

1 Farrah Mirabel Esq., Bar No.:162933
2 **LAW OFFICES OF FARRAH MIRABEL**
3 4590 MacArthur Blvd., Suite 280
4 Newport Beach, CA 92660
5 Telephone: (949) 752-0707
6 Facsimile: (949) 752-0779
7 *machavezesa@gmail.com*
8 Attorneys for Plaintiffs

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 SACV12 882 JST(JPPx)

11 NANCY CALZADILLA WHEELER, an)
12 individual; NAHID MOSHIRI, an individual;)
13 on behalf of themselves and all others)
14 similarly situated,)

15 Plaintiffs,)

16 v.)

17 THE ESTEE LAUDER COMPANIES, INC.,)
18 a Delaware corporation; ESTEE LAUDER,)
19 INC., a Delaware corporation authorized to do)
20 business in California; ORIGINS NATURAL)
21 RESOURCES, INC., a Delaware corporation)
22 authorized to do business in California.)

23 Defendants.)

CASE NO:

**NATIONWIDE AND CALIFORNIA
CLASS ACTION COMPLAINT FOR:**

1. FRAUD/FRAUDULENT CONCEALMENT;
2. UNFAIR BUSINESS PRACTICES (Cal. Bus. & Prof. Code 17200 et seq.)
3. FALSE ADVERTISING (Cal. Bus. & Prof. Code 17500 et seq.)
4. VIOLATIONS OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT; and
5. INJUNCTIVE RELIEF

DEMAND FOR JURY TRIAL

24 Plaintiffs individually and on behalf of all others similarly situated, complain and allege
25 on information and belief, except as to those paragraphs applicable to the named Plaintiffs,
26 which are based upon said named Plaintiffs' personal knowledge, as follows:

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I. OVERVIEW

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2 1. This class action arises out of the deceptive and misleading conduct of Defendants
3 THE ESTEE LAUDER COMPANIES, INC., a Delaware corporation; ESTEE LAUDER, INC.,
4 a Delaware corporation authorized to do business in California; ORIGINS NATURAL
5 RESOURCES, INC., a Delaware corporation authorized to do business in California
6 (collectively hereafter “Defendants”) in marketing, advertising, selling, promoting and
7 distributing cosmetic products in the United States. Since the inception of the manufacturing and
8 selling of its successful anti-aging product Plantscription, Defendants have marketed and
9 advertised this product as producing dramatic anti-aging benefits, as evidenced by a prolific ad
10 campaign with model Caroline Forsling (“Forsling”), as more thoroughly detailed below. In
11 fact, model Forsling never used the product and the so-called “anti-aging” effects were a falsity,
12 thereby rendering Defendants’ failure to disclose these facts wholly deceptive.

13 2. The named Plaintiffs bring this suit individually, and on behalf of all others similarly
14 situated.

15 3. As a result of the unfair, unlawful and deceptive practices of Defendants as described
16 herein, Defendants have (a) concealed and misled consumers into believing that Defendants’
17 Plantscription product renders dramatic anti-aging effects; (b) unfairly, unlawfully and
18 improperly induced consumers into purchasing its products, specifically Plantscription; (c)
19 advertised, marketed and/or labeled their cosmetic products in a way that was misleading in a
20 material respect and/or likely to deceive consumers; and (d) acted to conceal and mislead
21 consumers to as to create a likelihood of confusion regarding their cosmetic products, namely
22 Plantscription.

23 II. JURISDICTION AND VENUE

24 4. This Court has subject matter jurisdiction over this action pursuant to the Class Action
25 Fairness Act of 2005 and 28 U.S.C. § 1332 because there are over 100 members of the proposed

1 class, at least one member of the proposed class has a different citizenship from a defendant and
2 the total matter in controversy exceeds \$5,000,000. Venue is proper in the Central District of
3 California because this district is the district in which a substantial part of the acts or omissions
4 giving rise to the claims occurred.

5 **III. PARTIES**

6 5. Plaintiff NANCY CALZADILLA WHEELER is an individual consumer residing in
7 Orange County, California who, during the proposed Class Period, purchased Defendants'
8 "Plantscription" product within Los Angeles County, California.

9 6. Plaintiff NAHID MOSHIRI is an individual consumer residing in Los Angeles County,
10 California who, during the proposed Class Period, purchased Defendants' "Plantscription"
11 product within Los Angeles County, California.

12 7. Defendant THE ESTEE LAUDER COMPANIES, INC. is a Delaware corporation,
13 headquartered in New York and registered to do business in California with the Secretary of
14 State's office as ESTEE LAUDER, INC. and manufactured, marketed, advertised, distributed
15 and/or produced cosmetic products, specifically Defendants' "Plantscription" product, during the
16 Class Period in the United States and in the Central District. At all relevant times, Defendant
17 ESTEE LAUDER COMPANIES, INC. sold its products utilizing a multitude of different brand
18 names including "Origins."

19 8. Defendant ORIGINS NATURAL RESOURCES, INC. ("ORIGINS") is a Delaware
20 corporation, headquartered in New York registered to do business in California with the
21 Secretary of State's office. Plaintiffs are informed and believe and based thereon allege that
22 ORIGINS manufactured, marketed, advertised, distributed and/or produced cosmetic products,
23 specifically Defendants' "Plantscription" product, during the Class Period in the United States
24 and in the Central District.

25 9. At all relevant times, Defendant ESTEE LAUDER COMPANIES, INC. sold its products

1 utilizing a multitude of different brand names including “Origins.” Upon information and belief
2 all of the Defendant entities are companies that sell an eponymous line of skincare and cosmetic
3 products.

4 10. According to its website, ORIGINS mission is to create skincare that is “powered by
5 nature and proven by science.” ORIGINS also claims on its website that its products are
6 developed by a plant physiologist, who heads a global plant science team.

7 11. Upon information and belief, ORIGINS offers its products in its own stores and in
8 department stores across the country and abroad. ORIGINS also offers its products for sale
9 online.

10 **IV. FACTUAL BACKGROUND AND SUBSTANTATIVE ALLEGATIONS**

11 MODEL CAROLINE FORSLING

12 12. Forsling is a highly successful fashion model. Over the course of her career, she has
13 appeared in runway shows for numerous designers, including Ralph Lauren, Gucci, Chanel,
14 Valentino, Prada, Armani, and many others.

15 13. Forsling has also appeared in television commercials and print advertising for major
16 clothing, cosmetics and luxury goods retailers. These clients include Gap, Target, Macy’s, Nike,
17 Hermes, Prescriptives and many others.

18 14. In addition, Forsling has appeared in and on the cover of several magazines. Notably, she
19 was a Sports Illustrated swimsuit model, and also appeared in several fashion magazines,
20 including Vogue, Elle, Cosmopolitan, and Glamour, among others.

21 THE PHOTO SHOOT

22 15. On or about June 30, 2010 Forsling, through her modeling agency, entered into an
23 agreement with a company that manufactures hair care products. Upon information and belief,
24 Defendant Lauder at all times relevant hereto was and is the owner of that hair care company.

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1 16. Pursuant to that agreement, Forsling agreed to appear for the Photo Shoot. The hair care
2 company agreed that it would only use the photographs taken at the Photo Shoot to advertise its
3 own hair care products. Forsling did not authorize the hair care company to use or license the
4 photos to advertise any other products.

5 17. On or about July 1, 2010, Forsling appeared for the Photo Shoot. Before stylists did
6 Forsling's hair and make up for the Photo Shoot, the photographer took a photograph of
7 Forsling's face as a test shot (the "Test Shot"). In the Test Shot, Forsling's hair was pulled away
8 from her face and she was wearing little or no make up.

9 18. At all times relevant hereto, Forsling believed that the Test Shot would not be used in any
10 advertisement or otherwise distributed.

11 USE OF THE PHOTOGRAPHS IN THE PLANTSCRIPTION CAMPAIGN

12 19. Among other products, ORIGINS sells a skincare product known as "Plantscription."

13 20. ORIGINS describes Plantscription as an "anti-aging serum." According to ORIGINS,
14 although Plantscription is not a prescription drug, it will visibly repair four major signs of aging
15 in just four weeks. Specifically, ORIGINS claims that the product: (i) "[n]oticeably reduces
16 wrinkle length [and] depth; (ii) "[s]mooths uneven skin texture; (iii) "[v]isibly lift[s] sagging
17 contours," and (iv) "revives youthful 'bounce' and firmness."

18 21. In early 2011, Defendants used Forsling's image in their advertising material for
19 Plantscription. They included her image in advertising on the ORIGINS website, both as a static
20 image and in a promotional video, as well as in-store displays. These advertising materials are
21 collectively referred to herein as the "Plantscription Ad Materials."

22 22. Upon information and belief, the Plantscription Ad Materials stated that Defendants had
23 conducted a clinical study to test the results of Plantscription use. Upon information and belief,
24 the Plantscription Ad Materials stated that the test subjects of the study were women aged 45-60.

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1 23. In these materials, Defendants used an image of Forsling’s face from the Test Shot. Upon
2 information and belief, the image was modified through the use of photo editing software,
3 though it remained recognizable as an image of Forsling.

4 24. Defendants divided Forsling’s image from the Test Shot into two parts as part of a
5 purported “dramatization” of the results of using Plantscription. The left side of the image is
6 labeled with the word “Before,” ostensibly to represent the model’s skin condition before
7 Plantscription use. On the left side, Forsling’s face appears dark, with visible wrinkles on the
8 forehead and near the eyes and lips.

9 25. By contrast, the right side of the image of Forsling’s face is labeled with the word
10 “After,” ostensibly to represent the model’s skin condition after use. On the right side, Forsling’s
11 face appears light, with smoother, younger-looking skin.

12 26. The Plantscription Ad Materials pointed to four parts of the “After” portion of Forsling’s
13 face to illustrate Defendants’ claim that “[i]n just 4 weeks – 4 signs of aging visibly repaired.”

14 27. First, there is a line extending from Forsling’s forehead, with the following corresponding
15 text: “Noticeably reduces wrinkle length & depth Visibly helps repair the vertical fret lines
16 between your eyes, the stubborn furrows across your forehead and the deepening frowns that
17 frame your mouth.”

18 28. Second, there is a line extending from skin just below Forsling’s eye, with the following
19 corresponding text: “Smoothes uneven skin texture. Helps boost cell turnover to restore
20 smoothness, radiance and clarity.”

21 29. Third, there is a line extending from just below Forsling’s cheek bone, with the following
22 corresponding text: “Visibly lift sagging contours Helps rebuild natural Collagen and Elastin
23 fibers to make skin stronger and more resilient. Skin is clinically firmer, smoother and more
24 lifted-looking.”

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1 30. Fourth, there is a line pointing to the skin near Forsling's lips, with the following
2 corresponding text: "Revives youthful 'bounce' and firmness Helps increase production of
3 skin's natural Fibrilin, the glycoprotein that gives skin youthful firmness and buoyancy much
4 like a box spring gives support to a mattress."

5 Forsling Never Used Plantscription

6 31. Forsling has never used Plantscription. She did not participate in Defendants' study –
7 indeed, she would not have been eligible to participate because she is significantly younger than
8 45.

9 32. Defendants did not disclose in the Plantscription Ad Materials that Forsling never used
10 Plantscription, that Forsling is not aged 45-60 or that the so-called "dramatization" of the product
11 did not result from the use of the product by Forsling, but rather reflected Defendants'
12 manipulation of a photograph.

13 Defendants Never Told Forsling About the Plantscription Campaign

14 33. Defendants neither sought nor obtained Forsling's written or other consent to use her
15 image in the Plantscription Ad Materials or even informed her of their use of her image.

16 34. Forsling had no idea that Defendants used her image in the Plantscription Ad Materials
17 until, in early March 2011, a make-up artist told Forsling that the make-up artist had seen
18 Forsling's face on a Plantscription ad.

19 35. Forsling then contacted Defendants and told them that they had no right to use her image
20 in the Plantscription ads. She demanded that Defendants remove the materials from their website
21 and their stores and discontinue all other unauthorized use of her image.

22 36. Defendants subsequently represented to Forsling that they would remove her image from
23 the Ad Campaign Materials. However, Defendants continued using the Forsling Ad Campaign
24 Materials in connection with their efforts to boost sales of their Plantscription product. As a
25 result, on May 31, 2011, Forsling filed a lawsuit against Defendants and its related entities for

1 violation of her privacy rights and various other causes of action stemming from Defendants'
2 unlawful, fraudulent and otherwise unauthorized bad acts.

3 37. As a result, during the Class Period, Defendants marketed their products, specifically,
4 Plantscription, as having anti-aging benefits and producing results associated therewith such
5 claims - - all as depicted in the Forsling Ad Campaign Materials. For a period of time during the
6 Class Period, Defendants marketed Plantscription as having anti-aging benefits when in fact
7 Defendants' products had not produced such results as advertised.

8 38. Plaintiffs are informed and believe and based thereon allege that even after the filing of
9 Forsling's lawsuit and subsequent revelations about the deceptive and false Forsling Ad
10 Campaign Materials, Defendants continued usage and publication of said materials.
11 Furthermore, Defendants failed to inform the public, including its past, present and/or future
12 consumers of its products, that the representations set forth in the Forsling Ad Campaign
13 Materials were false, misleading and/or deceptive.

14 39. Additionally, Plaintiffs are informed and believe and based thereon allege that
15 Defendants allowed the Forsling advertisements to remain active on certain websites after the
16 discovery of the falsities contained therein, as alleged hereinabove.

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1 ACTUAL CONSUMER COMPLAINTS

2 40. Plaintiffs are informed and believe and based thereon allege that there exists a large
3 quantity of consumers who have purchased Defendants' cosmetic products, namely
4 "Plantscription," and are dissatisfied with the results stemming from their usage of
5 "Plantscription" and who feel tricked, deceived and/or otherwise misled by their purchase and
6 usage of said product(s). In fact, the following reviews were posted (as indicated within the text)
7 at various recent times on the "Origins" website:

- 8 ● Written by: JANEK
9 Location: CHARLOTTESVILLE, VA
10 Skin Concern: AGING
11 Using Origins For: LESS THAN 1 YEAR
12 Recommend to a friend? NO
13 Couldn't tell any difference
14 Date: MARCH 11, 2012
15 "I've used a whole container of this and I really can't tell any difference in my skin. I did
16 before and after pictures and I see no difference at all. I really wanted this to work, but I
17 won't be buying it again."
- 18 ● Written by: REDSONJ
19 Location: MASSACHUSETTS
20 Skin Type: DRY
21 Skin Concern: LINES AND WRINKLES
22 Using Origins For: LESS THAN 1 YEAR
23 Recommend to a friend? NO
24 Didn't see results
25 Date: NOVEMBER 28, 2011
"I really, really wanted this product to work but sad to say I was disappointed. I am 45
and while I look reasonably good for my age definitely have visible laugh lines and lines
on my forehead. I bought this product twice and used it religiously. I even took a before
and after photo of myself and saw no difference. I won't buy this again. I would however
recommend the White Tea Skin guardian (cheaper) and Modern Friction exfoliator."
- Written by: DATTIE
Location: MADISON, AL
Skin Type: COMBINATION
Skin Concern: FIRMING/LIFTING
Using Origins For: 1-5 YEARS
Recommend to a friend? NO
Didn't Do Anything For Me

1 Date: SEPTEMBER 27, 2011

2 "This was supposed to help with the deep wrinkles. I used the entire bottle with no
3 results. I use Origins Make A Difference Cleanser and I really like it."

4 • Written by: JIYA
5 Location: NEW MEXICO
6 Skin Type: DRY
7 Skin Concern: LINES AND WRINKLES
8 Using Origins For: 6-10 YEARS
9 Recommend to a friend? NO
10 Disappointed
11 Date: AUGUST 19, 2011

12 "I have gone thru 1 1/2 containers of Plantscription waiting for a big change. I have been
13 disappointed. My skin is nice for my age (upper 50's) and I have protected it from the sun
14 for years so I really didn't have any problems. But still I thought I would notice
15 something.

16 On a positive note, I just received a sample of VitaZing and noticed a big difference right
17 away. Sometimes it's just about finding the right product."

18 • Written by: READER1
19 Location: CENTRAL COAST, CA
20 Skin Type: COMBINATION
21 Skin Concern: AGING
22 Using Origins For: 6-10 YEARS
23 Recommend to a friend? NO
24 Not Worth the Money
25 Date: JULY 11, 2011

"I used an entire bottle of Plantscriptions and saw no improvement in my wrinkles. It did
make my skin incredibly soft but other, less expensive products do that too. I wouldn't
waste my money on this product again nor would I recommend it to a friend."

• Written by: HAWKSANDBEARSFAN
Location: JUST OUTSIDE CHICAGO
Skin Type: COMBINATION
Skin Concern: VISIBLE PORES
Using Origins For: 6-10 YEARS
Recommend to a friend? NO
Doesn't live up to the hype
Date: JUNE 28, 2011

"I love Origins products, and I was excited to try Plantscription. Unfortunately, I noticed
absolutely no difference in my skin after using this product for several months. It smells
and feels nice, but it's not worth the money."

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1 • Written by: CHEFAMELIE
2 Skin Type: COMBINATION
3 Using Origins For: 1-5 YEARS
4 Recommend to a friend? NO
5 Not a high quality product and way overpriced
6 Date: JUNE 19, 2011
7 "This product is not at all what it says it is. It is not a high quality product; it made
8 wrinkles looks worse and made my skin feel uncomfortable."

9 • Written by: FAIRLADY
10 Location: CHICAGO
11 Skin Type: SENSITIVE
12 Skin Concern: AGING
13 Using Origins For: 1-5 YEARS
14 Recommend to a friend? NO
15 Don't waste your money
16 Date: JUNE 11, 2011
17 "I don't like this product at all. I have used A Perfect World for a while and I like it but I
18 am about to turn 35 so I tried Plantscription anti-aging serum. My laugh lines have
19 actually gotten deeper since I started using it. I've gone back to A Perfect World but I still
20 have 3/4 of a bottle of Plantscription that I wasted my money on."

21 VI. CLASS ACTION ALLEGATIONS

22 41. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23(b)(1), 23(b)(2)
23 and 23(b)(3) on behalf of themselves and a nationwide class of the following classes of persons
24 (all of whom are collectively referred to as the "Class" or "Class Members"):

- 25 i. All persons in the United States, including those in the State of California, who
purchased any cosmetic product of THE ESTEE LAUDER COMPANIES,
ESTEE LAUDER INC.. and/or ORIGINS, specifically, but not limited to,
"Plantscription," when Defendants were representing in its promotional and/or
advertising materials that usage of said product(s) would result in anti-aging
benefits as depicted in its ads, when in fact the model in said ads had not used
"Plantscription."

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1 ii. All persons in the United States, including those in the State of California, who
2 purchased cosmetic products of Defendants, specifically “Plantscription,” after
3 Defendants began making inadequate disclosures regarding the anti-aging benefits
4 and/or results associated with their Plantscription product.

5 42. Excluded from the Class is any person or entity in which any judge, justice or judicial
6 officer presiding over this matter and members of their immediate families and judicial staff,
7 having any controlling interest. Also excluded from the Class is any partner or employee of
8 Class Counsel.

9 43. Plaintiffs reserve the right to modify the definition of the classes after further discovery.

10 44. Numerosity of the Class. The Class is so numerous that joinder of all members is
11 impracticable. While the exact number and identities of Class Members are unknown to
12 Plaintiffs at this time and can only be ascertained through appropriate discovery directed at
13 Defendants, Plaintiffs believe and thereon allege that there are in excess of half a million
14 (500,000) members of the Class.

15 45. Typicality of Claims. Plaintiffs’ claims are typical of those of other Class members, all
16 of whom have suffered similar harm due to Defendants’ course of conduct as described herein.

17 46. Adequacy of Representation. Plaintiffs are adequate representatives of the Class and will
18 fairly and adequately protect the interests of the Class and have retained attorneys who are highly
19 experience in the handling of class actions, and Plaintiffs and their counsel intend to prosecute
20 this action vigorously.

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1 47. Predominance of Common Questions of Law or Fact. Commons questions of fact and
2 law exists as to all Class Members that predominate over any questions affecting only individual
3 Class Members. These common legal and factual questions, which do not vary among Class
4 Members, and which may be determined without reference to the individual circumstances of
5 any Class member, include, but are not limited to, the following:

6 • Whether Defendants falsely, deceptively, and/or unfairly marketed and/or
7 advertised their cosmetic products, namely Plantscription, by marketing or advertising
8 Plantscription as having superior anti-aging benefits.

9 • Whether Defendants' disclosures regarding the benefits of using Plantscription
10 was inadequate so as to be false, deceptive, and/or unfair.

11 • Whether Defendants' conduct was an "unfair practice," within the meaning of
12 California's Unfair Competition Laws (the "UCL" – California Business and Professions Code
13 section 17200) in that it offends established public policy and is immoral, unethical, oppressive,
14 unscrupulous or substantially injurious to consumers.

15 • Whether Defendants' conduct was an "unlawful" practice within the meaning of
16 the UCL.

17 • Whether Defendants' conduct was a "fraudulent practice," within the meaning of
18 the UCL in that it is likely to mislead consumers.

19 • Whether Defendants' practices were likely to deceive a consumer acting
20 reasonably in the same circumstances.

21 • Whether the conduct complained of constitutes a violation of California's
22 Consumer Legal Remedies Act (the "CRLA").

23 • Whether Defendants' conduct caused harm to the Class.

24 • Whether injunctive relief is appropriate and necessary to stop Defendants' false,
25 deceptive and/or misleading marketing and/or advertisements related to their claims of the

1 effectiveness of the “Plantscription” product.

2 • Whether the members of the Class are entitled to restitution and/or suffered
3 damages.

4 46. Superiority. A class action is superior to other available methods for the fair and
5 efficient adjudication of this controversy, because individual litigation of the claims of all Class
6 Members is impracticable. Requiring each individual class member to file an individual lawsuit
7 would unreasonably consume the amounts that may be recovered. Even if every Class Member
8 could afford individual litigation, the adjudication of more than a million identical claims would
9 be unduly burdensome to the courts. Individualized litigation would also present the potential
10 for varying, inconsistent, or contradictory judgments and would magnify the delay and expense
11 to all parties and to the court system resulting from multiple trials of the same factual issues. By
12 contrast, the conduct of this action as a class action, with respect to some or all of the issues
13 presented herein, presents no management difficulties, conserves the resources of the parties and
14 of the court system, and protects the rights of the Class Members. Plaintiffs anticipate no
15 difficulty in the management of this action as a class action. The prosecution of separate actions
16 by individual Class Members may create a risk of adjudications with respect to them that would,
17 as a practical matter, be dispositive of the interests of the other Class Members not parties to
18 such adjudications or that would substantially impair or impede the ability of such non-party
19 Class Members to protect their interests.

20 47. The prosecution of individual actions by Class Members would also potentially
21 establish inconsistent standards of conduct for Defendants. Defendants have acted in respects
22 generally applicable to the Class, thereby making appropriate final and injunctive relief or
23 corresponding declaratory relief with regard to the members of the Class as a whole, as requested
24 herein, the only avenue to guarantee finality on all issues.

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1 **FIRST CAUSE OF ACTION**

2 **FRAUD/FRAUDULENT CONCEALMENT**

3 (As Against All Defendants)

4 48. Plaintiffs restate and reallege paragraphs 1-47 as fully set forth herein.

5 49. As alleged herein, Plaintiffs are informed and believe and thereon allege that
6 Defendants have made one or more of the uniform material misrepresentations to Plaintiffs and
7 the Class in the marketing, packaging, or sale of their products as alleged above. Plaintiffs
8 further are informed and believe that Defendants' fraudulently concealed material information
9 regarding the effectiveness of their Plantscription product.

10 50. Plaintiffs are informed and believe and thereon allege that in making the above
11 statements and in concealing material information, Defendants acted fraudulently and deceitfully
12 with knowledge that Plaintiff and the Class would rely on their actions, misstatements, and
13 omissions. Defendants made the aforesaid material representations and/or concealed material
14 facts in order to induce Plaintiffs and the Class to act in reliance on the misrepresentations and
15 statements.

16 51. Plaintiffs and the Class at all times did reasonable and justifiable rely both
17 directly and indirectly on that actions, representations and omissions of Defendants.

18 52. As a direct and proximate result of Defendants' fraud, Plaintiffs and the Class
19 have suffered actual damages in an amount not presently known, but which will be shown by
20 proof at time of trial, including incidental and consequential damages, and reasonable attorneys'
21 fees.

22 53. Plaintiffs and informed and believe and thereon allege that Defendants undertook
23 the aforesaid illegal acts intentionally or with conscious disregard of the rights of Plaintiffs and
24 the Class, and did so with fraud, oppression, and malice. Therefore, Plaintiffs and the Class are
25 also entitled to recover punitive damages from Defendants in an amount that will be shown by

1 proof at trial.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATIONS OF CALIFORNIA'S UNFAIR BUSINESS PRACTICE ACT**

4 **(CAL. BUS. & PROF. CODE §17200 et seq.)**

5 54. Plaintiffs restate and reallge paragraphs 1-53 as fully set forth herein.

6 55. California Business & Professions Code §17200 et seq., also known as the
7 California Unfair Competition Law ("UCL"), prohibits acts of "unfair competition," including
8 any unlawful, unfair, fraudulent, or deceptive business act or practice as well as "unfair,
9 deceptive, untrue or misleading advertising."

10
11 *DEFEDANTS' ACTS ARE UNLAWFUL*

12 56. By engaging in the false, deceptive, and misleading conduct alleged above,
13 Defendants have engaged in unlawful business acts and practices in violation of the UCL by
14 violating state and federal laws, including but not limited to California Business & Professions
15 Code §17500 et seq., which makes false and deceptive advertising unlawful.

16 *DEFENDANTS' ACTS ARE UNFAIR*

17 57. In addition to being unlawful, Defendants' acts, conduct and practices as alleged
18 above are unfair. Defendants, through deceptive and misleading advertising and representations,
19 includes Plaintiff and class members to purchase Defendants' "Plantscription" product. This
20 injury is not outweighed by any countervailing benefits to consumers or competition.

21 *DEFENDANTS' ACTS ARE FRAUDULENT AND/OR DECEPTIVE*

22 58. In addition to being unlawful and unfair, Defendants' acts, conduct and business
23 practices as alleged above are fraudulent and/or deceptive.

24 59. As a direct and proximate result of Defendants' unlawful, unfair and fraudulent
25 business practices, Plaintiff and the members of the class have been injured in fact. They

1 purchased cosmetic products, namely “Plantscription,” in reliance on Defendants’ false and
2 misleading advertising and representations to the general public regarding the anti-aging benefits
3 of their product(s), and they would not have purchased Defendants’ cosmetic products, namely
4 “Plantscription” had Defendants made adequate disclosures.

5 60. Defendants’ unlawful, unfair and fraudulent business practices as alleged above
6 present a continuing threat to Plaintiffs, the class and members of the public because Defendants
7 persist and continue to engage in such practices, and will not cease doing so unless enjoined or
8 restrained by this Court.

9 61. Under California Business & Profession Code § 17203, Plaintiffs, on behalf of
10 themselves, class members and members of the general public, seek an order of this Court:

- 11 a) Enjoining Defendants from continuing to engage, use, or employ any unlawful,
12 unfair and/or deceptive business act or practice and unfair, deceptive, untrue, or
13 misleading labeling, advertising, promotion, testimonials, or marketing and any
14 act prohibited by California Business Code § 1720 et seq.; and
15 b) Restitution of all monies that may have been acquired by Defendants as a result of
16 such unlawful, unfair and/or deceptive acts and/or practices described above.

17 **THIRD CAUSE OF ACTION**

18 **VIOLATIONS OF CALIFORNIA FALSE ADVERTISING LAW**

19 **(CAL. BUS. & PROF. CODE § 17500 et. seq)**

20 62. Plaintiffs restate and reallege paragraphs 1-61 as fully set forth herein.

21 63. California Business & Professions Code § 17500 et seq., also known as California
22 False Advertising Law, makes it “unlawful for any person.....corporation or association, or any
23 employee thereof with intent directly or indirectly to dispose of personal property...or anything
24 of any nature whatsoever...to make or disseminate or cause to be made or disseminated from this
25 state before the public in any state, in any newspaper or other publication, or any advertising

1 device, or by public outcry or proclamation, or in any other manner or means whatsoever,
2 including over the Internet, any statement, concerning that...personal property...or concerning
3 any circumstance or matter of fact connected with the proposed performance or disposition
4 thereof, which is untrue or misleading, and which is known, or which by the exercise of
5 reasonable case should be known, to be untrue or misleading...”

6 64. As alleged above, Defendants disseminated or cause to be disseminated deceptive
7 advertising regarding the anti-aging benefits and/or results associated with the usage of
8 “Plantscription” to the general public through various media. These advertisements were false,
9 misleading and/or inadequate as set forth herein.

10 65. Defendants continue to disseminate or cause to be disseminated such false,
11 deceptive and/or inadequate statements as alleged herein.

12 66. The false, deceptive and/or inadequate statements regarding Defendants’ claims
13 with regard to the anti-aging benefits of Plantscription, as disseminated, or as caused to be
14 disseminated by Defendants, are likely to deceive the consuming public.

15 67. While disseminating or causing to be disseminated the false and deceptive
16 statements regarding Defendants’ claims regard to the anti-aging benefits of Plantscription, as
17 alleged above, the Defendants knew or should have known that the statements were false and/or
18 misleading.

19 68. As a direct and proximate result of Defendants’ false and/or misleading
20 advertising, Plaintiffs and the members of the class have been injured in fact, in that they
21 purchased cosmetic products, namely “Plantscription,” in reliance on Defendants’ false and
22 misleading advertising as to the anti-aging benefits and/or promised results associated with usage
23 of said product(s), that they would not have purchased had the truth been disclosed.

24 69. Defendants’ false and misleading advertising as alleged above presents a
25 continuing threat to Plaintiff, the Class, and members of the public because Defendants persist

1 and continue to disseminate false and misleading advertising, and will not cease doing so unless
2 and until enjoined or restrained by this Court.

3 70. Under California Business & Professions Code § 17535, Plaintiffs, on behalf of
4 themselves, the class members, and members of the general public, seek an order of this Court:

5 a) Enjoining Defendants from continuing to engage, use or employ any act
6 prohibited by California Business Code § 17500 et seq.; and

7 b) Restitution of all monies that may have been acquired by Defendants' false and
8 misleading statements in advertisements, promotions, testimonials, and/or
9 marketing, as described herein.

10 **FOURTH CAUSE OF ACTION**

11 **VIOLATIONS OF CONSUMERS LEGAL REMEDIES ACT**

12 **(CALIFORNIA CODE § 1750 et seq.)**

13 71. Plaintiffs restate and reallege paragraphs 1-70 as fully set forth herein.

14 72. This cause of action is brought pursuant to California Consumers Legal Remedies
15 Act, California Civil Code § 1750, et seq. ("CLRA")

16 73. Plaintiffs are consumers as defined by the CLRA and Defendants are either
17 suppliers and/or sellers as defined by the CLRA.

18 74. Defendants' conduct described herein involves consumer transactions as defined
19 by the CLRA.

20 75. In violation of the CLRA, Defendants represented to American consumers that
21 their cosmetic products, namely "Plantscription," had anti-aging benefits and usage of the
22 product would result in younger looking skin without disclosing that their model depicted in the
23 advertisements had never in fact used the product(s). The latter representation was misleading.

24 76. Under California Civil Code § 1780, Plaintiffs, on behalf of themselves, the class
25 members, and members of the general public, seek an order of this Court

- 1 a) Enjoining Defendants from continuing to engage, use or employ any act
2 prohibited by California Civil Code § 1770 et seq.; and
3 b) Plaintiffs further intend to amend the Complaint pursuant to Civil Code § 1782(d)
4 should Defendants not timely comply with the impending preliminary notice to be
5 served in compliance with Civil Code § 1782.

6 **FIFTH CAUSE OF ACTION FOR**

7 **INJUNCTIVE RELIEF**

8 77. Plaintiffs restate and reallege paragraphs 1-76 as fully set forth herein.

9 78. Plaintiffs and the Class request equitable and injunctive relief in order to stop
10 Defendants' false and misleading advertising described herein.

11 79. Injunctive relief is in the public interest.

12 80. The foregoing injunction is appropriate because, among other reasons, it is
13 necessary to ensure that Class Members do not continue to be deceived by Defendants' conduct.

14 81. Equity supports the requested injunctive relief because Defendants committed the
15 acts described above.

16 82. As a direct and proximate result of the aforementioned wrongful acts and
17 omissions of Defendants, Plaintiffs and the Class have been deceived and absent injunctive
18 relief, Class Members will continue to be deceived.

19 83. Plaintiffs and those similarly situated are subject to irreparable harm absent an
20 injunction.

21 84. Plaintiffs and the Class have no adequate remedy at law.

22 85. Plaintiffs request a permanent injunction enjoining Defendants from continuing to
23 engage, use, or employ (a) any unlawful, unfair and/or deceptive business act or practice, and (b)
24 any unfair, deceptive, untrue, or misleading labeling, advertising, promotion, testimonials, or
25 marketing.

1 **VII. PRAYER FOR RELIEF**

2 Plaintiffs, on behalf of themselves and on behalf of the Class, respectfully pray for
3 judgment against Defendants as follows:

- 4 1. That the Court determine that the relevant claims in this Complaint may be
5 maintained as a class action under Federal Rule of Civil Procedure 23.
- 6 2. For an Order finding and declaring Defendants' acts and practices as challenged
7 herein unlawful, unfair, deceptive and/or fraudulent;
- 8 3. For an Order preliminarily and permanently enjoining Defendants from engaging in
9 the practices complained and alleged herein;
- 10 4. For an Order requiring Defendants to make restitution of all revenues, earnings,
11 compensation and benefits obtained as a result of Defendants' wrongful conduct;
- 12 5. For compensatory damages in an amount in excess of \$100 million, with the exact
13 amount to be proven at trial;
- 14 6. For punitive damages in an amount to punish Defendants for their conduct and
15 dissuade Defendants from engaging in similar conduct in the future, in an amount to
16 be proven at trial;
- 17 7. For prejudgment and post judgment interest to the extent permitted by law;
- 18 8. For an award of attorneys' fees, costs and expenses incurred in the investigation,
19 filing, and prosecution of this action to the extent permitted by law; and
- 20 9. For such other and further relief as the Court deems just and proper.

21
22 DATED: May 31, 2012

LAW OFFICES OF FARRAH MIRABEL

23
24 By: 

Attorneys for Plaintiffs

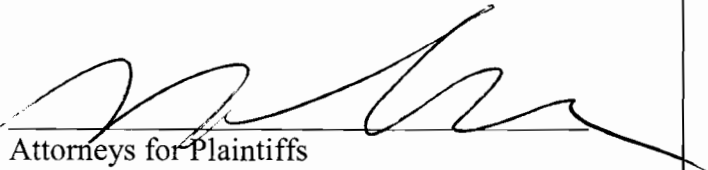
JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

DATED: May 31, 2012

LAW OFFICES OF FARRAH MIRABEL

By:



Attorneys for Plaintiffs

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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> NANCY CALZADILLA WHEELER, an individual; NAHID MOSHIRI, an individual; on behalf of themselves and all others similarly situated.	DEFENDANTS ESTEE LAUDER COMPANIES, INC., a Delaware corporation; ESTEE LAUDER, INC., a Delaware corporation authorized to do business in California; ORIGINS NATURAL RESOURCES, INC., a Delaware corporation
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Farrah Mirabel Esq., Bar No.: 162933 LAW OFFICES OF FARRAH MIRABEL 4590 MacArthur Blvd., Suite 280, Newport Beach, CA 92660	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 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.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input checked="" type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" 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 checked="" 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
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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:** \$ In excess of \$100 million

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.)
 28 U.S.C. Section 1332; Unfair Business Practices; False Advertising; Violations of C.L.R.A.; Fraud; Injunctive Relief

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

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: **SACV12 882**

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

ORIGINAL

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT 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
Los Angeles (Moshiri) Orange (Wheeler)	

- (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
	New York (all named Defendants)

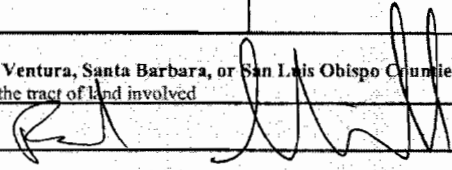
- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

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

* 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 involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

 Date May 30, 2012

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))