to disclose the

1 material fact that the Waterproof Mascara Products contain detectable levels of PFAS. Plaintiff
2 seeks class-wide injunctive relief on grounds consistent with the standards articulated in Rule
3 23(b)(2) that establish final injunctive relief as an appropriate class-wide remedy, in that Defendant
4 continues to manufacture, market, and sell the Waterproof Mascara Products and omit material facts.
5 The injuries suffered by Plaintiff and the Class as a result of Defendant’s actions are ongoing.

6 **CAUSES OF ACTION**

7 **FIRST CAUSE OF ACTION**

8 **Violation of California Consumers Legal Remedies Act (“CLRA”)**

9 161. Plaintiff incorporates by reference all preceding allegations contained in this
10 Complaint.

11 162. Defendant is a “person” as defined by California Civil Code section 1761(c).

12 163. Defendant engaged in unfair competition or unfair or deceptive acts or practices in
13 violation of California Civil Code sections 1770(a)(5), (a)(7), and (a)(9) when Defendant failed to
14 disclose that its Waterproof Mascara contained and/or had a material risk of containing PFAS and
15 by misrepresenting that it was safe for use on eyes.

16 164. Plaintiff and Class Member’s relied on Defendant’s packaging representations and
17 omissions.

18 165. Defendant’s deceptive practices were specifically designed to induce Plaintiff and
19 Class Members to purchase the Waterproof Mascara Products. Defendant engaged in marketing
20 efforts as detailed in this complaint, to reach Class Members, to persuade them to purchase
21 Waterproof Mascara developed and marketed by Defendant.

22 166. To this day, Defendant continues to engage in unlawful practices in violation of the
23 CLRA. Defendant continues to conceal the defective nature of the Waterproof Mascara Products
24 and have failed to disclose, on inquiry from Plaintiff and Class Members, the true nature of the
25 Waterproof Mascara Products including that it contained and/or had a material risk of containing
26 PFAS.

27 167. Plaintiff served Defendant with notice of its CLRA violations by serving notice on
28

1 February 1, 2021. A copy of the notice is attached to this Complaint as Exhibit A.

2 WHEREFORE, Plaintiff on behalf of herself and for all others similarly situated, demands
3 a permanent injunction be issued against Defendant to refrain from continued advertising of
4 Waterproof Mascara that omits material facts about product, including that it contained and/or had
5 a material risk of containing PFAS. Plaintiff further seeks injunctive relief forcing Defendant to
6 replace and all Waterproof Mascara Products for Class Members, plus costs and attorneys' fees
7 pursuant to California Civil Code section 1780(d). Plaintiff will amend this complaint to request
8 damages under this cause of action unless Defendant remedies the defect pursuant to Plaintiff's
9 demand letter.

10 **SECOND CAUSE OF ACTION**

11 **Violation of California Unfair Competition Law – Unlawful Business Practice**

12 168. Plaintiff incorporates by reference all preceding allegations contained in this
13 Complaint.

14 169. California Business and Professions Code section 17200 *et seq.* prohibits acts of
15 unfair competition, which includes unlawful business practices.

16 170. Defendant engaged in unlawful business practices in failing to disclose its
17 Waterproof Mascara Products contained and/or had a material risk of containing PFAS.

18 171. Defendant's deceptive practices constitute an unlawful business practice in that the
19 practices were specifically designed to induce Plaintiff, Class Members, to purchase and use the
20 Waterproof Mascara Products.

21 172. To this day, Defendant has engaged in and continued to engage in unlawful business
22 practices by concealing the true nature of the Waterproof Mascara Products. Defendant has
23 knowingly misrepresented to Class Members the Waterproof Mascara Products' qualities and
24 characteristics.

25 173. As a direct and proximate cause of Defendant's unfair and unlawful methods of
26 competition and unfair, deceptive, or unlawful acts or practices, Plaintiff and Class Members have
27 suffered actual damages. Plaintiff and Class Members must incur costs to replace the Waterproof
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1 Mascara Products and they lose the value of the product as they discontinue use.

2 174. As a proximate result of their unlawful, unfair, or fraudulent practices, Defendant
3 has been unjustly enriched and should be required to make restitution to the Plaintiff and Class
4 Members pursuant to sections 17203 and 17204 of the California Business & Professions Code.

5 WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, demands
6 judgment against Defendant, for restitution and/or disgorgement of funds paid to Defendant by
7 Plaintiff and Class Members to purchase the Waterproof Mascara Products or in the form of
8 replacement of the product.

9 **THIRD CAUSE OF ACTION**

10 **Violation of Unfair Competition Law – Unfair Business Practice**

11 175. Plaintiff incorporates by reference all preceding allegations contained in this
12 Complaint.

13 176. Defendant engaged in an unfair business practice by knowingly failing to disclose
14 material facts concerning the Waterproof Mascara Products and by misrepresenting that the
15 Waterproof Mascara Products are safe to use on eyes.

16 177. Defendant’s “unfair” practices were designed to induce Plaintiff and Class Members,
17 to purchase and use of the Waterproof Mascara Products.

18 178. To this day, Defendant has failed to disclose facts concerning the contents
19 Waterproof Mascara Products, facts that would be and are material to consumers, on which
20 consumers relied when purchasing and using the Waterproof Mascara.

21 179. As a direct and proximate cause of Defendant’s unfair methods of competition and
22 unfair or deceptive acts or practices, Plaintiff and Class Members have suffered actual damages.
23 The Waterproof Mascara Products contained and/or had a material risk of containing dangerous
24 PFAS, which will require Plaintiff and Class Members to incur costs to prematurely replace the
25 product.

26 **FOURTH CAUSE OF ACTION**

27 **Breach of Implied Warranty**

28 180. Plaintiff incorporates by reference all preceding allegations contained in this

1 Complaint.

2 181. Defendant designed, developed, and sold the Waterproof Mascara Products knowing
3 that Plaintiff and Class members would use it.

4 182. Defendant is a merchant of the Waterproof Mascara and marketed, promoted, and
5 sold it to the consuming public.

6 183. Defendant expected the consuming public, including Plaintiff and Class Members,
7 to use the Waterproof Mascara Products and such use was reasonably foreseeable. The Waterproof
8 Mascara Products were not merchantable at the time Defendant sold them.

9 184. Defendant warranted to Plaintiff and Class Members that the Waterproof Mascara
10 Products were of a quality that would pass without objection in the trade and was at least fit for the
11 ordinary purposes for which such goods were used, and in all other respects were of merchantable
12 quality.

13 185. Plaintiff and members of the Class relied on that implied warranty.

14 186. As alleged here, Defendant concealed and failed to disclose the true nature of the
15 Waterproof Mascara Products and failed to adequately warn Plaintiff and the Class that the
16 Waterproof Mascara Products contained and/or had a material risk of containing dangerous PFAS.

17 187. Defendant breached its implied warranties of merchantability because the
18 Waterproof Mascara Products were not of merchantable quality and was defectively designed and
19 was unfit for the ordinary purposes for which it was designed and used.

20 188. Defendant did not properly disclaim the warranty of merchantability and fitness for
21 a particular purpose.

22 189. Plaintiff and the Class notified Defendant of the defective nature of the Waterproof
23 Mascara Products and that Defendant breached these warranties within a reasonable time of
24 discovery.

25 190. As a direct and proximate result of Defendant's breaches of the implied warranty of
26 merchantability and fitness for a particular purpose, Plaintiff and members of the Class have been
27 damaged in an amount to be proven at trial.

28 **FIFTH CAUSE OF ACTION**

Unjust Enrichment

191. Plaintiff incorporates by reference all preceding allegations contained in this Complaint.

192. As the intended and expected result of its conscious wrongdoing, Defendant has profited and benefited from the purchase of the Waterproof Mascara by Plaintiff and the Class. Plaintiff and Class’s payments for the Waterproof Mascara Products flowed to Defendant.

193. Defendant have voluntarily accepted and retained these profits and benefits, derived from Plaintiff and the Class, with full knowledge and awareness that, as a result of its misconduct, Plaintiff and the Class were not receiving products of the quality, nature, fitness or value that had been represented by Defendant, and that Plaintiff and the Class, as reasonable consumers, expected.

194. Defendant has been unjustly enriched by its fraudulent and deceptive withholding of benefits from Plaintiff and the Class, at the expense of Plaintiff and the Class.

195. Defendant’s retention of these profits and benefits is inequitable.

196. Plaintiff and the Class seek the disgorgement and restitution of Defendant’s wrongful profits, revenue, and benefits, plus interest, to the extent and in the amount deemed appropriate by the Court, and such other relief as the Court deems just and proper to remedy Defendant’s unjust enrichment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter judgment against Defendant and in favor of Plaintiff, and to award the following relief:

Certification of the Class with Plaintiff appointed as class representative and the undersigned appointed as Class Counsel;

A declaration that Defendant is financially responsible for notifying all Class Members of the problems with the Waterproof Mascara Products;

Injunctive relief requiring Defendant to replace all Waterproof Mascara Products owned by the Class, and enjoining Defendant from continuing to mislabel Waterproof Mascara Products and require Defendant to disclose the true nature of the Waterproof Mascara Products, including that they contain and/or have a material risk of containing PFAS;

1 A declaration that Defendant must disgorge, for the benefit of the Class, all or part of its ill-
2 gotten profits received from the sale of the Waterproof Mascara Products;

3 An award of all actual, general, special, incidental, statutory, treble, or other multiple, punitive
4 and consequential damages under statutory and common law as alleged in this Complaint, in an
5 amount to be determined at trial, except that Plaintiff does not yet seek damages under the CLRA;

6 An award to the Class for economic injury due to the price premium that they paid at or
7 following the point of sale;

8 An award of pre-judgment and post-judgment interest at the maximum rate allowable by law;

9 An award of costs and attorneys' fees, as allowed by law, and/or from a common fund created
10 hereby; and

11 Orders granting such other and further relief as may be appropriate.

12 Dated: February 22, 2022

Respectfully submitted,

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14

/s/ Devin Bolton

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Devin Bolton (SBN 290037)

dbolton@weitzlux.com

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WEITZ & LUXENBERG, PC

1880 Century Park East, Suite 700

17

Los Angeles, CA 90067

18

Phone: (212) 558-5552

Fax: (212) 344-5461

19

James Bilsborrow (*pro hac vice* application
forthcoming)

20

jbilsborrow@weitzlux.com

21

WEITZ & LUXENBERG, PC

700 Broadway

22

New York, NY 10003

23

Phone: (212) 558-5500

Fax: (212) 344-5461

24

Christopher A. Seeger (*pro hac vice* application
forthcoming)

25

cseeger@seegerweiss.com

26

Matt Pawa (*pro hac vice* application forthcoming)

27

mpawa@seegerweiss.com

Jeff Grand (*pro hac vice* application forthcoming)

28

jgrand@seegerweiss.com

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Christopher Ayers (*pro hac vice* application forthcoming)

cayers@seegerweiss.com

SEEGER WEISS LLP

55 Challenger Road

Ridgefield Park, NJ 07660

Phone: (973) 639-9100

Fax: (973) 679-8656

Sam Strauss (*pro hac vice* application forthcoming)

sam@turkestrauss.com

Raina Borrelli (*pro hac vice* application forthcoming)

raina@turkestrauss.com

TURKE & STRAUSS LLP

613 Williamson St., Suite 201

Madison, Wisconsin 53703-3515

Telephone: (608) 237-1775

Facsimile: (608) 509 4423

Attorneys for Plaintiff

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JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all of the triable issues within this pleading.

Dated: February 22, 2022

Respectfully submitted,

/s/ Devin Bolton
Devin Bolton (SBN 290037)
dbolton@weitzlux.com
WEITZ & LUXENBERG, PC
1880 Century Park East, Suite 700
Los Angeles, CA 90067
Phone: (212) 558-5552
Fax: (212) 344-5461

James Bilsborrow (*pro hac vice* application forthcoming)
jbilsborrow@weitzlux.com
WEITZ & LUXENBERG, PC
700 Broadway
New York, NY 10003
Phone: (212) 558-5500
Fax: (212) 344-5461

Christopher A. Seeger (*pro hac vice* application forthcoming)
cseeger@seegerweiss.com
Matt Pawa (*pro hac vice* application forthcoming)
mpawa@seegerweiss.com
Jeff Grand (*pro hac vice* application forthcoming)
jgrand@seegerweiss.com
Christopher Ayers (*pro hac vice* application forthcoming)
cayers@seegerweiss.com
SEEGER WEISS LLP
55 Challenger Road
Ridgefield Park, NJ 07660
Phone: (973) 639-9100
Fax: (973) 679-8656

Sam Strauss (*pro hac vice* application forthcoming)
sam@turkestrauss.com
Raina Borrelli (*pro hac vice* application forthcoming)
raina@turkestrauss.com
TURKE & STRAUSS LLP

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613 Williamson St., Suite 201
Madison, Wisconsin 53703-3515
Telephone: (608) 237-1775
Facsimile: (608) 509 4423

Attorneys for Plaintiff