

JUDGE SCHEINDLIN

13 CV 2851

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILED  
SD. OF N.Y.  
APR 30 2013

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RORIE WEISBERG, Individually  
And On Behalf Of All Others Similarly Situated,

Plaintiff,

Civil Action No. \_\_\_\_\_

v.

**CLASS ACTION COMPLAINT**

L'OREAL USA, INC., LANCÔME LUXURY  
PRODUCTS, LLC, LANCÔME SALES INC.,  
LANCÔME, INC.

Defendants.

**JURY TRIAL DEMANDED**

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Plaintiff, Rorie Weisberg ("Plaintiff"), alleges, upon personal knowledge as to herself and her own acts, and upon information and belief (based on the investigation of counsel) as to all other matters, as follows:

**NATURE OF ACTION**

1. This action seeks to remedy the unfair, deceptive, and unlawful business practices of Defendants, L'Oreal USA, Inc., Lancôme Luxury Products, LLC, Lancôme Sales Inc. and Lancôme, Inc. (collectively "Defendants" or "Lancôme")<sup>1</sup> with respect to the production, distribution, advertising, marketing and sales of its facial foundation makeup, Teint Idole Ultra 24H (the "Product(s)"). Defendants manufacture, market, sell, and distribute the Product using a marketing and advertising campaign that is centered around the claim that the Product will last for 24 hours on the consumer's skin, regardless of skin type, and stay perfectly flawless (the "24-hour

<sup>1</sup> As the precise corporate structure of Defendants is unclear at the time of filing, Plaintiff reserves the right to add additional Defendants should it become necessary as discovery progresses. In addition, because the Products themselves reference Lancôme Luxury Products, LLC, while the advertisements and websites do not appear to, Plaintiff's reference here to one of the Defendants shall not be deemed to exclude any other.

Claim”). However, Defendants’ advertising and marketing campaign and labeling claims are false and misleading because the Product does not stay on the skin for 24 hours.

2. As explained more fully herein, Lancôme has made, and continues to make, deceptive and misleading claims and promises to consumers about the efficacy of the Product, in a pervasive, nationwide, marketing scheme that confuses and misleads consumers about the true nature of the Product. In reality, the Product does not live up to the claims made by Lancôme.

3. Lancôme knows this, yet designed its marketing and advertising campaign to include indicia of years of scientific research and testing, special technologies, and references to pending patents, for the sole purpose of misleading and deceiving consumers. As a result, Lancôme misleads consumers with false and misleading promises of results it knows it cannot deliver, and does so with one goal in mind – reaping enormous profits.

4. Through the marketing and sales of the Product, Defendants have worked to convey the singular message: the Product lasts for 24 hours. Each person who has purchased the Product has been exposed to Defendants’ misleading advertising message and purchased the Product as a result of that message on the Product labels and/or as part of the advertising.

5. Defendants know that consumers are willing to pay for specialized cosmetics, and have advertised the Product with the intention that consumers rely on the 24-hour Claim and representations made in the advertising and on the Product packaging. Defendants’ claims are deceptive and misleading, and have been designed solely to cause consumers to buy the Product. Defendants knew or should have known, at the time they began selling the Product, that it did not last for 24 hours.

6. Plaintiff read and relied on the representations that Lancôme made in its advertising and on the Product itself, namely the 24-hour Claim, when she purchased the Product.

Plaintiff and the Class (defined below) paid a premium for the Product over foundations that did not purport to provide 24-hour coverage.

7. By relying on the representations that Defendants' Product would stay on her skin for 24 hours and could, thus, do something that other foundation products could not do, Plaintiff and the Class have been damaged and suffered an ascertainable loss by purchasing the Product, which is sold at an inflated price. Plaintiff did not receive the benefit of the bargain, a foundation that provided 24-hour coverage, when she purchased the Product. Instead, she received a foundation that, in direct contradiction to Defendants' representations, does not provide full 24-hour coverage for her skin.

8. This class action seeks to provide redress to consumers who have been harmed by the false and misleading marketing practices Defendants have engaged in with respect to the Product. Plaintiff asserts claims, on behalf of herself and the Class, for violations of the New York General Business Law §§ 349-50, and for breach of express warranty and unjust enrichment.

9. Through this action, Plaintiff seeks injunctive relief, actual damages, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs, and all other relief available to the Class as a result of Defendants' unlawful conduct.

### **PARTIES**

10. Plaintiff, Rorie Weisberg, is a resident of Monsey, Rockland County, New York and, thus, is a citizen of New York.

11. Defendant, L'Oreal USA, Inc., is a Delaware corporation with its principal place of business in Berkeley Heights, New Jersey. L'Oreal USA, Inc., therefore, is a citizen of Delaware and New Jersey.

12. Defendant, Lancôme Luxury Products, LLC, is a limited liability corporation with its address in New York and, thus, is a citizen of New York.

13. Defendant, Lancôme Sales Inc., is a Delaware corporation with its principal place of business at 720 Fifth Avenue, New York, NY 10019. Lancôme Sales Inc. is, therefore, a citizen of Delaware and New York.

14. Defendant, Lancôme, Inc., is a Delaware corporation with its principal place of business at 52 Vanderbilt Ave., New York, NY 10017-3808. Lancôme, Inc. is, therefore, a citizen of Delaware and New York.

15. All of Defendants' actions described in this Complaint are part of, and in furtherance of, the unlawful conduct alleged herein, and were authorized and/or done by Defendants' various officers, agents, employees, or other representatives while actively engaged in the management of Defendants' affairs (or that of their predecessors-in-interest) within the course and scope of their duties and employment, and/or with the actual, apparent, and/or ostensible authority of each of the Defendants.

#### **JURISDICTION AND VENUE**

16. The claims asserted herein arise under the laws of the State of New York.

17. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because the matter in controversy, upon information and belief, exceeds \$5,000,000, exclusive of interest and costs, and this is a class action in which certain of the Class members and Defendants are citizens of different states.

18. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), because many of the acts and transactions alleged herein occurred in substantial part in this District and Defendants are headquartered in this District.

**FACTUAL ALLEGATIONS**

19. Lancôme is a luxury cosmetics house that was founded in France in 1935 by Armand Petitjean. Since 1964, Lancôme has been part of L'Oreal's Luxury Products division, which offers skin care, fragrances, and makeup at higher-end prices.

20. Lancôme's cosmetics are sold at Lancôme counters or department store sections, or over websites, with prominent signage identifying Lancôme as the seller, and the products as Lancôme products. Lancôme products are also packaged in both boxes and a product container that identify them as Lancôme products.

21. Regardless of where Plaintiff and the Class purchased the Product (*i.e.*, on-line directly from Lancôme, in a department store at the Lancôme counter, or from other third-party retailers like Sephora), they were exposed to Lancôme's deceptive and misleading advertising messages and material omissions regarding the efficacy promises of the Product.

22. Department stores are the principal source for higher priced, brand-name cosmetics such as Estee Lauder, Clinique, Chanel, Lancôme and Elizabeth Arden, where these brands are intensely competitive.

23. Such competition is, in part, characterized by claims as to product performance characteristics, which purport to reflect the benefits resulting from the intended use of the products. Product efficacy claims serve the important purpose of helping consumers make informed purchase decisions based upon product differentiation.

24. Customers who purchase cosmetics are heavily reliant on product efficacy claims due to diverse expectations, large choice of product alternatives geared to consumer individuality, and rapid roll out of innovation in response to customer trends and demands.

### **The Product and Its Advertising**

25. In or about April 2012, Lancôme introduced a new foundation makeup named Teint Idole Ultra 24H, which it purportedly researched for eight years before introduction into the market. The “24H” stands for 24 hours. Lancôme claims that, following application, the Product will remain flawlessly perfect and unified on the skin for a full 24 hours, without transfer or caking.

26. Lancôme heavily markets the Product in print media, including the placement of advertisements in such widely circulated magazines as *Glamour*, *Cosmopolitan*, *Vogue*, and *O-The Oprah Magazine*, among others.

27. Defendants also tout that the Product was a winner of *The Oprah Magazine* Makeup O-ward for 2012.

28. Lancôme uniformly repeats its pervasive 24-hour Claim on the box in which the Product is sold, on the bottle in which it is sold, and through its pervasive advertising campaign in the media and on the internet.

29. For example, Lancôme’s proprietary website ([www.lancome-usa.com](http://www.lancome-usa.com)) touts the 24-hour Claim. Under the “Details” heading, Lancôme states:

24-hour wear for divine, lasting perfection

Following 8 years of research, Lancôme unveils its first 24-hour wear foundation for lasting perfection.

With its new EternalSoft technology, Teint Idole Ultra 24H defeats all challenges. Complexion stays perfectly flawless and unified. Never cakey.

24-hour divine comfort

In perfect affinity with the skin, Teint Idole Ultra 24H is irresistibly comfortable. Its new, blendable and fresh texture leaves the complexion perfectly smooth, velvety matte with no powdery effect.

#### **Result**

The full coverage you need – flaws, pores, redness and all imperfections visibly

disappear. The velvety finish you love for 24-hour lasting perfection and comfort. Full coverage. Velvety matte finish with no powdery effect.

Oil-free. Fragrance-free. Transfer-free. Non-comedogenic. Tested on sensitive skin. Tested under dermatological control. Patent pending.

[http://www.Lancôme-usa.com/Teint-Idole-Ultra-24H/1000554,default,pd.html?cm\\_mmc=LabeliumSearch-\\_-GoogleGeneric-\\_-Foundation-\\_-24%20hour%20foundation](http://www.Lancôme-usa.com/Teint-Idole-Ultra-24H/1000554,default,pd.html?cm_mmc=LabeliumSearch-_-GoogleGeneric-_-Foundation-_-24%20hour%20foundation).

30. In addition, under the “Benefits” area of the website, Lancôme represents that the benefits include:

Eternalsoft Polymer – allows increased comfort level with ultra-long wear

NAI pigments – specially coated pigments maintain consistent pH level with skin, so color stays true all day

Perlite and Silica – two of the most effective oil-absorbing ingredients

[http://www.Lancôme-usa.com/Teint-Idole-Ultra-24H/1000554,default,pd.html?cm\\_mmc=LabeliumSearch-\\_-GoogleGeneric-\\_-Foundation-\\_-24%20hour%20foundation](http://www.Lancôme-usa.com/Teint-Idole-Ultra-24H/1000554,default,pd.html?cm_mmc=LabeliumSearch-_-GoogleGeneric-_-Foundation-_-24%20hour%20foundation)

31. The same claims are made on the packaging and bottle of the Product, which refers to “Retouch-free makeup” and “24h wear for a divine, lasting perfection” as well as the “velvety finish you love for 24 hour lasting perfection and comfort.”<sup>2</sup>

32. In fact, the 24-hour Claim is false and materially misleading. The Product does not perform as claimed for 24 hours or anywhere near 24 hours.

33. A central theme of Lancôme’s deceptive marketing campaign, which permeates throughout its advertisements and Product displays and labels, is that the Product, and the results promised by Lancôme, are supported by years of scientific research and resulting discoveries. Lancôme’s marketing campaign highlights the purported years of scientific research, the patents, and testing that, according to Lancôme, supports the promised results.

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<sup>2</sup> A true and correct copy of a picture of the Product box is attached hereto as Exhibit 1.

34. While such science-based claims and use of the term “patent pending” provide Lancôme with an increased level of credibility among unsuspecting consumers, and therefore lead to increased sales, the purported scientific research is simply part of Lancôme’s deceptive and misleading advertising campaign.

35. To validate a product efficacy or other performance claims, studies must be comprised of methods that are reliable and reproducible, and must follow well-designed and scientifically valid methodology according to good practices.

36. The process of evaluating a product’s performance characteristics proceeds from scientific techniques and efficacy testing, which lead to communication of product efficacy characteristics to customers. While methodologies may vary, a robust and structured approach to the generation of data is required in order to adequately support product communication, *i.e.* claims relating to efficacy and other product benefits. Lancôme’s official website manifests an acute appreciation of this claims validation modality; indeed, its personnel have been in the forefront of modern trends in the efficacy evaluation of cosmetic products on a worldwide level.

37. Lancôme does not publish information sufficient to validate its 24-hour Claim, because it has no such information.

**Plaintiff’s Experience**

38. Plaintiff is an Orthodox Jew and abides by Jewish law by not applying makeup from sundown on Friday until nighttime on Saturday. As such, Plaintiff often wears the same makeup for at least a 24-hour period between Friday and Saturday evening.

39. In approximately early April of 2013, Plaintiff purchased a 1-ounce bottle of the Product through Lancôme’s official website for \$45.00, plus tax.

40. Plaintiff saw, read and relied on Product efficacy statements made by Lancôme in making her decision to purchase the Product. The efficacy statements relied on by Plaintiff included, for example, the purported, “scientific” research with “new EternalSoft technology,” testing claims, and claims that it was “retouch free” and would stay “perfectly flawless” and provide “24 hour lasting perfection and comfort.”

41. These false and misleading statements viewed by Plaintiff at Lancôme’s website were material and influenced her decision to purchase the Product. The 24-hour Claim was central to Plaintiff’s purchase decision, as a long-lasting makeup assists with her dual objectives of compliance with religious law and enhancement to her natural appearance. Specifically, Plaintiff’s eldest son is having his Bar Mitzva celebration in June and Plaintiff was looking for a long-lasting foundation that would achieve the foregoing dual objectives over the Bar Mitzva Sabbath.

42. After purchasing the Product, Plaintiff decided to test it from sundown Thursday to sundown Friday to see if she liked it and if the Product worked. Plaintiff did so because she did not want to be stuck wearing the Product over the weekend if it did not work. She applied the Product at approximately 5:00 p.m. on a Thursday. Plaintiff felt that the Product make her skin look very cakey. By Friday morning, Plaintiff’s skin was shiny, particularly around her nose. Moreover, the Product that had been applied had faded significantly, making Plaintiff’s skin look uneven. It looked like very little of the Product was remaining on Plaintiff’s face, which was confirmed when she removed the remainder of the Product at 3:00 p.m. with a white cotton ball, where very little of the Product was found on the pad. Based on her experience, Plaintiff did not receive the benefit of longwearing efficacy as claimed by Lancôme in its advertising and on the Product packaging.

43. Religious law prohibits Plaintiff from applying makeup on the Sabbath, while the Sabbath is the one day of the week when Plaintiff most wants to appear attractively made up. As such, the 24-hour Claim was material to Plaintiff, who purchased the Product specifically in order to achieve the promised 24-hour “longwear.” Similarly, consumers who cannot themselves apply makeup and need daily help (*e.g.* nursing home and assisted living residents) to assist them in the task, have the need for long-wearing makeup, as does the person who applies makeup early in the morning but will not have an opportunity to reapply makeup prior to a dinner or other evening engagement. All of such persons, and others, reasonably seek a long-wear makeup and could reasonably be expected to purchase the Product because Defendants have represented that the Product produces, on all skin types, a freshly made-up appearance for 24 hours.

44. Additionally, there are a plethora of online reviews to the effect that, contrary to the 24-hour Claim, the Product breaks down, bronzes, cakes, requires touch-up and otherwise fails to maintain affinity with the skin for more than one-half the claimed period of “divine, lasting perfection.”

45. Lancôme knew that the Product’s promised results are not possible, *i.e.*, its foundation will not provide the promised 24-hour, longlasting results.

46. In addition to its affirmative misrepresentations and false advertising, Lancôme fails to disclose that its Product does not perform as promised.

47. Until such time as Lancôme ceases to engage in deceptive and misleading advertising and sale of the Product, Plaintiff and the Class will continue to be harmed.

48. Plaintiff and Class members suffered an ascertainable loss and damage, in the amount of the price of the Product, as a result of the improper actions described herein because the Product does not last for 24 hours, as Defendants claim.

**CLASS ACTION ALLEGATIONS**

49. Plaintiff brings this action on behalf of herself and all other persons similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

50. The Class and Sub-Class (collectively “Classes”) that Plaintiff seeks to represent are defined as follows:

**Nationwide Class:**

All persons who purchased Teint Idole Ultra 24H, not for resale, within the United States (“Class”).

**New York § 349 Sub-Class:**

All persons who purchased Teint Idole Ultra 24H, not for resale, within the State of New York (“New York Sub-Class”).

Excluded from the Classes are (a) Defendants, including any entity in which Defendants have a controlling interest, and their representatives, officers, directors, employees, assigns and successors; (b) any person who has suffered personal injury or is alleged to have suffered personal injury as a result of using the Product; and (c) the Judge to whom this case is assigned.

51. **Numerosity/Impracticability of Joinder:** The members of the Classes are so numerous that joinder of all members would be impracticable. The proposed Classes include, at a minimum, thousands of members. The precise number of Class members can be ascertained by reviewing documents in Defendants’ possession, custody and control or otherwise obtained through reasonable means.

52. **Commonality and Predominance:** There are common questions of law and fact which predominate over any questions affecting only individual members of the Classes. These common legal and factual questions, include, but are not limited to the following:

- a. whether Lancôme engaged in a pattern of fraudulent, deceptive and misleading conduct targeting the public through the marketing, advertising, promotion and/or sale of the Product;
- b. whether Lancôme's acts and omissions violated New York General Business Law, Deceptive Acts and Practices, N.Y. Gen. Bus. Law §§ 349-50, and breached express warranties;
- c. whether Lancôme made material misrepresentations of fact or omitted material facts to Plaintiff and the Classes regarding the marketing, promotion, advertising and sale of the Product, which material misrepresentations or omissions operated as fraud and deceit upon Plaintiff and the Classes;
- d. whether Lancôme's false and misleading statements of fact and concealment of material facts regarding the Product were intended to deceive the public;
- e. whether, as a result of Lancôme's misconduct, Plaintiff and the Classes are entitled to equitable relief and other relief, and, if so, the nature of such relief; and
- f. whether Plaintiff and the members of the Classes have sustained ascertainable loss and damages as a result of Lancôme's acts and omissions, and the proper measure thereof.

53. **Typicality:** Plaintiff's claims are typical of the claims of the members of the Classes she seeks to represent. Plaintiff and all Class members have been injured by the same wrongful practices in which Defendants have engaged. Plaintiff's claims arise from the same

practices and course of conduct that give rise to the claims of the Class members, and are based on the same legal theories.

54. **Adequacy**: Plaintiff is a representative who will fully and adequately assert and protect the interests of the Classes, and has retained Class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiff nor her attorneys have any interests which are contrary to or conflicting with the Classes.

55. **Superiority**: A class action is superior to all other available methods for the fair and efficient adjudication of this lawsuit, because individual litigation of the claims of all Class members is economically unfeasible and procedurally impracticable. While the aggregate damages sustained by the Classes are likely in the millions of dollars, the individual damages incurred by each Class member resulting from Defendants' wrongful conduct are too small to warrant the expense of individual suits. The likelihood of individual Class members prosecuting their own separate claims is remote, and, even if every Class member could afford individual litigation, the court system would be unduly burdened by individual litigation of such cases. Individual members of the Classes do not have a significant interest in individually controlling the prosecution of separate actions, and individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all of the parties and to the court system because of multiple trials of the same factual and legal issues. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action. In addition, Lancôme has acted or refused to act on grounds generally applicable to the Classes and, as such, final injunctive relief or corresponding declaratory relief with regard to the members of the Classes as a whole is appropriate.

56. Plaintiff will not have any difficulty in managing this litigation as a class action.

**FIRST COUNT**  
**VIOLATION OF NEW YORK GENERAL BUSINESS LAW**  
**(Deceptive Acts and Practices, N.Y. Gen. Bus. Law §§ 349-350 on behalf the Classes)**

57. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

58. Lancôme's business acts and practices and/or omissions alleged herein constitute deceptive acts or practices under the New York General Business Law, Deceptive Acts and Practices, N.Y. Gen. Bus. Law §§ 349-50 ("NYGBL"), which were enacted to protect the consuming public from those who engage in unconscionable, deceptive or unfair acts or practices in the conduct of any business, trade or commerce.

59. The practices of Lancôme, described throughout this Complaint, were specifically directed to consumers and violate the NYGBL for, *inter alia*, one or more of the following reasons:

a. Lancôme engaged in deceptive, unfair and unconscionable commercial practices in failing to reveal material facts and information about the Product, which did, or tended to, mislead Plaintiff and the Classes about facts that could not reasonably be known by them;

b. Lancôme failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;

c. Lancôme caused Plaintiff and the Classes to suffer a probability of confusion and a misunderstanding of legal rights, obligations and/or remedies by and through its conduct;

d. Lancôme failed to reveal material facts to Plaintiff and the Classes with the intent that Plaintiff and the Class members rely upon the omission;

e. Lancôme made material representations and statements of fact to Plaintiff and the Classes that resulted in Plaintiff and the Class reasonably believing the represented or suggested state of affairs to be other than what they actually were;

f. Lancôme intended that Plaintiff and the other members of the Classes rely on its misrepresentations and omissions, so that Plaintiff and other Class members would purchase the Product; and

g. Lancôme knowingly and falsely represented and advertised that the Product was fit to be used for the purpose for which it was intended, 24-hour use, when Lancôme knew that the Product did not work as promised.

60. Under all of the circumstances, Lancôme's conduct in employing these unfair and deceptive trade practices was malicious, willful, wanton and outrageous such as to shock the conscience of the community and warrant the imposition of punitive damages.

61. Lancôme's actions impact the public interest because Plaintiff and members of the Classes were injured in exactly the same way as thousands of others purchasing the Product as a result of and pursuant to Lancôme's generalized course of deception.

62. By committing the acts alleged in this Complaint, Lancôme has misled Plaintiff and the Classes into purchasing the Product, in part or in whole, due to an erroneous belief that the Product will maintain affinity with the skin for 24 hours without the need for touch up. This is a deceptive business practice that violates NYGBL § 349. The coordinate advertising violates NYGBL § 350.

63. Lancôme's 24-hour Claim misled Plaintiff, and is likely in the future to mislead reasonable consumers. Had Plaintiff and other members of the Classes known of the true facts

about the Product's failure to work as promised, they would not have purchased the Product or paid substantially less for the Product.

64. The foregoing acts, omissions and practices set forth in connection with Defendants' violations of NYGBL § 349 and § 350 proximately caused Plaintiff and other members of the Classes to suffer actual damages in the form of, *inter alia*, monies spent to purchase the Product, and are entitled to recover such damages, together with equitable and declaratory relief, appropriate damages, including punitive damages, attorneys' fees and costs of suit.

**SECOND COUNT**  
**BREACH OF EXPRESS WARRANTY**  
**(On behalf of the Nationwide Class)**

65. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

66. As an express warrantor, manufacturer and merchant, Lancôme had certain obligations under N.Y.U.C.C. § 2-313 to conform the Product to its express warranties.

67. Plaintiff, and each member of the Class, formed a contract with Lancôme at the time they purchased the Product. The terms of that contract include the promises and affirmations of fact made by Lancôme on the labels of the Product and through the advertising and marketing campaign, as alleged above. The Product labeling and advertising constitute express warranties, became part of the basis of the bargain, and are part of a standardized contract between Plaintiff and the members of the Class, on the one hand, and Lancôme, on the other.

68. All conditions precedent to Lancôme's liability under the warranty have been performed by Plaintiff and the Class, except as may have been excused or prevented by the conduct of Lancôme or by operation of law in light of Defendants' unconscionable conduct described throughout this Complaint.

69. Lancôme breached the terms of the express warranty by not providing a Product that provided the benefits promised.

70. Lancôme received timely notice regarding the problems at issue in this litigation and, notwithstanding such notice, has failed and refused to offer an effective remedy.

71. In addition, Lancôme has received, on information and belief, numerous complaints and other notices from consumers advising them of the failure of the Product to meet the promised 24-hour Claim.

72. As a result of Lancôme's breach of warranty, Plaintiff and the Class have been damaged in the amount of the purchase price of the Product.

**THIRD COUNT**  
**UNJUST ENRICHMENT**  
**(On behalf of the Nationwide Class)**

73. Plaintiff incorporates the allegations set forth above as if fully set forth herein.

74. It would be inequitable for Lancôme to be allowed to retain the benefits which Lancôme was aware of, and which it obtained from its fraudulent misrepresentations and false advertising and labeling, at the expense of Plaintiff and members of the Class.

75. Plaintiff and members of the Class are entitled to the establishment of a constructive trust upon the benefits to Lancôme from the unjust enrichment and inequitable conduct.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of herself and the Classes, prays for judgment against Defendants granting the following relief:

A. An order certifying this case as a class action and appointing Plaintiff as Class representative and Plaintiff's counsel to represent the Classes;

B. Restitution and disgorgement of all amounts obtained by Lancôme as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations;

C. All recoverable compensatory and other damages sustained by Plaintiff and the Classes;

D. Actual and/or statutory damages for injuries suffered by Plaintiff and the Classes and in the maximum amount permitted by applicable law;

E. An order (1) requiring Lancôme to immediately cease its wrongful conduct as set forth above; (2) enjoining Lancôme from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; (3) ordering Lancôme to engage in a corrective advertising campaign; and (4) requiring Lancôme to reimburse Plaintiff and all members of the Classes the amounts paid for the Product;

F. Statutory pre-judgment and post-judgment interest on any amounts;

G. Payment of reasonable attorneys' fees and costs; and

H. Such other relief as the Court may deem just and proper.

DATED: April 30, 2013



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