IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

ELIZA REID and TRACY WATERS, on behalf of themselves and all others similarly situated, Plaintiffs, v. GMC SKIN CARE USA INC. d/b/a G.M. COLLIN, Defendant.	Civ. Action No. 8:15-cv-277 (BKS/CFH) CLASS ACTION COMPLAINT DEMAND FOR JURY TRIAL

Plaintiffs Eliza Reid and Tracy Waters ("Plaintiffs"), on behalf of themselves and all others similarly situated, alleges against GMC Skin Care USA, Inc. d/b/a G.M. Collin ("G.M. Collin" or "Defendant") the following upon their own knowledge, or where they lack personal knowledge, upon information and belief including the investigation of their counsel.

NATURE OF ACTION

1. This is a class action against G.M. Collin arising out of the marketing and sale of its "Phyto Stem Cell+," line of anti-aging skin care products, including Phyto Stem Cell+: Serum; Cream; Gel-Cream; Eye Contour; and Mask (collectively "the Stem Cell Products" or "Products").

2. Through an extensive, widespread, comprehensive and uniform nationwide marketing campaign, Defendant markets the Stem Cell Products as revolutionary and/or advanced anti-aging skincare products that purportedly stimulate collagen synthesis, regulates the activity and vitality of the epidermal stem cells and genes, promotes skin cell survival and longevity, and improves cellular metabolism. Furthermore, using the Stem Cell Products, results in a "DNA repair effect," "revers[ing] the signs of aging."

3. Defendant's representations, however, are false and misleading. The Mislabeled Stem Cell Products will not rebuild collagen, promotes skin cell survival and longevity or repair DNA, and will not provide consumers with anti-aging results including reduced lines and wrinkles, improved skin elasticity and resilience, and firmer younger looking skin. Rather, the plant cell extracts found in cosmetics, such as the Stem Cell Products, cannot survive in active form long-term and therefore cannot provide the therapeutic anti-aging effects. Moreover, as described herein, no ingredient found in the Stem Cell Products is capable of repairing the skin's DNA from past damage. Thus, Defendant's "stem cell" claims are patently false and Defendant's claims of increased cellular longevity are misleading to consumers.

4. Additionally, the Stem Cell Products are misbranded under the Food Drug and Cosmetics Act and its implementing regulations because G.M. Collin does not adequately disclose what the active ingredients are in the Stem Cell Products. Defendant's lack of disclosure is further misleading to consumers and if consumers were aware that the Products were misbranded, they would not have purchased the Products.

5. Defendant's hoax involves numerous false and misleading statements concerning its Stem Cell Products which have injured Plaintiffs and the Class by inducing them to purchase worthless and/or overpriced products. G.M. Collin does so with one goal in mind — reaping enormous profits at the expense of consumers. Defendant, however, should be held accountable and liable for its deceptive conduct in its marketing and sale of the Stem Cell Products

6. Plaintiffs seek relief in this action individually, and as a class action on behalf of all persons in the United States who, within the relevant statute of limitations period, purchased the Stem Cell Products, for Defendant's violation of the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301, *et seq.*, for unjust enrichment, breach of express warranty, breach of implied

warranty of merchantability, and violations of various consumer protection statutes including, the California Consumer Legal Remedies Act ("CLRA"), Civil Code § 1750, *et seq.*, Unfair Competition Law ("UCL"), Bus. & Prof. Code § 17200, *et seq.*, and the False Advertising Law ("FAL"), Bus. & Prof. Code § 17500, *et seq.*, the Washington Consumer Protection Act, RCW 19.86 *et seq*,. and the consumer fraud laws of the various states.

THE PARTIES

7. Plaintiff Tracy Waters is a resident of Tacoma, Washington. Plaintiff Waters purchased G.M. Collin's Phyto Stem Cell+ Eye Contour Cream on Amazon.com in or around March of 2013 for approximately $65.00. Plaintiff Waters purchased the Stem Cell Products in reliance on Defendant's misrepresentations, including those found on the product labeling and/or in various advertisements and promotional materials as described herein. Plaintiff Waters paid a significant premium because of the false and misleading claims she relied upon. Ultimately, the Stem Cell Product was worthless (and certainly worth less than its representations suggested), and Plaintiff Waters would not have purchased the Stem Cell Product if she had known that the claims on the label were false, misleading, and misbranded.

8. Plaintiff Eliza Reid is a resident of Lancaster, California. Plaintiff Reid purchased G.M. Collin Phyto Stem Cell+ Eye Contour Cream from a Walgreens store in Lancaster, California in or around February of 2014 for approximately $50.00. Plaintiff Reid purchased the Stem Cell Products in reliance on Defendant's misrepresentations, including those found on the product labeling and/or in various advertisements and promotional materials as described herein. Plaintiff Reid paid a significant premium because of the false and misleading claims she relied upon. Ultimately, the Stem Cell Product was worthless (and certainly worth less than its representations suggested), and Plaintiff Reid would not have purchased the Stem Cell Product if

she had known that the claims on the label were false, misleading, and misbranded.

9. Defendant GMC Skin Care USA, Inc. is a Delaware corporation with its principal place of business located at, 613 State Route 3, Suite 100, Plattsburgh, NY 12901. Defendant is registered to do business in the State of New York as entity number 3460972. Defendant manufactures markets and sells a variety of skin care products, including the Stem Cell Products throughout the United States. The Company bills itself as "an unequivocal leader in innovative skin care solutions by continually offering the highest quality, clinically proven, scientifically advanced preparations in both our unique, cost effective, pre-dosed clinical formulations." Moreover, according to the Company's website "[a] team of highly skilled scientists and professionals develop all our formulas internally, selecting only ingredients that have been proven safe and effective, and using them in optimal doses for the aesthetic conditions they are to treat." [1]

JURISDICTION AND VENUE

10. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2), as amended by the Class Action Fairness Act of 2005, because the matter in controversy, exclusive of interest and costs, exceeds the sum or value of $5,000,000, and is a class action where Plaintiffs and Class Members are from a different state than Defendant. Further, at least two thirds of the members of the class are citizens of a state different from Defendant. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

11. This Court also has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) because Plaintiff Reid is a resident of the state of California, Plaintiff Waters is a resident of the state of Washington, Defendant is a resident of the state of New York, and the amount in

[1] www.gmcollin.com/pdf/GMC-Portfolio.pdf.

controversy exceeds the sum or value of $75,000, exclusive of interests and costs.

12. In addition, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiffs are alleging that Defendant has violated the Magnuson-Moss Warranty Act ("MMWA"), 15 U.S.C. § 2301 et seq.

13. Personal jurisdiction is derived from the fact that Defendant systematically and continuously conducts business within the state of New York and maintains its headquarters and principal place of business within the state of New York.

14. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) and (c) because a substantial part of the events and acts giving rise to the claims herein occurred in this District and Defendant principal place of business is located within this judicial district.

FACTS

A. The Anti-Aging Products Marketplace

15. The US anti-aging skincare market has consistently exceeded $2 billion dollars in recent years.[2] Recent market research[3] has found that American women lead the way in anti-aging facial skincare usage when compared to their counterparts in Germany, France and the UK. The US, UK and France launched the most anti-aging skincare products between 2009 and 2011 compared to eastern countries Japan and China. 37% of US women have used ant-aging creams and serums, compared to 23% of UK women, 24% women in France, 25% of women in Germany, and 26% of women in Spain.

16. The anti-aging market for products beyond just skincare is far bigger and also growing at a rapid rate. "The market research firm, Global Industry Analysts, projects that a

[2] http://www.statista.com/statistics/312336/us-anti-aging-skin-care-sales/.
[3] *See American Women Most Likely to Use Anti-Aging Face Creams, the West Leads in NPD*, Mintel (Jun. 15, 2012), http://www.mintel.com/press-centre/press-releases/884/american-women-most-likely-to-use-anti-aging-face-creams-the-west-leads-in-npd.

boomer-fueled consumer base, 'seeking to keep the dreaded signs of aging at bay,' will push the U.S. market for anti-aging products from about $80 billion now to more than $114 billion by 2015."[4]

17. Anti-aging skincare is one of the industry's booming sectors. Wrinkle creams and facial serums are top sellers. The market for cosmetics with medicine-based ingredients – or "cosmeceuticals" - is estimated to be approaching $20 billion[5].

18. There are two types of aging in the skin: intrinsic or chronologic aging, and extrinsic or environmental aging. In intrinsic aging, free radicals are formed naturally through normal metabolism. With intrinsic aging, cellular mechanisms become less efficient resulting in fine wrinkles and a relaxed appearance. In extrinsic aging, the skin suffers additional free radical damage from exogenous factors such as UV exposure, cigarette smoking and air pollution. These environmental stressors not only accelerate skin aging, but are distinctly responsible for skin damage not present in chronological aging alone, leading to deep wrinkles, hyper-pigmentation, chronic inflammation, abnormal elastin formation, and cancer.[6]

19. Consumer Reports recently tested a number of anti-aging skincare products and their tests showed "inflated claims and limited results." Consumer Reports tested nine anti-aging face serums, all available at drug stores for prices ranging from $20 to $65 and all claiming to reduce wrinkles. "After six weeks of use, the effectiveness of even the best products was limited and varied from subject to subject," according to the review. When the tests did show wrinkle

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[4] *See Boomers Will Be Pumping Billions Into Anti-Aging Industry*, Huffington Post (Aug. 8, 2011), http://www.huffingtonpost.com/2011/08/20/boomers-anti-aging-industry_n_932109.html.
[5] *Id.*
[6] *See* R.M. Lavker, *Cutaneous aging: Chronologic versus photoaging*, 1 In B. Gilchrest (Ed.) Photodamage, 123-135 (1995); *see also* S. Bosset et al., *Photoageing shows histological features of chronic skin inflammation without clinical and molecular abnormalities*, 149 Brit J Derm. 826-835 (2003).

reductions, "they were at best slight, and they fell short of the miracles that manufacturers seemed to imply on product labels."[7] Consumer Reports also tested anti-aging wrinkle creams and also found that these products do not live up to their claims. The magazine tested seven wrinkle-cream products and one control product, finding that "[a]t best the products had a small effect, and not on everyone."[8]

20. The National Institute on Aging correctly advises that consumers should be skeptical and on guard for possible scams involving purported anti-aging products. "Our culture places great value on staying young, but aging is normal. Despite claims about pills or treatments that lead to endless youth, no treatments have been proven to slow or reverse the aging process."[9]

B. Defendant Capitalizes On The Booming Anti-Aging Products Market

21. To capitalize on this booming anti-aging product market and distinguish its products from the deluge of other skin care products available to consumers, Defendant has embarked on a massive misleading marketing campaign designed to convince consumers that its products offer astounding, often immediate anti-aging results, backed by extensive scientific research and clinical testing.

22. As a result, Defendant is able to induce consumers to pay exorbitant prices for the Stem Cell Products. The Stem Cell Products retail from approximately $50.00 to $136.00 per unit.

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[7] *See Anti-wrinkle face serums*, Consumer Reports Magazine: May 2010 (May 2010), http://www.consumerreports.org/cro/magazine-archive/2010/may/health/wrinkle-serum/overview/wrinkle-serum-ov.htm?loginMethod=auto >.

[8] *See Wrinkle Cream Buying Guide*, Consumer Reports (Apr. 2012), http://www.consumerreports.org/health/healthy-living/beauty-personal-care/wrinkle-products/wrinkle-creams/index.htm.

[9] *See Beware of Health Scams*, National Institute on Aging (Sept. 2008), http://www.nia.nih.gov/health/publication/beware-health-scams.

23. G.M. Collin's Stem Cell Product line can be purchased by consumers through boutique retailers, drugstores such as Walgreens, specialty health and beauty salons, and through major online retailers such as Amazon.com.[10]

C. Defendant's False And Misleading Marketing Of The Stem Cell Products

24. Defendant has engaged in a uniform marketing and advertising campaign designed to convince consumers that its Stem Cell Products (which feature plant stem cells) are scientifically and clinically proven to provide consumers with dramatic anti-aging results, including improving the appearance of fine lines and wrinkles and improved skin elasticity and firmness. Moreover, the Stem Cell Products purportedly stimulate collagen synthesis, regulate the activity and vitality of the epidermal stem cells and genes, promotes skin cell survival and longevity, and improves cellular metabolism, resulting in DNA repair effect and "reverse the aging process."

25. These false and misleading statements were disseminated in advertising, marketing, and promotional materials designed to induce consumers to purchase Stem Cell Products through the internet, through sales representatives, and at various stores.

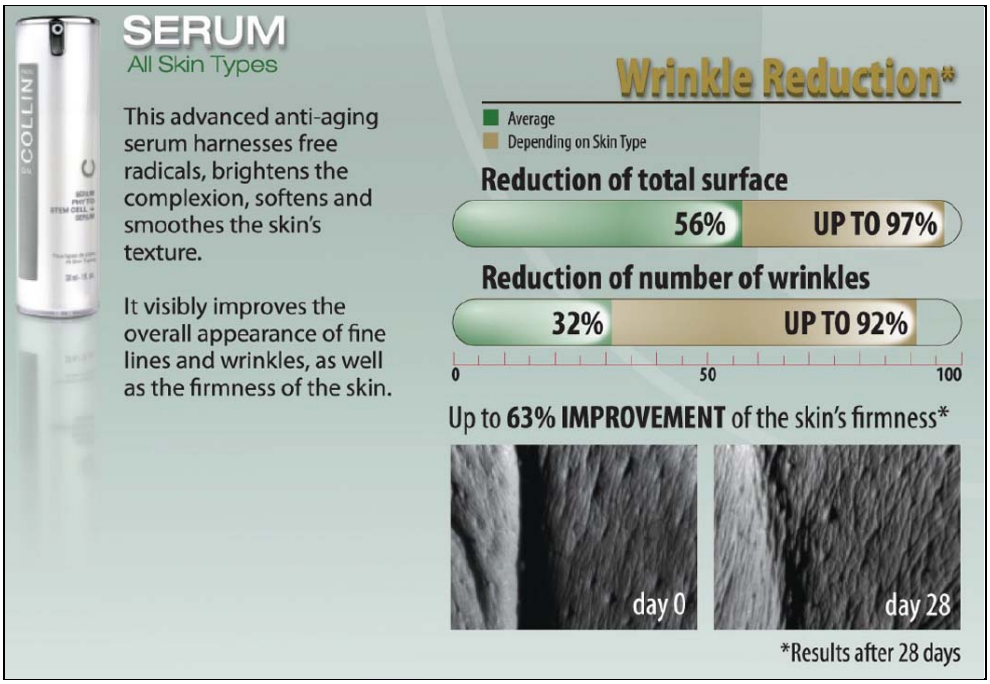
26. Indeed, on G.M. Collin's website, www.gmcollin.com, Defendant makes numerous anti-aging claims, purportedly backed by exhaustive scientific research including claims that Stem Cell Products will stimulate collagen synthesis, regulate the activity and vitality of the epidermal stem cells and genes, promotes skin cell survival and longevity, and improves cellular metabolism. For example, on the webpages for the Stem Cell Products, G.M. Collin represents that:

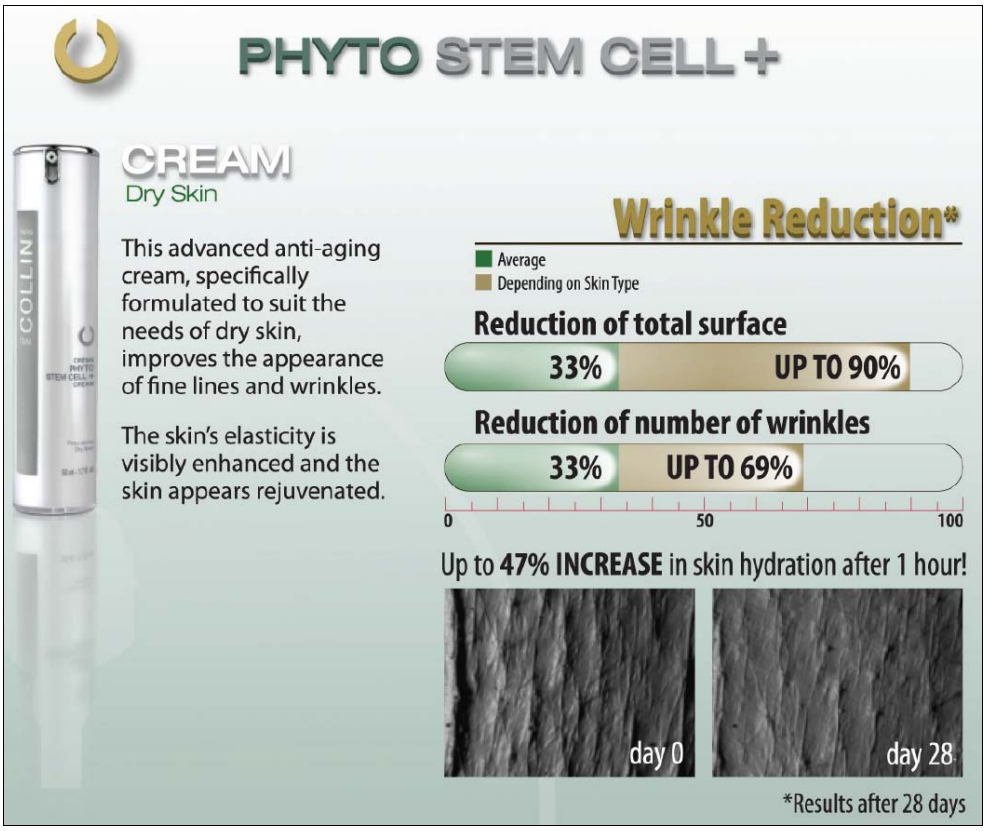
[10] While G.M. Collins claims on its website it does not sell its products online, it nonetheless offers its products for sale through Amazon.com. *See e.g., http://www.amazon.com/Collin-Phyto-Contour-Cream-Fluid/dp/B004BG7QTW/ref=sr_1_2?m=ATVPDKIKX0DER&s=beauty&ie=UTF8&qid=1423761285&sr=1-2.*

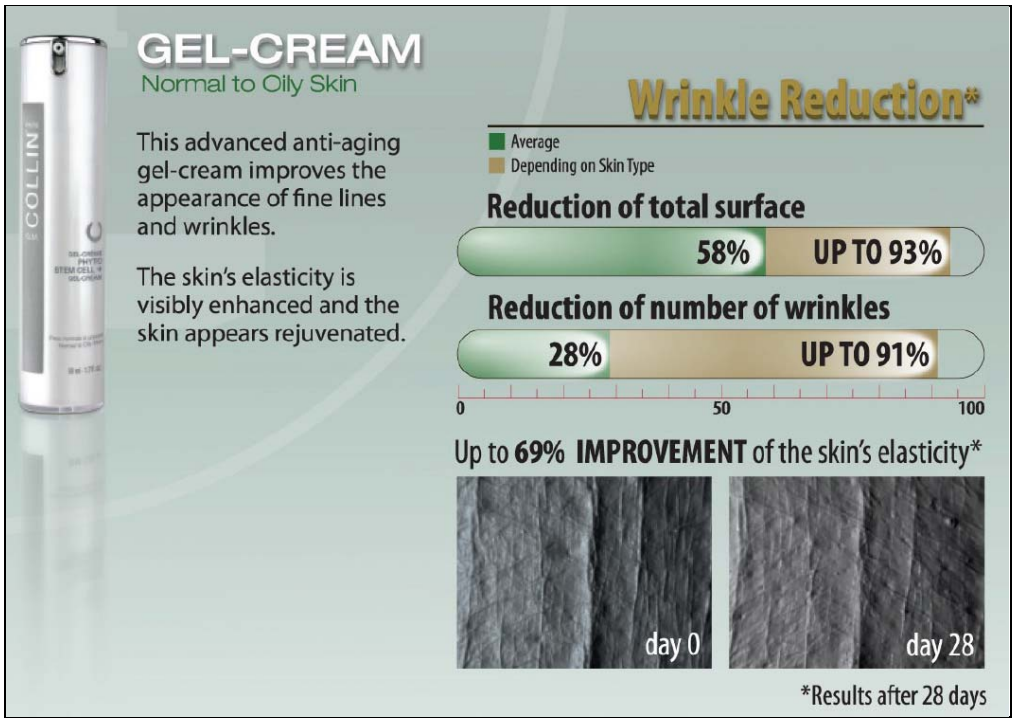
> This advanced anti-aging skin care collection with PLANT STEM CELLS, specifically formulated to suit the needs of all skin types, improves the appearance of fine lines and wrinkles, visibly enhances skin elasticity and provides a rejuvenating effect to the skin.

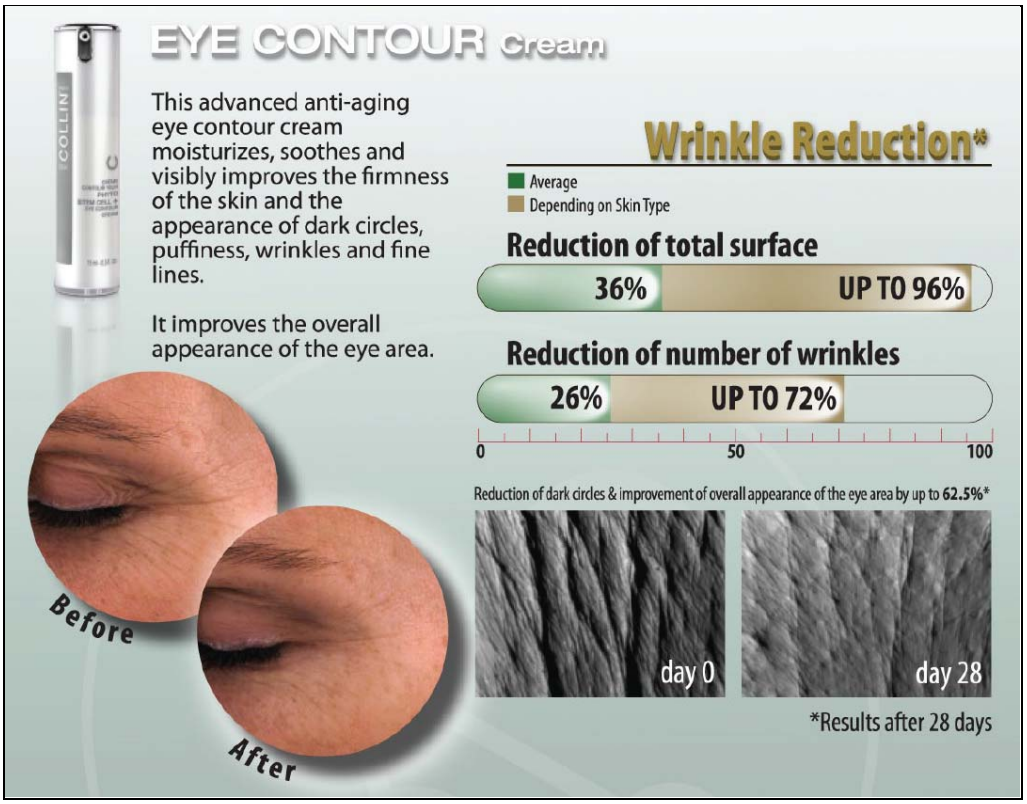
http://www.gmcollin.com/pdf/GMC-Portfolio.pdf

27. Furthermore, Defendant claims in various marketing materials that the Stem Cell Products can each provide drastic "Wrinkle Reduction" and dramatic improvements in skin firmness and skin elasticity:



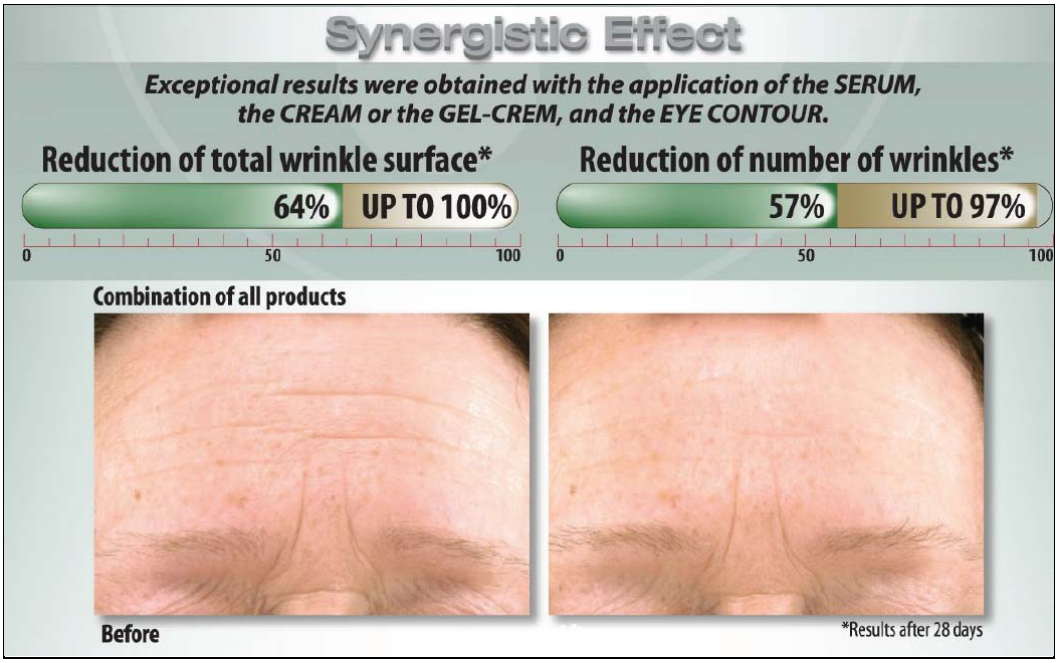

PHYTO STEM CELL +
CREAM
Dry Skin
This advanced anti-aging cream, specifically formulated to suit the needs of dry skin, improves the appearance of fine lines and wrinkles.
The skin's elasticity is visibly enhanced and the skin appears rejuvenated.
Wrinkle Reduction*
Average
Depending on Skin Type
Reduction of total surface
33%
UP TO 90%
Reduction of number of wrinkles
33%
UP TO 69%
0
50
100
Up to 47% INCREASE in skin hydration after 1 hour!
day 0
day 28
*Results after 28 days


GEL-CREAM
Normal to Oily Skin
This advanced anti-aging gel-cream improves the appearance of fine lines and wrinkles.
The skin's elasticity is visibly enhanced and the skin appears rejuvenated.
Wrinkle Reduction*
Average
Depending on Skin Type
Reduction of total surface
58%
UP TO 93%
Reduction of number of wrinkles
28%
UP TO 91%
0
50
100
Up to 69% IMPROVEMENT of the skin's elasticity*
day 0
day 28
*Results after 28 days



http://www.gmcollin.com/images/intro/StemCellEN.pdf

28. Defendant also represents combining the Stem Cell Products will provide "exceptional results," leading to a reduction of the number of wrinkles up to 97%.



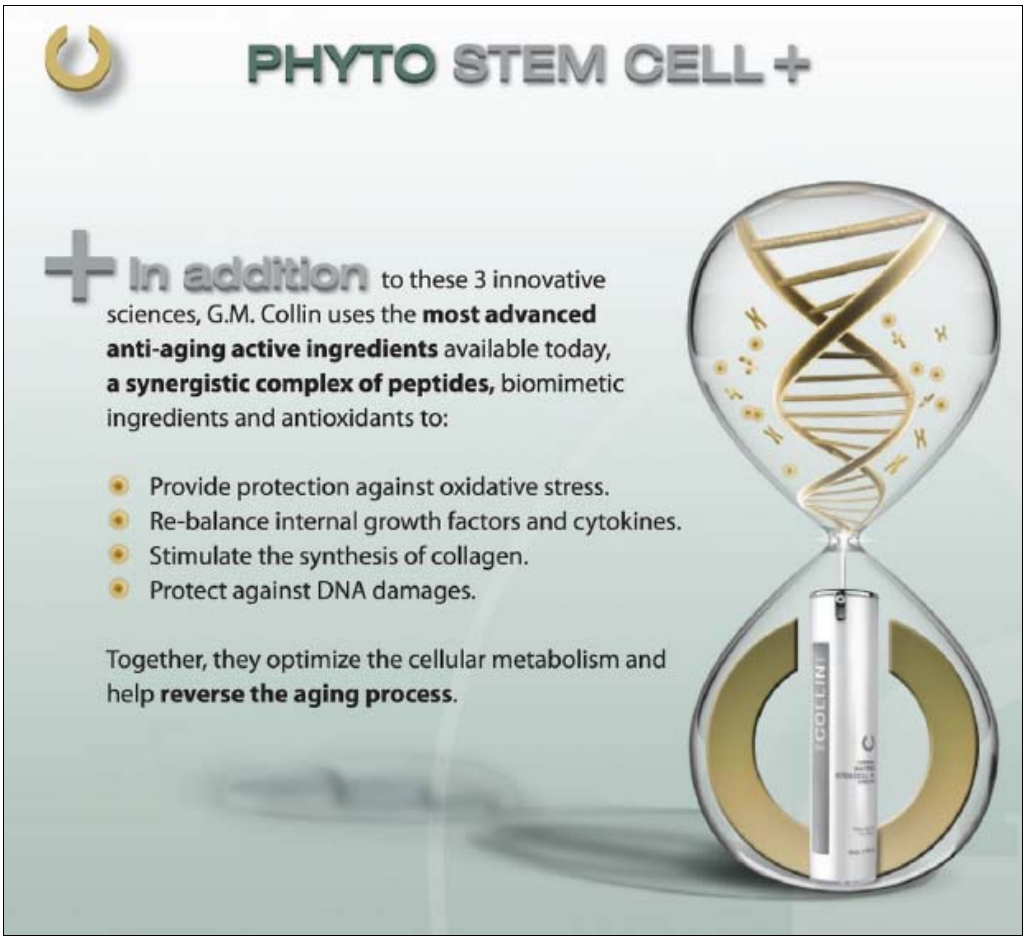
Id.

29. In addition to Defendant's claim that plant stem cells are capable of preventing the signs of aging, Stem Cell Product line also employs a design of intertwined double-stranded molecules, which is immediately recognizable as the "double helix" design of DNA. The marketing and packaging of Stem Cell Products also prominently displays the phrases "Cellular Anti-Aging Skin Care" and "Phyto Stem Cell+," all designed to capitalize on the growing interest in stem cell research:

30. This message is repeated in in various advertisements. For example, Defendant touts "Telomere (DNA) Protection & Cellular Longevity" for the entire Stem Cell Product collection:

http://www.gmcollin.com/pdf/GMC-Portfolio.pdf

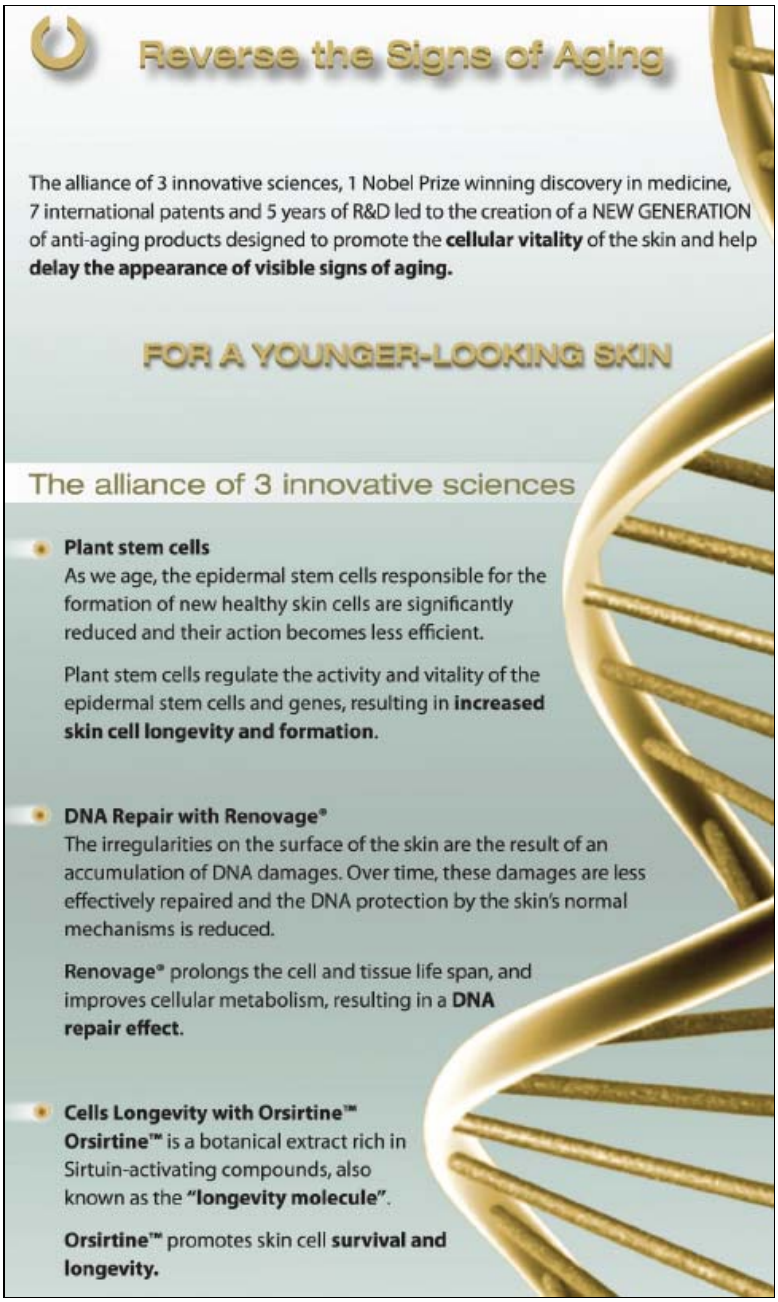
31. Defendant also prominently features the double helix design alongside the claims that Stem Cell Products will "Reverse the Signs of Aging," and "help **reverse the aging process**":



www.gmcollin.com/images/intro/StemCellEN.pdf

32. Additionally, the packaging and marketing materials of the Stem Cell Product line say that the Products can "delay the signs of aging" and that "the alliance of 3 powerful innovative sciences gives birth to a unique product collection which promotes the cellular vitality of the skin and helps delay the visible signs of aging." Specifically, Defendant claims on the Product packaging and on its website that the Stem Cell Products have three key ingredients that can fight the signs of aging: 1.) Plant Stem Cells, 2.) DNA repair with Renovage®, and 3.) Cell Longevity with Orsirtine. The purported "plant stem cells" in the Stem Cell Products are a "Malus Domestica Fruit Cell Culture Extract" that Defendant claims "increases longevity of skin stem cells" and "protects and maintains the function of skin stem cells."

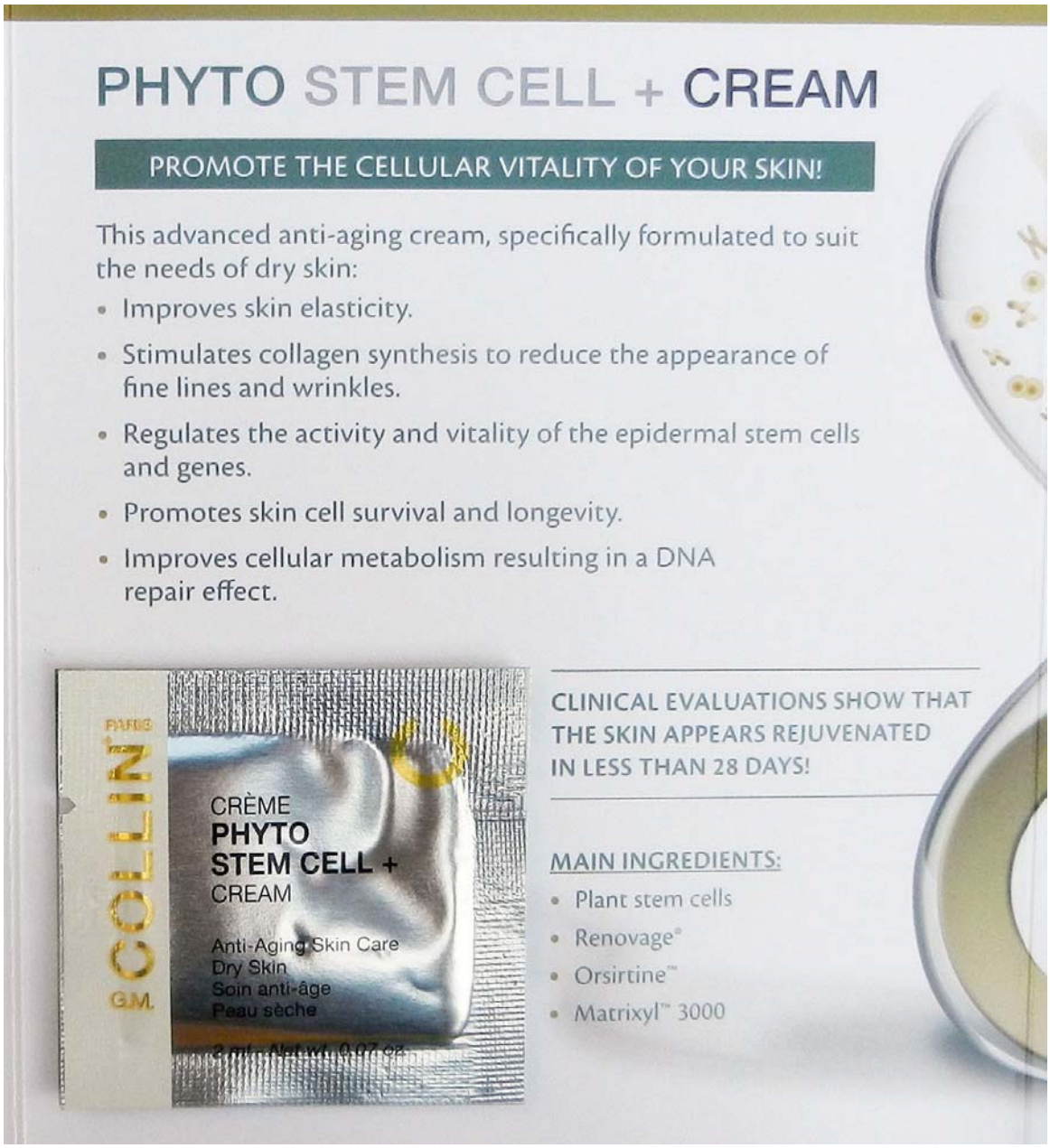
33. Defendant further states on the Products' packaging and its marketing materials that "As we age, the epidermal stem cells responsible for the formation of new healthy skin cells are significantly reduced and their action becomes less efficient" and that "Plant stem cells regulate the activity and vitality of the epidermal stem cells and genes, resulting in increased skin cell longevity and formation."



http://www.gmcollin.com/images/intro/StemCellEN.pdf.

34. Moreover, Defendant states on the Products' packaging that "The irregularities on the surface of the skin are the result of an accumulation of DNA damage" and that "over time, this damage is less effectively repaired and the DNA protection by the skin's normal mechanisms is reduced." Defendant also claims in its marketing material that "Renovage prolongs the skin cell and tissue life span, and improves cellular metabolism, resulting in a DNA repair effect." A copy of the product packaging Stem Cell Products Eye Contour Cream featuring these misrepresentations is provided below:

35. Similarly, the product packaging of Stem Cell Products Cream states the product will "improve skin elasticity," "stimulates collagen synthesis to reduce the appearance of fine line and wrinkles," "regulates the activity and vitality of the epidermal stem cells," "promotes skin cell survival and longevity," and improves cellular metabolism resulting in a DNA repair effect." A copy of the product packaging featuring these misrepresentations is provided below:



36. To bolster these claims, G.M. Collin's utilizes various marketing and advertising to suggest that its Stem Cell Products are backed by legitimate and vigorous scientific research. For example, Defendant claims that the Stem Cell Products are the result of the "[t]he alliance of 3 innovative sciences, 1 Nobel Prize winning discovery in medicine, 7 international patents and 5 years of R&D."

37. Additionally, on the "About Us" section of its website, G.M. Collin displays images of scientists in lab coats, and touts that "A team of highly skilled scientists and professionals develop all our formulas internally, selecting only ingredients that have been proven safe and effective…"[11]

R&D: OUR COMMITMENT TO QUALITY, PERFORMANCE, SAFETY AND EXCELLENCE

At G.M. Collin, we abide by the strictest manufacturing regulations - ones that comply with current pharmaceutical standards. All of our products are manufactured in accordance with the standards set by Health Canada and the FDA in the United States. A team of highly skilled scientists and professionals develop all our formulas internally, selecting only ingredients that have been proven safe and effective, and using them in optimal doses for the aesthetic conditions they are to treat.

WHERE NATURE MEETS TECHNOLOGY

At G.M. Collin, products are developed with one goal in mind: To offer high tech skin care solutions, which are deeply rooted in the brilliance of nature. Beauty reborn is about recapturing your true, natural radiance with the help of modern technology.

G.M. Collin products are derived from natural plant and marine extracts and are technologically developed to achieve visible results. While our laboratory uses the highest scientific standards, our philosophy of respect for the environment mandates that our products are not tested on animals. This balanced commitment to good science is the cornerstone of all our product development. While our ultimate goal is to offer the best skin care products on the market today, the true spirit of G.M. Collin is to help women and men look great while feeling good about how they achieved the results.

38. Similarly, Defendant touts in its brochures that it maintains "Excellence In R&D" and "a state of the art clinical evaluation department." Specifically:

> G.M. Collin sets itself apart as a leader in professional skin care with its very own state of the art clinical evaluation department. Throughout the entire development process, our clinical evaluation department submits several preparations for exhaustive testing involving qualitative evaluations using the most sophisticated

[11] http://www.gmcollin.com/en/aboutUs_noJS.php#r&d.

> instruments. Our clinical evaluation department has a bank of over 1000 volunteers of all ages, skin types and skin conditions, available to participate to the various qualitative and quantitative studies. A new product is launched only under the condition that the highest quality of results have been achieved.

http://www.gmcollin.com/pdf/GMC-Portfolio.pdf.

D. Plant Stem Cells Cannot Reduce Or Prevent Signs Of Aging

39. Each of G.M. Collins anti-aging claims, however, is false and misleading. As noted by S. Jay Olshansky, a distinguished professor at the University of Illinois-Chicago's School of Public Health who has written extensively about aging, "If someone is promising you today that you can slow, stop or reverse aging, they're likely trying hard to separate you from your money."[12]

40. The idea behind stem cell therapy is that living stem cells can help rebuild and repair human organs. Stem cells are living undifferentiated biological cells that can become specialized cells in human organs and, in turn, divide and produce more healthy specialized cells. Like human stem cells, living plant stem cells have the ability to self-renew and replace specific cells in plants that are in need of repair. However, living plant stem cells are not found in beauty products and even if they were, they would not have the capability to differentiate into specialized human skin cells.

41. Paolo U. Giacomoni, who was formerly the executive director of research at Estee Lauder, and who received a Laurea in Atomic Physics from the University of Milan and a Ph.D. in Biochemistry from the University of Paris, is critical of the role of stem cells in cosmetics. "Stem cell technology is still far from biomedical applications, let alone cosmetic ones," states

[12] *See* http://www.huffingtonpost.com/2011/08/20/boomers-anti-aging-industry_n_932109.html (last accessed November 12, 2012).

Giacomoni.[13]

42. The Stem Cell Products do not actually contain any living plant stem cells among its ingredients, but rather the Products contain the ingredient "Malus Domestica Fruit Cell Culture" which contains deceased plant stem cells. Stem cell culture is a delicate process requiring temperature-controlled incubators and a constant supply of growth factors presented to the cells in specially-formulated sterile media. Stem cells die quickly after removal from such sterile conditions. After cell death, the cells are quickly broken down by enzymatic, chemical and bacterial means. To assert that any cosmetic product could contain anything resembling a stem cell after undergoing the manufacturing process that adds dozens of additional herbal and chemical components is a patently absurd falsehood that seeks to prey on the average consumer's ignorance of cell biology.

43. Moreover, plant stem cell extracts are unable to reverse the signs of aging as Defendant claims. Rather, Plant stem cell extracts don't likely interact with human stem cells at all. Jörg Gerlach, M.D., Ph.D., Professor of surgery at the University of Pittsburgh has stated that "Stem cells need specific nutrition via blood supply in the tissue to survive and function — if they were layered onto intact skin the stem cell would just die."[14] That conclusion has been echoed by other leading experts in the fields of medicine and biology. For example, a leading Professor of Botany at Oxford University was quoted by *The Daily Mail* saying, "I don't see how

[13] http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2581859/.

[14] *See* Brooke Borel, *Stem Cell Skincare: Fact or Fiction? A growing list of beauty creams boast they can reverse wrinkles and defy age with the help of stem cells, but none have the science to back up the claims*, YOU BEAUTY, Oct. 17, 2011, *available at* http://www.youbeauty.com/skin/stem-cells-skincare.

plant stem could interact with human stem cells in this way."[15] Even some leading proponents of plant stem cells admit that anti-aging benefits to the skin after topical application of plant stem cells "could not be confirmed in a clinical trial."[16] Likewise, Dr. Waleed Ezzat, MD, a facial reconstructive surgeon at the Boston Medical Center was quoted by *Boston Magazine* saying, "The bottom line is that there is no conclusive scientific data that absorbing stem cell extracts from a cream can really reverse the aging process. My advice is that a good cream is a good cream. But if the advertising seems to [*sic*] good to be true, it most likely is. Buyer beware."[17]

44. G.M. Collin misleads consumers by explicitly and implicitly representing that plant stem cells in the Stem Cell Products can help prevent the signs of aging. However, Plant Stem cells cannot reverse or prevent the signs of aging as Defendant suggests because it is scientifically impossible for plant stem cells to interact with human skin cells in a way that would reduce the effects of aging. If reasonable consumers would have known the truth about the efficacy of stem cells in the Products, then they would not have purchased the Products.

E. <u>The Stem Cell Products Cannot Repair DNA</u>

45. Defendant claims that the Renovage, an ingredient in its Stem Cell Products, has a "DNA repair effect." Renovage is a skin care solution that is manufactured by Sederma, which is a leading manufacturer of cosmetic bulk ingredients.[18]

46. Defendant misleads reasonable consumers into believing that the Renovage

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[15] *See* Leah Hardy, *Could the extract form a rare swiss apple REALLY get rid of your wrinkles?*, DAILY MAIL, Nov. 30, 2009, *available at* http://www.dailymail.co.uk/femail/article-1231889/Could-extract-rare-Swiss-apple-REALLY-rid-wrinkles.html.

[16] *Id.*

[17] *Ask a Doctor: Do Stem Cell Face Creams Really Work? A facial plastic surgeon tells us the truth behind the stem cell face cream marketing hype*, BOSTON MAGAZINE, Jan. 8, 2013, *available at* http://www.bostonmagazine.com/health/blog/2013/01/08/stem-cell-face-creams/.

[18] http://www.sederma.com/home.aspx?view=dtl&d=content&s=111&r=178&p=1138&prodID=97.

ingredient is capable of repairing the skin's DNA. However, neither Renovage nor any other ingredient is capable of repairing DNA. This is because DNA damage sustained via direct or indirect injury cannot be repaired by antioxidants or topically applied enzymes such as those found in beauty products.

47. The only way to repair skin DNA is through endogenous enzymatic repair mechanisms that are naturally triggered by the cells themselves when DNA damage occurs.[19] Although antioxidants, enzymes, and other ingredients in beauty products may prevent future DNA damage by protecting the skin from environmental stressors such as UVA rays, there is no possible way that any ingredient applied to the skin can repair past DNA damage as Defendant claims. Leonard Guarente, Ph.D, a MIT biologist and genetic researcher, has stated that "No known substance can cause genes to repair themselves."[20]An article in *The Daily Mail* notes that "Some skincare products make extravagant claims to be able to repair your DNA via creams that contain the same enzymes that the body produces, but many experts are skeptical."[21]

F. The Stem Cell Products Are Misbranded Under California Law

1. The Federal Food, Drug, and Cosmetic Act

48. California's counterpart to the FDCA, known as the Sherman Law, incorporates the FDCA's drug regulations. Cal. Health & Safety Code §§ 109925, 110110, 111550. Further, the Sherman Law provides that "[a]ny drug or device is misbranded if its labeling is false or

[19] *See generally* Suzanne Clancy, *DNA Damage & Repair: Mechanisms for Maintaining DNA Integrity*, *Nature Education* (2008), *available at* http://www.nature.com/scitable/topicpage/dna-damage-repair-mechanisms-for-maintaining-dna-344 (last visited Feb. 19, 2015)..

[20] *DNA repair is the new anti-aging frontier*, 2009 Rodman Publishing, *available at* http://www.thefreelibrary.com/DNA+repair+is+the+new+anti-aging+frontier.-a0202253483 (last visited Feb. 19, 2015).

[21] Claire Coleman, *Overdone the sun? Our after-summer rescue plan will repair most the damage- and leave your skin with a healthy glow*, The Daily Mail (Sept. 13, 2014), *available at* http://www.dailymail.co.uk/health/article-2754636/Overdone-sun-Our-summer-rescue-plan-repair-damage-leave-skin-healthy-glow.html (last visited Feb. 19, 2015).

misleading in any particular." *Id.* § 111330.

49. The FDCA, 21 U.S.C. §§ 301 *et seq.*, governs the sale of foods, drugs, and cosmetics in the United States. The classification of a product as a food, drug, or cosmetic, affects the regulations by which the product must abide. In general, a product is characterized according to its intended use, which may be established, among other ways, by: (a) claims stated on the product's labeling, in advertising, on the Internet, or in other promotional materials; (b) consumer perception established through the product's reputation, for example by asking why the consumer is buying it and what the consumer expects it to do; or (c) the inclusion of ingredients well-known to have therapeutic use, for example fluoride in toothpaste.[22]

50. The FDCA defines drugs, in part, by their intended use, as "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease," or "articles (other than food) intended to affect the structure or function of the body of man or other animals," 21 U.S.C. § 321(g)(1).

51. The FDCA defines cosmetics by their intended use, as "articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human

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[22] http://www.fda.gov/cosmetics/guidancecomplianceregulatoryinformation/ucm074201.htm *see also* 21 C.F.R. § 201.128.

> The words *intended uses* or words of similar import . . . refer to the objective intent of the persons legally responsible for the labeling of drugs. The intent is determined by such persons' expressions or may be shown by the circumstances surrounding the distribution of the article. This objective intent may, for example, be shown by labeling claims, advertising matter, or oral or written statements by such persons or their representatives. . . . But if a manufacturer knows, or has knowledge of facts that would give him notice, that a drug introduced into interstate commerce by him is to be used for conditions, purposes, or uses other than the ones for which he offers it, he is required to provide adequate labeling for such a drug which accords with such other uses to which the article is to be put.)

body . . . for cleansing, beautifying, promoting attractiveness, or altering appearance," 21 U.S.C. § 321(i)(1).

52. The FDA has explained that "[s]ome products meet the definitions of both cosmetics and drugs," for example, "when a product has two intended uses" as with an anti-dandruff shampoo," which "is a cosmetic because its intended use is to cleanse the hair," and also "is a drug because its intended use is to treat dandruff. . . . Such products must comply with the requirements for both cosmetics and drugs." [23]

53. The FDA has further explained that "[f]irms sometimes violate the law by marketing a cosmetic with a drug claim or by marketing a drug as if it were a cosmetic, without adhering to requirements for drugs."[24]

2. The Stem Cell Products are Both Cosmetics and Drugs

54. G.M. Collin markets the Stem Cell Products as cosmetics. But the Stem Cell Products are also drugs because an intended use of the products, as repeatedly demonstrated throughout G.M. Collin's packaging, advertising, and marketing materials, is to affect the structure and function of the human body, specifically, DNA within human skin. Accordingly, the product is promoted for uses that cause it to be a drug under 21 U.S.C. § 321(g)(1), including through statements similar to those the FDA has found render other, similar products to be considered drugs under the Act.[25]

55. Specifically, the following G.M. Collin representations expressly set forth therapeutic uses or purposes for the Stem Cell Products, rendering them drugs under the FDCA:

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[23] *Id.*
[24] *Id.*
[25] *See, e.g.*, Oct. 9, 2008 FDA Warning Letter to Natural Biology, Inc., *available at* http://www.fda.gov/iceci/enforcementactions/warningletters/2008/ucm1048101.htm (finding product to be promoted as a drug in part based on representation that it "provid[es] greater protection against DNA damage than vitamins C, E, or beta-carotene.").

a) "Promotes vitality of the skin."

b) "Improves the overall appearance of the eye area"

c) "Improves the firmness of the skin and the appearance of dark circles, puffiness, wrinkles, and fine lines"

d) "Cellular Anti-Aging Skin Care"

e) "This advanced anti-aging serum harnesses free radicals, brightens the complexion, softens and smoothes the skin's texture" and "visibly improves the overall appearance of fine lines and wrinkles, as well as the firmness of the skin."

f) "Improves the appearance of fine lines and wrinkles"

g) "Targets protection, prevention and regeneration of skin damage to delay the visible signs of aging"

h) "Regulates the activity of the genes and the function of the cell to increase cells longevity."

3. The Stem Cell Products are Misbranded Because their Labels Violate FDCA Regulations for Over-the-Counter (OTC) Drugs

56. Pursuant to 21 U.S.C. § 352(c), "[a] drug . . . shall be deemed to be misbranded . . . [i]f any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon . . . ."

57. Drug labeling regulations appear in Part 201 of Title 21 of the Code of Federal Regulations.

58. Pursuant to 21 U.S.C. § 352(c), "[a] drug . . . shall be deemed to be misbranded . . . [u]nless its labeling bears (1) adequate directions for use . . . ."

59. The Stem Cell Products are misbranded because they do not state the active drug ingredients as required by 21 C.F.R. § 201.66(c), which provides in part:

> The outside container or wrapper of the retail package . . . shall contain . . . . (2) "Active ingredient" or "Active ingredients" "(in each [insert the dosage unit stated in the directions for use (e.g., table, 5 mL teaspoonful) or in each gram as stated in 333.110 and 333.120 of this chapter])", followed by the established name of each active ingredient and the quantity of each active ingredient per dosage unit. Unless otherwise provided in an applicable OTC drug monograph or approved drug application, products marketed without discreet dosage units (e.g., topicals) shall state the proportion (rather than the quantity) of each active ingredient.

60. Specifically, the Products do not contain an adequate "Active Ingredients" statement.

61. Defendant thus also fails to disclose the proportion of these ingredients on the Products' label and packaging, in violation of 21 C.F.R. §§ 201.66(c)(2).

62. 21 C.F.R. § 201.66(d) provides the "Format requirements" for the disclosures required under 21 C.F.R. § 201.66(c)(2). Since Defendant fails to even make those required disclosures, it also violates 21 C.F.R. § 201.66(d).

63. Accordingly, the Stem Cell Products are misbranded pursuant to 21 U.S.C. § 352(c) and 21 C.F.R. § 201.66.

64. Defendant's failure to disclose the proportion of active ingredients in the Stem Cell Products misleadingly obscures from consumers the amounts or proportions contained in the products, which could therefore be miniscule.

65. In addition, 21 C.F.R. § 201.5 sets forth the definition of "adequate directions for use" used in 21 U.S.C. § 352(f), and specific examples of inadequate directions. Since Defendant does not provide any adequate directions for use, it is misbranded pursuant to both 21 U.S.C. § 352(f) and 21 C.F.R. § 201.5.

4. The Stem Cell Products are Misbranded Because their Labels Violate FDCA Regulations for Cosmetics

66. Pursuant to 21 U.S.C. § 362(c), "[a] cosmetic shall be deemed to be misbranded .

. . . [i]f any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon . . . .”

67. Cosmetic labeling regulations appear in Part 701 of Title 21 of the Code of Federal Regulations.

68. Pursuant to 21 C.F.R. § 701.3(d), because the Stem Cell Products are “cosmetic[s] [that are] also [ ] over-the-counter drug product[s],” they must “declare the active drug ingredients as set forth in 201.66(c)(2) and (d) of” title 21 of the Code of Federal Regulations.

69. As alleged above, the Stem Cell Products fail to make the required statement of active ingredients under 21 C.F.R. § 201.66. Accordingly, the products are misbranded pursuant to 21 U.S.C. § 362(c) and 21 C.F.R. § 701.3.

5. The Stem Cell Products are Unapproved New Drugs

70. Placing an unapproved new drug into the stream of commerce is an independent wrongful act under the FDCA, different than misbranding. 21 U.S.C. § 355(a).

71. Under the FDCA, drugs must either receive premarket approval by the FDA through a New Drug Application process, or conform to a monograph for a particular drug category, as established by the FDA’s Over-the-Counter Drug Review. Such monographs specify conditions whereby OTC drug ingredients are generally recognized as safe and effective, and not misbranded.

72. The FDA has not conducted a review of the Stem Cell Products and found them to be generally recognized as safe. Nor has the FDA concluded that at least some of its active ingredients are generally recognized as safe or effective.

73. Because the Stem Cell Products are not generally recognized as safe and effective when used as labeled, they are new drugs as defined in 21 U.S.C. § 321(p).

74. Such new drugs may not be lawfully marketed in the United States without prior approval from the FDA as described in 21 U.S.C. § 355(a), in the form of a New Drug Application approved.

75. Defendant has filed no New Drug Application for the Stem Cell Products, nor has the FDA ever approved any such application for the products.

G. Defendant's False And Misleading Claims Are Material

76. All of Defendant's false and/or misleading claims challenged herein relate to matters that are material and important to a consumer's purchasing decision, as they concern the effectiveness of the Stem Cell Products, the qualities and/or composition of the products and the reason for which they are sold.

77. Defendant's uniform cellular anti-aging claims in its marketing and promotional materials are intended to, and did, induce Plaintiffs and members of the Class to rely upon those representations that Defendant's Stem Cell Products were effective and scientifically tested and/or proven to build collagen, regulates the activity and vitality of the epidermal stem cells and genes, promotes skin cell survival and longevity, and improves cellular metabolism, providing consumers with anti-aging results including reduced lines and wrinkles, improved skin elasticity and resilience, and firmer younger looking skin, and were effective for their intended use. These representations were a substantial factor in causing Plaintiffs and members of the Class to purchase Defendant's Stem Cell Products.

78. At the time members of the Class purchased the Stem Cell Products, they were unaware of the fact that the products are not proven effective for their intended use, nor are they generally recognized among qualified experts as effective, nor that plant cell extracts found in cosmetics, such as the Stem Cell Products, cannot survive in active form long-term and therefore

cannot provide the therapeutic anti-aging effects.

79. If members of the Class had been aware of the true facts concerning the efficacy of the Stem Cell Products, they would not have purchased the products.

80. Plaintiffs and members of the Class have been injured in fact and have suffered out of pocket losses. Plaintiffs and members of the Class therefore seek a full refund and/or rescission of the transaction and all further equitable and injunctive relief as provided by applicable law.

81. Plaintiffs also sustained legally cognizable injury in the form of lost money as a result of Defendant's misbranding, which also was in the nature of an omission, *i.e.*, Defendant's failure to adequately disclose the Stem Cell Products' active drug ingredients and their proportions, as well as the failure to provide adequate directions for use. Had G.M. Collin labeled the Stem Cell Products in conformance with applicable FDCA and state law cosmetic and drug regulations, Plaintiffs would not have purchased them at all.

82. Plaintiffs sustained legally cognizable injury in the form of lost money as a result of G.M. Collin's marketing the Stem Cell Products in a manner that causes them to be new drugs within the meaning of the FDCA. Since manufactures may not lawfully market or sell *any* new drug, the Stem Cell Products would not have been available for sale to Plaintiffs if Defendant had acted lawfully.

CLASS ACTION ALLEGATIONS

83. Pursuant to Federal Rule of Civil Procedure 23, plaintiffs seek to represent a class of all persons in the United States who purchased during the applicable statute of limitations period one or more of the Stem Cell Products for personal, family, or household use, and not for resale.

84. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff Reid further seeks to represent a subclass of all persons in California who purchased during the applicable statute of limitations period one or more of the Stem Cell Products for personal, family, or household use, and not for resale.

85. In addition, Pursuant to Federal Rule of Civil Procedure 23, Plaintiff Waters seeks to represent a subclass of all persons in Washington who purchased during the applicable statute of limitations period one or more of the Stem Cell Products for personal, family, or household use, and not for resale.

86. The members in the proposed class and subclass are so numerous that individual joinder of all members is impracticable, and the disposition of the claims of all class members in a single action will provide substantial benefits to the parties and Court.

87. Questions of law and fact common to plaintiffs and the class include, but are not limited to the following:

a. Whether the Products contain active plant stem cells;

b. Whether the plant cell extracts in the Products directly interact with, stimulate, or otherwise affect the human skin's DNA;

c. Whether the Products directly interact with, stimulate, or otherwise affect the human skin's DNA;

d. Whether the Stem Cell Products' packaging or labels violate applicable FDCA and state law regulations relating to drugs and cosmetics;

e. Whether Defendant marketed and sold the Products as new drugs, in violation of applicable FDCA and state law statutory and regulatory provisions;

f. Whether Defendants labeling, marketing and promotion of the Stem Cell Products is false and misleading;

g. The proper equitable and injunctive relief;

h. The proper amount of actual or compensatory damages;

i. The proper amount of restitution or disgorgement;

j. The proper amount of punitive damages; and

k. The proper amount of reasonable litigation expenses and attorneys' fees.

88. Plaintiffs' claims are typical of class members' claims in that they are based on the same underlying facts, events, and circumstances relating to Defendant's conduct.

89. Plaintiffs will fairly and adequately represent and protect the interests of the class, have no interests incompatible with the interests of the class, and have retained counsel competent and experienced in class action litigation.

90. Class treatment is superior to other options for resolution of the controversy because the relief sought for each class member is small such that, absent representative litigation, it would be infeasible for class members to redress the wrongs done to them.

91. Questions of law and fact common to the class predominate over any questions affecting only individual class members.

92. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P. 23(a), (b)(2), and (b)(3).

COUNT I

VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT

(15 U.S.C. § 2301, *et seq.*)

(By the Nationwide Class)

93. Plaintiffs and Class members reallege and incorporate by reference each

allegation set forth above and further allege as follows.

94. Plaintiffs bring this Count I individually and on behalf of the members of the Nationwide Class, against Defendant.

95. The Stem Cell Products are consumer products as defined in 15 U.S.C. § 2301(1).

96. The Stem Cell Products are sold at retail for more than twenty five dollars.

97. Defendant is a supplier and warrantor as defined in 15 U.S.C. § 2301 (4) and (5).

98. In connection with the sale of the Stem Cell Products, Defendant issued written warranties as defined in 15 U.S.C. § 2301 (6), which warranted that the Stem Cell Products contained plant stem cells that could reverse the signs of aging and that the Products have an effect on the skin's DNA.

99. In connection with the sale of the Stem Cell Products, Defendant impliedly warranted as defined in 15 U.S.C. §2301(7), that the products were of merchantable quality, such that the products were of the same average grade, quality, and value as similar goods sold under similar circumstances.

100. Defendant breached these warranties because the Stem Cell Products are not effective for their intended use and plant stem cells have never been proven effective by competent and reliable scientific evidence to reverse the signs of aging.

101. Plaintiffs provided notice of Defendant's breach of warranties prior to filing suit.

102. By reason of Defendant's breach of the express written warranties, Defendant violated the statutory rights owed to Plaintiffs and Class members pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*, thereby damaging Plaintiffs and Class members.

103. Plaintiffs and the Class members were injured as a direct and proximate result of Defendant's breach because they would not have purchased the Stem Cell Products if the true

facts had been known.

104. Prior to filing this action, Plaintiffs, by and through their counsel, provided Defendant with written notice of their claims pursuant to 15 U.S.C. § 2310(e) and also notified Defendant that they are acting on behalf of a Class defined as all persons in the United States who purchased Stem Cell Products.

COUNT II

BREACH OF EXPRESS WARRANTY

(By the Nationwide Class)

105. Plaintiffs and the Class members reallege and incorporate by reference each allegation set forth above and further allege as follows.

106. Plaintiffs bring this Count II individually and on behalf of the members of the Class against Defendant.

107. Defendant, as manufactures, marketers, distributors, or sellers, expressly warranted that the plant stem cells in the Stem Cell Products were effective at reducing the signs of aging. Defendant expressly warranted through advertisements and online marketing that the Stem Cell Products could repair the skin's DNA.

108. In fact, the Stem Cell Products are not effective for their intended use and the plant stem cells that are purportedly contained in the Products have never been proven effective by competent and reliable scientific evidence to reduce the signs of aging.

109. Plaintiffs and the Class members were injured as a direct and proximate result of Defendant's breach because they would not have purchased the Stem Cell Products if the true facts had been known.

110. Defendant breached its express warranty by selling a product that is not effective for its intended use and plant stem cells have never been proven effective by competent and

reliable scientific evidence.

COUNT III

BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

(By the Nationwide Class)

111. Plaintiffs and the Class members repeat and reallage each and every allegation above, as if set forth in full herein.

112. Plaintiffs bring this Count III individually and on behalf of the members of the Class against Defendant.

113. Defendant, as the designer, manufacturer, marketer, distributor, and seller impliedly warranted that the Stem Cell Products were fit for their intended purpose in that the stem cells in the Stem Cell Products would be effective at reducing the signs of aging. Defendant did so with the intent to induce Plaintiffs and members of the Class to purchase the Products.

114. Defendant breached its implied warranties in the contract for the sale of the Stem Cell Products because the plant stem cells in the Products are not effective at reversing the signs of aging. Moreover, the Products are not effective at repairing the skin's DNA.

115. In reliance upon Defendant's skill and judgment and the implied warranties discussed above, Plaintiffs and the Class members purchased the Stem Cell Products to help reverse the sings of aging.

116. The Stem Cell Products were not altered by Plaintiffs and Class Members.

COUNT IV

UNJUST ENRICHMENT

(By the Nationwide Class)

117. Plaintiffs and the Class members incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

118. Plaintiffs bring this Count IV individually and on behalf of the members of the

Class against Defendant.

119. "The unjust enrichment claim can be made from common class wide proof." *Westways World Travel, Inc. v. AMR Corp.,* 218 F.R.D. 223, 239 (C.D. Cal. 2003) (certifying a nationwide class where plaintiffs alleged defendants were unjustly enriched through a common scheme.). "Although there are numerous permutations of the elements of the unjust enrichment cause of action in the various states, there are few real differences. In all states, the focus of an unjust enrichment claim is whether the defendant was unjustly enriched. At the core of each state's law are two fundamental elements - the defendant received a benefit from the plaintiff and it would be inequitable for the defendant to retain that benefit without compensating the plaintiff. The focus of the inquiry is the same in each state." *In re Mercedes-Benz Tele Aid Contract Litig.,* 257 F.R.D. 46, 58 (D.N.J. Apr. 24, 2009), quoting *Powers v. Lycoming Engines,* 245 F.R.D. 226,231 (E.D. Pa. 2007).

120. Plaintiffs and the Class members conferred a benefit on Defendant by purchasing the Stem Cell Products.

121. Defendant has been unjustly enriched in retaining the revenues derived from Class members' purchases of the Stem Cell Products, which retention under these circumstances is unjust and inequitable because Defendant misrepresented the facts concerning the efficacy of the Products and caused Plaintiffs and the Class to lose money as a result thereof.

122. Plaintiffs and the Class members were injured as a direct and proximate result of Defendant's breach because they would not have purchased the Stem Cell Products if the true facts had been known. Because Defendant's retention of the non-gratuitous benefit conferred on them by Plaintiffs and Class members is unjust and inequitable, Defendant must pay restitution to Plaintiffs and Class members for their unjust enrichment, as ordered by the Court.

COUNT V

VIOLATION OF THE UNFAIR COMPETITION LAW,

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

(By the California Subclass)

123. Plaintiff Reid and the California Subclass members repeat and reallege each and every allegation above, as if set forth in full herein.

124. Plaintiff Reid brings this Count VII on behalf of herself and on behalf of the California Subclass members.

125. The UCL prohibits any "unlawful, unfair or fraudulent business act or practice," Cal. Bus. & Prof. Code § 17200.

Fraudulent

126. As set forth herein, Defendant's claims relating to the Stem Cell Products are false or misleading, and likely to deceive reasonable consumers and the public.

Unlawful

127. Defendant has misbranded the Stem Cell Products. Misbranding is a "[p]rohibited act[]" under the FDCA, 21 U.S.C. § 331, and therefore Defendant has behaved in an "unlawful" manner under the UCL.

128. Defendant has illegally marketed new drugs in violation of 21 U.S.C. § 355(a) and Cal. Health & Safety Code § 110110, and therefore has behaved in an "unlawful" manner under the UCL.

Unfair

129. Defendant's conduct with respect to the labeling, advertising, and sale of Stem Cell Products is unfair because Defendant's conduct was immoral, unethical, unscrupulous, or substantially injurious to consumers and the utility of its conduct, if any, does not outweigh the

gravity of the harm to its victims.

130. Defendant's conduct with respect to the labeling, advertising, and sale of the Stem Cell Products is also unfair because it violates public policy as declared by specific constitutional, statutory or regulatory provisions, including but not limited to the False Advertising Law, the Consumers Legal Remedies Act, portions of the Federal Food, Drug, and Cosmetic Act, and portions of the California Sherman Food, Drug, and Cosmetic Law.

131. Defendant's conduct with respect to the labeling, advertising, and sale of the Stem Cell Products is also unfair because the consumer injury is substantial, not outweighed by benefits to consumers or competition, and not one consumers themselves can reasonably avoid.

132. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff Reid and members of the California Subclass seek an Order enjoining Defendant from continuing to conduct business through fraudulent or unlawful acts and practices, and to commence a corrective advertising campaign.

133. On behalf of herself and the California Subclass, Plaintiff Reid also seeks an Order for the restitution of all monies from the sale of Stem Cell Products that were unjustly acquired through acts of fraudulent, unlawful, or unfair competition.

COUNT VI

VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW

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

(By the California Subclass)

134. Plaintiff Reid and the California Subclass members repeat and reallege each and every allegation above, as if set forth in full herein.

135. Plaintiff Reid brings this Count VIII on behalf of herself and on behalf of the California Subclass members.

136. The False Advertising Law prohibits any statement in connection with the sale of goods "which is untrue or misleading," Cal. Bus. & Prof. Code § 17500.

137. As set forth herein, Defendant's claims relating to the Stem Cell Products are untrue and misleading.

138. Defendant knew, or reasonably should have known, that the claims were untrue or misleading.

139. Plaintiff Reid and members of the California Subclass are entitled to injunctive and equitable relief, and restitution in the amount they spent on the Stem Cell Products.

COUNT VII

VIOLATION OF THE CALIFORNIA CONSUMERS LEGAL REMEDIES ACT

(CAL. CIV. CODE §§ 1750 *et seq.*)

(By the California Subclass)

140. Plaintiff Reid and the California Subclass members repeat and reallege each and every allegation above, as if set forth in full herein.

141. Plaintiff Reid brings this Count IX on behalf of herself and on behalf of the California Subclass members.

142. The CLRA prohibits deceptive practices in connection with the conduct of a business that provides goods, property, or services primarily for personal, family, or household purposes.

143. Defendant's policies, acts, and practices were designed to, and did, result in the purchase and use of the products primarily for personal, family, or household purposes, and violated and continue to violate the following sections of the CLRA:

a. § 1770(a)(5): representing that goods have characteristics, uses, or benefits which they do not have;

b. § 1770(a)(7): representing that goods are of a particular standard, quality,

or grade if they are of another;

c. § 1770(a)(9): advertising goods with intent not to sell them as advertised; and

d. § 1770(a)(16): representing the subject of a transaction has been supplied in accordance with a previous representation when it has not.

144. As a result, Plaintiff Reid and the California Subclass members have suffered irreparable harm and are entitled to injunctive relief.

145. In compliance with Civ. Code § 1782, Plaintiff Reid sent written notice to G.M. Defendant of her claims.

146. In addition to injunctive relief, Plaintiff Reid and the California Subclass members are entitled to actual and punitive damages, as well as reasonable attorneys' fees.

COUNT VIII

VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT

(RCW §§ 19.86 *et seq.*)

(By the Washington Subclass)

147. Plaintiff Waters and the Washington Subclass members repeat and reallege each and every allegation above, as if set forth in full herein.

148. Plaintiff Waters brings this Count X on behalf of herself and on behalf of the Washington Subclass members.

149. Defendant's above-described conduct in misleading consumers about the efficacy of the Stem Cell Products and its other above-described conduct constitutes an unfair trade practice, and unfair and deceptive acts and practices, within the meaning of the Washington Consumer Protection Act, RCW 19.86 *et seq.*

150. The conduct complained herein occurred in the course of trade or commerce.

151. Defendant's above-described conduct affects the public interest because it affected and injured many customers and Subclass members in the State of Washington.

152. As a result of Defendant's unfair and deceptive conduct, Plaintiff and the Subclass have sustained actual damages.

153. Defendant's above-described conduct proximately injured consumers because they would not have purchased the Stem Cell Products had they not been misled by Defendant.

154. Plaintiff Waters and the Washington Subclass seek actual damage, attorneys' fees, costs, and statutory treble damages.

COUNT IX

VIOLATIONS OF THE CONSUMER FRAUD LAWS OF THE VARIOUS STATES
(By the Nationwide Class)

155. Plaintiffs incorporate by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

156. Plaintiffs bring this Count XI individually and on behalf of the members of the Nationwide Class against Defendant in the alternative to Counts V & VI.

157. By falsely and misleadingly claiming that plant stem cells in the Stem Cell Products reverse the signs of aging and that the Products can repair the skin's DNA, Defendant has engaged in unfair competition or unlawful, unfair, misleading, unconscionable, or deceptive acts in violation of the state consumer statutes listed below.

158. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of ALA. CODE§ 8-19-1, *et seq.*

159. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of ALASKA STAT. CODE§ 45.50.471, *et seq.*

160. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of ARIZ. REV. STAT.§ 44-1522, *et seq.*

161. Defendant has engaged in unfair competition or unfair or deceptive acts or

practices in violation of ARK. CODE ANN.§ 4-88-107, *et seq.*

162. Defendant has engaged in unfair competition or unfair or deceptive acts or practices or have made false representations in violation of COLO. REV. STAT.§ 6-1-101, *et seq.*

163. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of CONN. GEN. STAT § 42-110b, *et seq.*

164. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of DEL. CODE ANN. tit. 6, § 2511, *et seq.*

165. Defendant has engaged in unfair competition or unfair or deceptive acts or practices or made false representations in violation of D.C. CODE ANN.§ 28-3901, *et seq.*

166. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of FLA. STAT. ANN.§ 501.201, *et seq.*

167. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of GA. CODE ANN. §10-1-392, *et seq.*

168. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of HAW. REV. STAT.§ 480, *et seq.*

169. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of IDAHO CODE§ 48-601, *et seq.*

170. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of 815 ILL. COMP. STAT. 505/1, *et seq.*

171. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of IND. CODE ANN.§ 24-5-0.5-1, *et seq.*

172. Defendant has engaged in unfair competition or unfair or deceptive acts or

practices in violation of IOWA CODE §714.16, *et seq.*

173. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of KAN. STAT.§ 50-623, *et seq.*

174. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of KY. REV. STAT. ANN.§ 367.110, *et seq.*

175. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of LA. REV. STAT.§ 51:1404, *et seq.*

176. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of ME. REV. STAT. tit. 5, § 205-A, *et seq.*

177. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of MD. CODE. ANN., COM. LAW§ 13-101, *et seq.*

178. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation MASS. GEN LAWS ch. 93A, § 1, *et seq.*

179. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of MICH. COMP. LAWS§ 445.901, *et seq.*

180. Defendant has have engaged in unfair competition or unfair or deceptive acts or practices in violation of MINN. STAT.§ 8.31, *et seq.*

181. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of MISS. CODE ANN. § 75-24-3, *et seq.*

182. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of MO. REV. STAT.§ 407.010, *et seq.*

183. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of MONT. CODE ANN.§ 30-14-101, *et seq.*

184. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of NEB. REV. STAT.§ 59-1601, *et seq.*

185. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of NEV. REV. STAT. 598.0903, *et seq.*

186. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.H. REV. STAT. ANN.§ 358-A:1, *et seq.*

187. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.M. STAT. ANN.§ 57-12-1, *et seq.*

188. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.J.S.A. § 56:8-1, *et seq.*

189. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.C. GEN. STAT.§ 75-1.1, *et seq.*

190. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.D. CENT. CODE§ 51-15-01, *et seq.*

191. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of N.Y. GBL § 349, *et seq*. and § 350, *et seq*.

192. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of the OHIO REV. CODE ANN. § 1345.01, *et seq.* and OHIO REV. CODE ANN.§ 4165.01, *et seq.*

193. Defendant has engaged in unfair competition or unfair or deceptive acts or practices or made false representations in violation of OKLA. STAT. tit. 15, § 751, *et seq.*

194. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of OR. REV. STAT.§ 646.605, *et seq.*

195. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of 73 PA. CONS. STAT.§ 201-1, *et seq.*

196. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of R.I. GEN. LAWS § 6-13.1-1, *et seq.*

197. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of S.C. CODE§ 39-5-10, *et seq.*

198. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of S.D. CODIFIED LAWS § 37-24-1, *et seq.*

199. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of TENN. CODE ANN.§ 47-18-101, *et seq.*

200. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of TEX. BUS. & COM. CODE ANN.§ 17.41, *et seq.*

201. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of UTAH CODE. ANN.§ 13-11-1, *et seq.*

202. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of VT. STAT. ANN. tit. 9, § 2451, *et seq.*

203. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of VA. CODE ANN. § 59.1-196, *et seq.*

204. Defendant has engaged in unfair competition or unfair, deceptive or fraudulent acts or practices in violation of WASH. REV. CODE§ 19.86.010, *et seq.*

205. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of W. VA. CODE§ 46A-6-IOI, *et seq.*

206. Defendant has engaged in unfair competition or unfair or deceptive acts or

practices in violation of WIS. STAT.§ 100.18, *et seq.*

207. Defendant has engaged in unfair competition or unfair or deceptive acts or practices in violation of WYO. STAT. ANN.§ 40-12-101, *et seq.*

208. The acts, practices, and misrepresentations by Defendant described above, and Defendant's dissemination of deceptive and misleading advertising and marketing materials in connection therewith, occurring in the course of conduct involving trade or commerce, constitute unfair methods of competition and unfair or deceptive acts or practices within the meaning of each of the above-enumerated statutes, because each of these statutes generally prohibit deceptive conduct in consumer transactions. Defendant violated each of these statutes by making false and misleading statements that plant stem cells in the Stem Cell Products can reverse the signs of aging and that the Products can repair the skin's DNA.

209. Plaintiffs and the class members were injured as a direct and proximate result of Defendant's breach because they would not have purchased the Stem Cell Products if the true facts had been known.

RELIEF DEMANDED

WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly situated, and the general public, prays for judgment and relief against Defendant as follows:

A. An order declaring this action to be a proper Class Action and requiring Defendant to bear the costs of Class notice;

B. An order awarding declaratory relief, retrospective and prospective injunctive relief as permitted by law or equity, including enjoining Defendant from continuing the unlawful practices as set forth herein, and injunctive relief to remedy Defendant's past conduct;

C. An order awarding restitution of the purchase price of the Stem Cell Products to

Plaintiffs and the proposed Class members; and restitutionary disgorgement of Defendant's revenues from all the Stem Cell Product purchases made by Plaintiffs and proposed Class members;

D. An order compelling Defendant to engage in a corrective advertising campaign to inform the public concerning the true nature of the Stem Cell Products, including a recall of the falsely labeled Products;

E. An order awarding Plaintiffs and the Class members damages and punitive damages in the amount to be determined at trial;

F. An order awarding costs, expenses, and reasonable attorneys' fees; and

G. An order providing for all other such equitable relief as may be just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all causes of action so triable.

DATED: March 11, 2015

Respectfully Submitted,

FARUQI & FARUQI, LLP

By: *s/ Antonio Vozzolo*

Antonio Vozzolo (N.D.N.Y. 519247)
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Counsel for Plaintiffs and the Proposed Class

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Eliza Reid and Tracy Waters on behalf of themselves and all others similarly situated

(b) County of Residence of First Listed Plaintiff Los Angeles, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Faruqi & Faruqi LLP
369 Lexington Avenue - 10th Floor
New York, NY 10017 212-983-9330

DEFENDANTS

GMC Skin Care USA Inc. d/b/a G.M. Collin

County of Residence of First Listed Defendant Clinton, NY
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

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

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	☒ 4
Citizen of Another State	☒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. 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 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. Section 1332(a)(1)

Brief description of cause:
Violations of Magnuson-Moss Warranty Act, 15 U.S.C. Section 2301, et seq., Unjust enrichment, etc.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
03/06/2015

SIGNATURE OF ATTORNEY OF RECORD
/s/ Antonio Vozzolo

FOR OFFICE USE ONLY

RECEIPT # 0206-3222050 AMOUNT $400 APPLYING IFP _____ JUDGE BKS MAG. JUDGE CFH

Case No. 8:15-cv-277

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.