

**LEE LITIGATION GROUP, PLLC**

C.K. Lee (CL 4086)

Anne Seelig (AS 3976)

30 East 39th Street, Second Floor

New York, NY 10016

Tel.: (212) 465-1188

Fax: (212) 465-1181

*Attorneys for Plaintiff and the Class*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

SUZANNA LEE, VALERIE LIU  
and JOHN DOES 1-100, *on behalf of themselves  
and all others similarly situated,*

Plaintiffs,

-against-

THE PROCTER & GAMBLE COMPANY,

Defendant.

Case No.:

**CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs, SUZANNA LEE, VALERIE LIU and JOHN DOES 1-100 (hereinafter, the "Plaintiffs"), on behalf of themselves and all others similarly situated, by and through their undersigned attorneys, hereby file this Class Action Complaint against Defendant, THE PROCTER & GAMBLE COMPANY (hereinafter, "P&G" or the "Defendant"), and state as follows based upon their own personal knowledge and the investigation of their counsel:

**NATURE OF THE ACTION**

1. This is a consumer protection class action arising out of Defendant's deceptive practices in the marketing, advertising, and promotion of their Pantene® Pro-V Expert Collection Advanced Keratin Repair Shampoo and Conditioner products (hereinafter, the

CHEN, J.

SCANLON, M.J.


U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
CLERK

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“Keratin Repair Shampoo and Conditioner” or the “Products”). As alleged with specificity herein, through an extensive, widespread, comprehensive, and uniform nationwide marketing campaign, Defendant claims that the Keratin Repair Shampoo “goes beyond cleansing to restore smoothness and repair two years of damage in 1 wash,” according to the Defendant’s website [www.pantene.com](http://www.pantene.com) (hereinafter, the “Website”). Defendant also claims that the Keratin Repair Shampoo and Conditioner are created with an “advanced formula” that “goes beyond cleansing to restore smoothness and repair two years of damage in just two minutes.” Defendant’s hair repair claims, however, are false, misleading, and reasonably likely to deceive the public because no such ingredient in the Keratin Repair Shampoo or Conditioner that has the ability to actually repair two years’ worth of hair damage, particularly in the short time frame specified, whether it be in one wash or two minutes.

2. Defendant makes the same hair repair claims throughout the Keratin Repair Shampoo and Conditioner’s product labeling and marketing materials, such as the Products’ respective webpages, as shown below:

A part of the P&G family:  [P&G](#) [CLAYTON](#) [S&W](#) [K&S](#) [C&S](#)

[SIGN IN](#) | [REGISTER](#) [USA - ENGLISH](#) ▾

Type Keyword 

**PANTENE**

[SHOP PRODUCTS](#)

[TRENDING NOW](#)

[BEAUTIFUL LENGTHS](#)

[HAIRSTYLES](#)

[PRO ADVICE](#)

[Pantene](#) > [Shop Products](#) > [All Products](#) > [Advanced Keratin Repair Shampoo](#)

SHARE:   



## ADVANCED KERATIN REPAIR SHAMPOO

★★★★★ (36) 4.83/5

[READ ALL 36 REVIEWS](#) [WRITE A REVIEW](#)

Advanced shampoo goes beyond cleansing to restore smoothness and repair two years of damage in 1 wash.

**\$2.99-\$13.99** MSRP Price May Vary

SIZE:

16.9 OZ. ▾

[BUY NOW](#)

### PRODUCT DETAILS

[REPAIRS 2 YEARS](#)


[REPAIRS 2 YEARS](#)

Repairs 2 years of damage in 2 minutes

Looking for a shampoo that does more for your 'do? This advanced formula goes beyond cleansing to restore smoothness and repair two years of damage in just two minutes.

### YOU MIGHT ALSO LIKE






A part of the P&G family:  CONSUMER PRODUCTS Co.

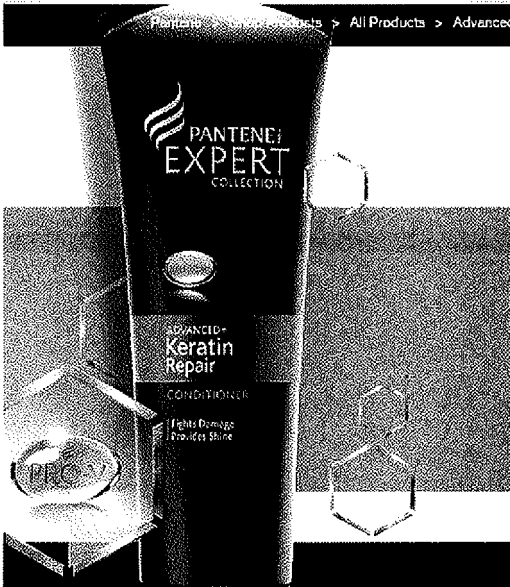
SIGN IN | REGISTER USA - ENGLISH ▾

Type Keyword  Q

**PANTENE** SHOP PRODUCTS TRENDING NOW BEAUTIFUL LENGTHS HAIRSTYLES PRO ADVICE

Pantene > All Products > Advanced Keratin Repair Conditioner

SHARE:   



## ADVANCED KERATIN REPAIR CONDITIONER

Advanced, triple-nourishing conditioner helps restore hair damage hair to health and smoothness.

**\$2.99-\$13.99** MSRP Price May Vary

SIZE:  
8.4 OZ. ▾

**BUY NOW**

**PRODUCT DETAILS**

**Repairs 2 years of damage in 2 minutes**



There's nothing cute about cuticle damage. So protect your hair against the daily assaults of combing and styling damage with this triple-nourishing formula, and restore it to a smooth, healthy condition.

**USAGE:**

**WHO:** Specially crafted for those who seek an exceptional level of care to treat their damaged hair. Gentle enough for those who color.

**WHEN:** Daily to smooth, strengthen, and nourish.

**YOU MIGHT ALSO LIKE**

Advanced Keratin Repair Shampoo

Advanced Keratin Repair Conditioner

Each person who purchased the Products has been exposed to Defendant's misleading advertising message numerous times. For example, in addition to the claims on the packaging, Defendant represents that its "Advanced shampoo goes beyond cleansing to restore smoothness and repair two years of damage in 1 wash" on the Keratin Repair Shampoo product page on Defendant's Website. On the same page under Product Details, Defendant further represents that the Shampoo Product "Repairs 2 years of damage in 2 minutes," and boasts that the "advanced formula goes beyond cleansing to restore smoothness and repair two years of damage in just two minutes." Furthermore, on the front of Defendant's Shampoo Product label, Defendant states that

the Product “Fights Damage.” On the back of the Product packaging, Defendant states that the shampoo was “designed to fight many facets of damage,” as shown below:



The only reason a consumer would purchase the Keratin Repair Shampoo and Conditioner is to obtain the advertised hair repair benefits.

3. The Products claim to “fight damage”. However, no distinct ingredient in the Keratin Repair Shampoo and Conditioner is demonstrated to actually counteract everyday damage or repair hair, particularly at the rates boasted by the Defendant. Hair is primarily composed of a family of proteins called keratin, and once damaged through heat treatments, daily brushing, and other damaging acts, can be most effectively restored only with treatments that target and repair keratin. The conditioning ingredients in the Products, including Guar Hydroxypropyltrimonium Chloride, Dimethicone, and Polyquaternium-10, might very temporarily enhance the illusion of healthy hair, but certainly do not “Repair 2 Years of Damage in 2 Minutes” because they do not specifically target keratin proteins. Further, the ingredients are commonly found in other competitor products that do not share similarly outrageous claims.

4. Consumer product companies intend for consumers to rely upon their representations, and reasonable consumers do in fact so rely. These representations are the only source of information consumers can use to make decisions concerning whether to buy and use such products.

5. Consumers lack the ability to test or independently ascertain the efficacy and genuineness of product claims of normal everyday consumer products, especially at the point of sale. Reasonable customers must therefore rely on the company to honestly report the nature of a product.

6. Plaintiffs and Class Members did reasonably rely substantially on Defendant’s hair repair representations in deciding to purchase the Products and were thereby deceived.

7. As a result of the misleading hair repair claims conveyed by Defendant’s marketing campaign, Defendant has caused Plaintiffs and other consumers to purchase products

that do not perform as represented. Plaintiffs and other similarly situated consumers have been harmed in the amount they paid for the Keratin Repair Shampoo and Conditioner.

8. As a result of Defendant's misconduct, Defendant was able to sell the Products to hundreds of thousands of consumers throughout the United States and to realize sizeable profits.

9. Plaintiffs and Class Members (defined below) were harmed and suffered actual damages in that Plaintiffs and the Class Members did not receive the benefit of their bargain as purchasers of the Products, which were represented to "fight damage" and "repair 2 years of damage in 1 wash." Instead, Plaintiffs and Class Members are worse off after purchasing the Products, as Plaintiffs and Class Members paid a price premium over other shampoo products, even though the Keratin Repair Shampoo and Conditioner did not perform their advertised function of repairing hair damage. A sample of competitor shampoo and conditioner products are shown below:

<b>Product Name</b>	<b>Price</b>	<b>Retailer</b>
<b>Pantene® Pro-V Expert Collection Advanced Keratin Repair Shampoo and Conditioner</b>	<b>Shampoo (10.1 fl oz) – \$8.99</b> <b>Conditioner (8.4 fl oz) – \$8.99</b>	<b>Drugstore.com</b>
Dove Nutritive Solutions Nourishing Oil Care Shampoo and Conditioner	Shampoo (25.4 fl oz) – \$7.49 Conditioner (25.4 fl oz) – \$7.49	Drugstore.com
TRESemme Luxurious Moisture Shampoo and Conditioner	Shampoo (28 fl oz) – \$3.99 Conditioner – (28 fl oz) – \$3.99	Target.com

10. Plaintiffs bring this action on behalf of herself and all other similarly situated consumers nationwide, who, from the applicable limitations period up to and including the present (the "Class Period"), purchased the Product. Plaintiffs seek to end Defendant's dissemination of this false and misleading advertising message, correct the false and misleading

perception it has created in the minds of consumers, and to obtain redress for those who have purchased the Keratin Repair Shampoo and Conditioner.

11. Defendant marketed its Pantene® Pro-V Expert Collection Advanced Keratin Repair Shampoo and Conditioner in a way that is deceptive to consumers under consumer protection laws of New York and California. Defendant has been unjustly enriched as a result of their conduct. For these reasons, Plaintiffs seek the relief set forth herein.

### **JURISDICTION AND VENUE**

12. This Court has original jurisdiction over this matter pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d). This is a putative class action whereby: (i) the proposed class consists of over 100 class members; (ii) at least some of the proposed class members have a different citizenship from Defendant; and (iii) the amount in controversy exceeds the sum of value of \$5,000,000.00, exclusive of interest and costs.

13. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit to the Court's jurisdiction. This Court has personal jurisdiction over Defendant because its Product is advertised, marketed, distributed, and sold throughout New York State; Defendant engaged in the wrongdoing alleged in this Complaint throughout the United State, including in New York State; Defendant is authorized to do business in New York State; and Defendant has sufficient minimum contacts with New York and/or otherwise have intentionally availed themselves of the markets in New York State, rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Moreover, Defendant is engaged in substantial and not isolated activity within New York State.

14. Venue is proper in the Eastern District pursuant to 28 U.S.C. § 1391(a) and (b), because a substantial part of the events giving rise to Plaintiff LEE's claims occurred in this



District and Defendant is subject to personal jurisdiction in this District. Plaintiff LEE purchased Defendant's Product in Queens County.

### **PARTIES**

#### ***Plaintiffs***

15. Plaintiff SUZANNA LEE is, and at all relevant times hereto has been, is a resident of the State of New York and resides in Queens County, New York. In the twelve month period prior to the filing of this Complaint, Plaintiff LEE was exposed to and saw Defendant's hair repair claims on the Products' labels as well as [www.pantene.com](http://www.pantene.com). In reliance on the hair repair claims found on the Products' labels and the Website, Plaintiff LEE purchased the Product for personal consumption through Amazon.com. The retail purchase price was approximately \$16.00 for the Products. Plaintiff LEE purchased the Products believing that they would provide the advertised hair repair benefits. Prior to purchasing the Products, Plaintiff LEE read and relied upon the representations on the Product label and on Defendant's Website. As a result of her purchases, Plaintiff LEE suffered injury in fact and lost money. Had Plaintiff LEE known the truth about Defendant's misrepresentations and omissions, she would not have purchased the Products. Further, should Plaintiff LEE encounter the Products in the future, she could not rely on the truthfulness of the labels' statements characterizing the nature of the Products, absent corrective advertising to the Products. However, Plaintiff LEE would still be willing to purchase the current formulation of the Products, absent the price premium, so long as Defendant engages in corrective advertising. Plaintiff LEE is not claiming physical harm or seeking the recovery of personal injury damages.

16. Plaintiff VALERIE LIU is, and at all relevant times hereto has been, is a resident of the State of California and resides in Los Angeles County, California. In the twelve month

period prior to the filing of this Complaint, Plaintiff LIU was exposed to and saw Defendant's hair repair claims found on the Products' labels and on [www.pantene.com](http://www.pantene.com). In reliance on the hair repair claims found on the Products' labels and the Website, Plaintiff purchased the Products for personal consumption through Amazon.com. The retail purchase price was approximately \$16.00 for the Products. Plaintiff LIU purchased the Products believing that they would provide the advertised hair repair benefits. Prior to purchasing the Product, Plaintiff LIU read and relied upon the representations on the Product labels and on Defendant's Website. As a result of her purchases, Plaintiff LIU suffered injury in fact and lost money. Had Plaintiff LIU known the truth about Defendant's misrepresentations and omissions, she would not have purchased the Product. Further, should Plaintiff LIU encounter the Products in the future, she could not rely on the truthfulness of the labels' statements characterizing the nature of the Products, absent corrective advertising to the Products. However, Plaintiff LIU would still be willing to purchase the current formulation of the Products, absent the price premium, so long as Defendant engages in corrective advertising. Plaintiff LIU is not claiming physical harm or seeking the recovery of personal injury damages.

17. Plaintiffs JOHN DOES 1-100 are, and at all times relevant hereto has been, citizens of the any of the fifty states and the District of Columbia. During the Class Period, Plaintiffs JOHN DOES 1-100 purchased the Products for personal consumption or household use within the United States. Plaintiffs purchased the Products at a premium price and were financially injured as a result of Defendant's deceptive conduct as alleged herein.

***Defendant***

18. Defendant THE PROCTER & GAMBLE COMPANY is an American multinational for-profit corporation headquartered at One Procter & Gamble Plaza, Cincinnati,

Ohio 45202 with an address for service of process at the same location. P&G is an industry leader that designs, manufactures, tests, markets, distributes and sells consumer products, including the Pantene® Pro-V Keratin Repair Shampoo and Conditioner under the hair products brand Pantene®.

19. Defendant develops, manufactures, distributes, markets and sells personal care, health and beauty products throughout the fifty states and the District Columbia. The labeling, packaging, and advertising for the Products, relied upon by Plaintiffs, were prepared and/or approved by Defendant and its agents, and were disseminated by Defendant and its agents through advertising containing the misrepresentations alleged herein. Such labeling, packaging and advertising were designed to encourage consumers to purchase the Products and reasonably misled the reasonable consumer, i.e. Plaintiffs and the Class, into purchasing the Products. Defendant owned, manufactured and distributed the Products, and created and/or authorized the unlawful, fraudulent, unfair, misleading and/or deceptive labeling, packaging and advertising for the Products.

### **FACTUAL ALLEGATIONS**

#### **The Pro-V Keratin Repair Shampoo and Conditioner**

20. Defendant manufactures, markets, and sells Pantene® Expert Collection hair care lines, which includes the Pro-V Advanced Keratin Repair Shampoo and Conditioner Products, as part of P&G's Pantene® brand.

21. The Pantene® Expert Collection lines are sold at retail stores such as CVS, Target, Walgreens and Walmart and through e-commerce websites such as Pantene.com, Amazon.com and Ulta.com.

22. Defendant manufactures, distributes, markets, and sells the Pro-V Advanced Keratin Repair Shampoo and Conditioner Products across the United States. The Shampoo Product is sold in two sizes – 3.9 oz. and 16.9 oz. The Conditioner Product is sold in three sizes – 3.3 oz., 8.4 oz. and 16.9 oz.

**Defendant's False and Deceptive Advertising of the Products**

23. Throughout its advertising of Pro-V Advanced Keratin Repair Shampoo and Conditioner, Defendant had consistently conveyed the very specific message to consumers that the Products, with its “advanced formula,” will “repair two years of damage in just two minutes,” and “repair two years of damage in 1 wash.”

24. Since launching the Pantene® Expert Collection line, Defendant has consistently conveyed its uniform, deceptive message to consumers throughout the United States, including New York and California, that the Products will repair two years of hair damage in one wash, or two minutes. These boisterous claims have been made and repeated across a variety of media including Defendant's websites and online promotional materials, and at the point of purchase, where they cannot be missed by consumers. In truth, Defendant's hair repair claims are false, misleading, and deceptive.

25. Defendant's false, misleading, and deceptive marketing campaign begins with the front of the Products' package and label. The front of every Advanced Keratin Shampoo and Conditioner Products' packaging and labeling states prominently in all capital letters, printed immediately above the Pantene® logo, that the Products will provide “REPAIR 2 YEARS OF DAMAGE IN 2 MINUTES”. The front of the Products' packaging and labeling also states that the each Product “Fights Damage” and “Provides Shine.” See front of Product packaging and labeling below:



Defendant reinforces the false and deceptive damage repair claims on the back of the Products' packaging and labeling, which states that the Products contain a "triple blend complex" that

“wraps hair, which is made mostly of keratin, with a protective layer to help restore its surface to a healthy looking, smooth condition - without weighing your style down.” The Products, however, did not increase the shine, smoothness, and overall health of Plaintiff LEE and Plaintiff LIU’s hair despite their using the Products as instructed on the back labels of the packaging. Moreover, they believe that the Products do not alleviate the issues they had with “split ends, frizz, dullness, and dryness” more than other shampoo and conditioner products.

### **Defendant’s Damage Repair Claims Are False and Misleading**

26. In truth, the Products do not actually repair damaged hair and certainly not within the short time frames advertised by Defendant. The packaging and marketing materials used by Defendant contain and propagate identical claims.

27. Upon information and belief, there is nothing contained in the Products that can cause damaged hair to be repaired in just two minutes, or one wash. Defendant does not provide the public with any peer-reviewed, independent clinical studies that show the Products or any of its ingredients cause damaged hair to be repaired within the claimed time frames. Moreover, the “triple blend complex” is an ornamental name for common ingredients that are frequently used in hair care products. Thus, Defendant’s damage repair claims are false, misleading and reasonably likely to deceive the public.

28. A reasonable consumer would not interpret Defendant’s damage repair claims as being purely cosmetic in nature because Defendant’s statements are that two years’ worth of hair damage will be repaired within stated time frames.

### **The Impact of Defendant’s Misleading and Deceptive Advertising**

29. Even though the Products do not “repair 2 years of damage in 2 minutes,” consumers pay a premium over other shampoo and conditioner sets, which unlike the Products do not boast such

an impossible accomplishment. Typically, drugstore shampoo and conditioners such as the Dove® Nutritive Solutions Nourishing Oil Care Shampoo and ConditionerShampoo cost \$7.49 per 25.4 fluid ounce bottle. The only reason a consumer would pay the premium price of \$8.99 each per 8.4 fluid ounce conditioner and 10.1 fluid ounce shampoo is to obtain the rapid damage repair benefits, which the Products do not provide.

30. As the manufacturers, sellers and/or distributors of the Products, Defendant possess specialized knowledge regarding the content and effects of the ingredients contained in the Products on hair repair.

31. Defendant knew or should have known, but failed to disclose that the Products does not actually “repair 2 years of damage in 2 minutes” and certainly not within the time frames advertised by Defendant and it does not have competent and reliable clinical tests to support its “clinical results.”

32. As a result of Defendant’s deceptive damage repair claims, Plaintiffs and other members of the proposed Class have purchased the Product that does not perform as advertised. Defendant has reaped enormous profits from its false, misleading and deceptive marketing and sale of the Products. Plaintiffs and members of the proposed Class have been deceived and/misled by Defendant’s deceptive damage repair claims. Defendant’s damage repair claims were a material factor in influencing Plaintiffs’ decision to purchase and use the Products. Plaintiffs would not have purchased the premium priced Product had they known that Defendant’s damage repair claims were false and misleading.

### **CLASS ACTION ALLEGATIONS**

#### ***The Nationwide Class***

33. Plaintiffs bring this action as a class action pursuant Rule 23 of the Federal Rules of Civil Procedure on behalf of the following class (the “Class”):

All persons or entities in the United States who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

#### ***The New York Class***

34. Plaintiff LEE seeks to represent a class consisting of the following subclass (the “New York Class”):

All New York residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

#### ***The California Class***

35. Plaintiff LIU seeks to represent a class consisting of the following subclass (the “California Class”):

All California residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

The proposed Classes exclude current and former officers and directors of Defendant, members of the immediate families of the officers and directors of Defendant, Defendant’s legal representatives, heirs, successors, assigns, and any entity in which it has or has had a controlling interest, and the judicial officer to whom this lawsuit is assigned.

36. ***Numerosity.*** While the exact number and identities of purchasers of the Product are unknown to Plaintiffs at this time, Plaintiffs are informed and believe that the Nationwide Class, New York Subclass and California Subclass (collectively, the “Class” or “Class



Members”) contain thousands of purchasers and are so numerous that individual joinder of all Class members is impracticable.

37. *Existence and Predominance of Common Questions of Law and Fact.*

Questions of law and fact arise from Defendant’s conduct described herein. Such questions are common to all Class members and predominate over any questions affecting only individual Class members and include:

- a. Whether Defendant’s hair repair discussed above are true, or are misleading, or objectively likely to deceive;
- b. Whether Defendant’s marketing and advertising of the Products is false, fraudulent, deceptive, unlawful, or misleading;
- c. Whether Defendant has breached warranties made to the consuming public about its Products;
- d. Whether Defendant’s marketing, promotion, advertising and sale of the Products is and was a deceptive act or practice in the conduct of business directed at consumers, giving rise to consumer law violations in all other jurisdictions;
- e. Whether Plaintiffs and members of the Class sustained monetary loss and the proper measure of loss;
- f. Whether Defendant’s conduct constitutes unjust enrichment, and whether equity calls for disgorgement of unjustly obtained or retained funds, restitution to, or other remedies for the benefit of the Class;
- g. Whether Plaintiffs and other members of the Class are entitled to other appropriate remedies, including equitable relief; and

- h. Whether Defendant's conduct rises to the level of reprehensibility under applicable law such that the imposition of punitive damages is necessary and appropriate to fulfill the societal interest in punishment and deterrence, and the amount of such damages and/or their ratio to the actual or potential harm to the Class.

38. **Typicality.** Plaintiffs' claims are typical of those of the Class members because, *inter alia*, Plaintiffs and the other Class members were all injured by same uniform conduct, as detailed herein, and were subject to Defendant's damage repair claims that accompanied each and every Keratin Repair Shampoo and Conditioner that Defendant sold. Plaintiffs are advancing the same claims and legal theories on behalf of themselves and all members of the Class.

39. **Adequacy of Representation.** Plaintiffs will fairly and adequately represent and protect the interests of the Class and have retained competent counsel experienced in prosecuting nationwide consumer class actions. Plaintiffs understand the nature of their claims herein, have no disqualifying conditions, and will vigorously represent the interests of the Class. Neither Plaintiffs nor Plaintiffs' counsel have any interests that conflict with or are antagonistic to the interests of the Class.

40. **Superiority.** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. The damages or other financial detriment suffered by any individual Class member is relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against Defendant. Thus, it would not be economically feasible for an individual class member to prosecute a separate action on an individual basis, and it is desirable for judicial efficiency to concentrate the litigation of the claims in this forum. Furthermore, the adjudication of this controversy through a class action will

avoid the potentially inconsistent and conflicting adjudications of the claims asserted herein. There will be no difficulty in the management of this action as a class action.

41. The prerequisites to maintaining a class action for equitable relief pursuant to Rule 23(b)(2) are also met, as Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final equitable relief with respect to the Class as a whole.

42. Plaintiffs seek preliminary and permanent equitable relief on behalf of the entire Class, on grounds generally applicable to the entire Class, to prevent Defendant from engaging in the acts described, and requiring Defendant to provide full restitution to Plaintiffs and Class members.

43. Unless a Class is certified, Defendant will retain monies received as a result of its conduct that were taken from Plaintiffs and Class members.

### **CAUSES OF ACTION**

#### **COUNT I**

#### **INJUNCTION FOR VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)**

44. Plaintiff LEE realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

45. Plaintiff LEE brings this claim individually and on behalf of the other members of the New York Class for an injunction for violations of New York's Deceptive Acts or Practices Law, Gen. Bus. Law ("NY GBL") § 349.

46. NY GBL § 349 provides that "deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are . . . unlawful."

47. Under the § 349, it is not necessary to prove justifiable reliance. (“To the extent that the Appellate Division order imposed a reliance requirement on General Business Law [§] 349 ... claims, it was error. Justifiable reliance by the plaintiff is not an element of the statutory claim.” Koch v. Acker, Merrall & Condit Co., 18 N.Y.3d 940, 941 (N.Y. App. Div. 2012) (internal citations omitted)).

48. Any person who has been injured by reason of any violation of the NY GBL may bring an action in their own name to enjoin such unlawful act or practice, an action to recover their actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the Defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

49. The practices employed by Defendant, whereby Defendant labeled, packaged, and marketed its Products as able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes”, were unfair, deceptive, and misleading and are in violation of the NY GBL § 349.

50. The foregoing deceptive acts and practices were directed at customers.

51. Defendant should be enjoined from labeling and marketing its Products as able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes”, as described above pursuant to NY GBL § 349.

52. Plaintiff LEE, on behalf of herself and all others similarly situated, respectfully demands a judgment enjoining Defendant's conduct, awarding costs of this proceeding and attorneys' fees, as provided by NY GBL, and such other relief as this Court deems just and proper.

## **COUNT II**

### **VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)**

53. Plaintiff LEE realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

54. By the acts and conduct alleged herein, Defendant committed unfair or deceptive acts and practices by misbranding its Products as able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes”.

55. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that its Products are able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes” were unfair, deceptive, and misleading and are in violation of NY GBL § 349.

56. The foregoing deceptive acts and practices were directed at consumers.

57. Plaintiffs and the other Class members suffered a loss as a result of Defendant’s deceptive and unfair trade acts. Specifically, as a result of Defendant’s deceptive and unfair trade acts and practices, Plaintiffs and the other Class members suffered monetary losses associated with the purchase of Products, i.e., the purchase price of the Product and/or the premium paid by Plaintiffs and the Class for said Products.

## **COUNT III**

### **VIOLATIONS OF CALIFORNIA’S CONSUMER LEGAL REMEDIES ACT, Cal. Civ. Code § 1750, *et seq.***

58. Plaintiff LIU realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

59. Plaintiff LIU brings this claim individually and on behalf of the other members of the California Class for Defendant's violations of California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1761(d).

60. Plaintiff LIU and California Class members are consumers who purchased the Products for personal, family or household purposes. Plaintiff LIU and the California Class members are "consumers" as that term is defined by the CLRA in Cal. Civ. Code § 1761(d). Plaintiff LIU and the California Class members are not sophisticated experts with independent knowledge of corporate branding, labeling and packaging practices.

61. Products that Plaintiff LIU and other California Class members purchased from Defendant were "goods" within the meaning of Cal. Civ. Code § 1761(a).

62. Defendant's actions, representations, and conduct have violated, and continue to violate the CLRA, because they extend to transactions that intended to result, or which have resulted in, the sale of goods to consumers.

63. Defendant violated federal and California law because Defendant's representations in labeling, advertising, and marketing its Products as able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" were unfair, deceptive, and misleading.

64. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5), prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses or benefits which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have." By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(5) of the CLRA, because Defendant's conduct constitutes unfair methods of competition and unfair or fraudulent

acts or practices, in that it misrepresents that the Products have characteristics, ingredients, or benefits which they do not have.

65. Cal. Civ. Code § 1770(a)(9) further prohibits “[a]dvertising goods or services with intent not to sell them as advertised.” By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(9), because Defendant’s conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it advertises goods with the intent not to sell the goods as advertised.

66. Plaintiff LIU and the California Class members are not sophisticated experts about the corporate branding, labeling and packaging practices. Plaintiff LIU and the California Class acted reasonably when they purchased the Products based on their belief that Defendant’s representations were true and lawful.

67. Plaintiff LIU and the California Class suffered injuries caused by Defendant because (a) they would not have purchased the Products on the same terms absent Defendant’s illegal and misleading conduct as set forth herein; (b) they paid a price premium for the Products due to Defendant’s misrepresentations that its Products were able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes”; and (c) the Products did not have the ingredients, characteristics or benefits as promised.

68. On or about August, 2015, prior to filing this action, a CLRA notice letter was served on Defendant which complies in all respects with California Civil Code § 1782(a). Plaintiff LIU sent Defendant, THE PROCTOR & GAMBLE COMPANY, on behalf of herself and the proposed Class, a letter via certified mail, return receipt requested, advising Defendant that they are in violation of the CLRA and demanding that they cease and desist from such

violations and make full restitution by refunding the monies received therefrom. A true and correct copy of Plaintiff LIU's letter is attached hereto as **EXHIBIT A**.

69. Wherefore, Plaintiff LIU seeks damages, restitution, and injunctive relief for these violations of the CLRA.

#### **COUNT IV**

##### **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW, California Business & Professions Code §§ 17200, *et seq.***

70. Plaintiff LIU realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

71. Plaintiff LIU brings this claim individually and on behalf of the members of the proposed California Class for Defendant's violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*

72. The UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising ...."

73. Defendant violated federal and California law because Defendant's representations in labeling, advertising, and marketing its Products as able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" were unfair, deceptive, and misleading.

74. Defendant's business practices, described herein, violated the "unlawful" prong of the UCL by violating the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 343 *et seq.*, 21 U.S.C. §§ 343(a)(1), 343(k); N.Y. Agm. Law § 201; California Health and Safety Code §§ 110660, 110740, the CLRA, and other applicable law as described herein.



75. Defendant's business practices, described herein, violated the "unfair" prong of the UCL in that its conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any alleged benefits. Defendant's advertising is of no benefit to consumers.

76. Defendant violated the "fraudulent" prong of the UCL by misleading Plaintiff LIU and the California Class to believe that the damage repair representations made about the Products were lawful, true and not intended to deceive or mislead the consumers.

77. Plaintiff LIU and the California Class members are not sophisticated experts about the corporate branding, labeling, and packaging practices of the Products. Plaintiff LIU and the California Class acted reasonably when they purchased the Products based on their belief that Defendant's representations were true and lawful.

78. Plaintiff LIU and the California Class lost money or property as a result of Defendant's UCL violations because (a) they would not have purchased the Products on the same terms absent Defendant's illegal conduct as set forth herein, or if the true facts were known concerning Defendant's representations; (b) they paid a price premium for the Products due to Defendant's misrepresentations; and (c) the Products did not have the characteristics, benefits, or ingredients as promised.

## **COUNT V**

### **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW, California Business & Professions Code §§ 17500, *et seq.***

79. Plaintiff LIU realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

80. Plaintiff LIU brings this claim individually and on behalf of the members of the proposed California Class for Defendant's violations of California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§ 17500, *et seq.*

81. Under the FAL, the State of California makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, ... in any advertising device ... or in any other manner or means whatever, including over the Internet, any statement, concerning ... personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

82. Defendant engaged in a scheme of offering misbranded Products for sale to Plaintiff LIU and the California Class members by way of making false and misleading representations that such Products were able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" on the Products' packaging, labeling, and website. Such practice misrepresented the characteristics, benefits and ingredients of the misbranded Products. Defendant's advertisements and inducements were made in California and come within the definition of advertising as contained in Bus. & Prof. Code § 17500, *et seq.* in that the product packaging was intended as inducements to purchase Defendant's Products. Defendant knew that these statements were unauthorized, inaccurate, and misleading.

83. Defendant violated federal and California law because Defendant's representations in labeling, advertising, and marketing its Products as able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" were unfair, deceptive, and misleading.

84. Defendant violated § 17500, *et seq.* by misleading Plaintiff LIU and the California Class to believe that the damage repair representations made about the Products were true as described herein.

85. Defendant knew or should have known, through the exercise of reasonable care that the Products were and continue to be misbranded, and that its representations about the effectiveness of the Products were untrue and misleading.

86. Plaintiff LIU and the California Class lost money or property as a result of Defendant's FAL violations because (a) they would not have purchased the Products on the same terms absent Defendant's illegal conduct as set forth herein, or if the true facts were known concerning Defendant's representations; (b) they paid a price premium for the Products due to Defendant's misrepresentations; and (c) the Products did not have the characteristics, benefits, or ingredients as promised.

## **COUNT VI**

### **NEGLIGENT MISREPRESENTATION (All States)**

87. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs, and further allege as follows:

88. Defendant, directly or through its agents and employees, made false representations, concealments, and nondisclosures to Plaintiffs and members of the Class.

89. In making the false, misleading, and deceptive representations and omissions, Defendant knew and intended that consumers would pay a premium for Products labeled as able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" over comparable products that are not so labelled, furthering Defendant's private interest of increasing sales for its Products and decreasing the sales of products that are truthfully offered by

Defendant's competitors, or those that do not claim to be repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes".

90. As an immediate, direct, and proximate result of Defendant's false, misleading, and deceptive representations and omissions, Defendant injured Plaintiffs and the other Class members in that they paid a premium price for Products that were not as represented.

91. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendant has failed to fulfill its duties to disclose the material facts set forth above. The direct and proximate cause of this failure to disclose was Defendant's negligence and carelessness.

92. Defendant, in making the misrepresentations and omissions, and in doing the acts alleged above, knew or reasonably should have known that the representations were not true. Defendant made and intended the misrepresentations to induce the reliance of Plaintiffs and members of the Class.

93. Plaintiffs and members of the Class relied upon these false representations and nondisclosures by Defendant when purchasing the Products, upon which reliance was justified and reasonably foreseeable.

94. As a result of Defendant's wrongful conduct, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other general and specific damages, including but not limited to the amounts paid for the Products and any interest that would have been accrued on those monies, all in an amount to be determined according to proof at time of trial.

**COUNT VII**

**BREACH OF EXPRESS WARRANTIES  
(All States)**

95. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs, and further allege as follows:

96. Defendant provided Plaintiffs and other members of the Class with written express warranties, including, but not limited to, warranties that its Products are able to repair “two years of damage in 1 wash” as well as “2 years of damage in 2 minutes”.

97. This breach resulted in damages to Plaintiffs and the other members of the Class who bought Defendant’s Products but did not receive the goods as warranted in that the Products were not as effective as they are represented to be.

98. As a proximate result of Defendant’s breach of warranties, Plaintiffs and the other Class members have suffered damages in an amount to be determined by the Court and/or jury, in that, among other things, they purchased and paid for Products that did not conform to what Defendant promised in its promotion, marketing, advertising, packaging and labeling, and they were deprived of the benefit of their bargain and spent money on products that did not have any value or had less value than warranted or products that they would not have purchased and used had they known the true facts about them.

**COUNT VIII**

**UNJUST ENRICHMENT  
(All States)**

99. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs, and further allege as follows:

100. As a result of Defendant's deceptive, fraudulent and misleading labeling, packaging, advertising, marketing and sales of Products, Defendant was enriched, at the expense of Plaintiffs and members of the Class, through the payment of the purchase price for Defendant's Products.

101. Plaintiffs and members of the Class conferred a benefit on Defendant through purchasing the Products, and Defendant has knowledge of this benefit and have voluntarily accepted and retained the benefits conferred on it.

102. Defendant will be unjustly enriched if it is allowed to retain such funds, and each Class member is entitled to an amount equal to the amount they enriched Defendant and for which Defendant has been unjustly enriched.

103. Under the circumstances, it would be against equity and good conscience to permit Defendant to retain the ill-gotten benefits that they received from Plaintiffs, and all others similarly situated, in light of the fact Defendant have misrepresented that the Products are able to repair "two years of damage in 1 wash" as well as "2 years of damage in 2 minutes" when damaged hair cannot be restored in such a short period of time and the Products do not contain ingredients that allow for such drastic damage reversal.

104. Defendant profited from its unlawful, unfair, misleading, and deceptive practices and advertising at the expense of Plaintiffs and Class members, under circumstances in which it would be unjust for Defendant to be permitted to retain said benefit.

105. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered injury in fact and has lost money or property as a result of Defendant's actions, as set forth herein. Defendant is aware that the claims and/or omissions that it made about the Products are false,

misleading, and likely to deceive reasonable consumers, such as Plaintiffs and members of the Class.

106. Plaintiffs and Class members do not have an adequate remedy at law against Defendant (in the alternative to the other causes of action alleged herein).

107. Accordingly, the Products are valueless such that Plaintiffs and Class members are entitled to restitution in an amount not less than the purchase price of the Products paid by Plaintiffs and Class members during the Class Period.

108. Plaintiffs and Class members are entitled to restitution of the excess amount paid for the Products, over and above what they would have paid if the Products had been adequately advertised, and Plaintiffs and Class members are entitled to disgorgement of the profits Defendant derived from the sale of the Products.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, individually and on behalf of the Classes, seek judgment against Defendant, as follows:

- a. An Order that this action be maintained as a class action and appointing Plaintiffs as representative of the Nationwide Class, New York Subclass and California Subclass;
- b. An Order appointing the undersigned attorneys as class counsel in this action;
- c. Awarding restitution and disgorgement of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of payment, to Plaintiffs and the proposed Class members;

- d. Awarding declaratory relief as permitted by law or equity, including: directing Defendant to identify, with Court supervision, victims of its conduct and pay them all money they are required to pay;
- e. Statutory pre-judgment and post-judgment interest on any amounts;
- f. Awarding attorneys' fees and costs; and
- g. Such other relief as the Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs, on behalf of themselves and the Class, demand a trial by jury on all questions of fact raised by the Complaint.

Dated: November 13, 2015

Respectfully submitted,

**LEE LITIGATION GROUP, PLLC**

C.K. Lee (CL 4086)

Anne Seelig (AS 3976)

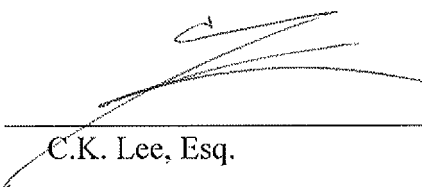
30 East 39th Street, Second Floor

New York, NY 10016

Tel.: 212-465-1188

Fax: 212-465-1181

*Attorneys for Plaintiffs and the Class*

By:   
C.K. Lee, Esq.



# EXHIBIT A

**LEE LITIGATION GROUP, PLLC**

30 EAST 39TH STREET, SECOND FLOOR  
NEW YORK, NEW YORK 10016  
TEL: 212-465-1180  
FAX: 212-465-1181  
INFO@LEELITIGATION.COM

WRITER'S DIRECT: 212-465-1188  
cklee@leelitigation.com

September 10, 2015

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Legal Department  
The Procter & Gamble Company  
One Procter & Gamble Plaza  
Cincinnati, OH 45202

*Re: Demand Letter re:* Pantene Pro-V Expert Collection Advanced Keratin Repair  
Products (“Products”)

To Whom It May Concern:

This demand letter serves as a notice and demand for corrective action on behalf of my client, Valerie Liu and all other persons similarly situated, arising from violations of numerous provisions of California law including the Consumer Legal Remedies Act, § 1750, *et seq.* and violations of consumer protection laws of each of the fifty states and the District of Columbia. This demand letter serves as notice pursuant to state laws concerning your Products.

You have participated in the manufacture, marketing and sale of the Pantene Pro-V Expert Collection Advanced Keratin Repair Products. These Products make false and misleading claims including that the shampoo product contains an “advanced formula” that “goes beyond cleansing to restore smoothness and repair two years of damage in just two minutes.” These claims are untrue as there are no ingredients in the Products that could actually repair two years’ worth of hair damage in the short time frame specified. The Procter & Gamble Company continues to advertise the Products with the extreme claim “repairs two years of damage in 1 wash”. Such representations are false and misleading and violate consumer protection laws of each of the fifty states and the District of Columbia. As a result, the Products are misbranded.

Ms. Valerie Liu, a resident of California, purchased the Pantene Pro-V Expert Collection Advanced Keratin Repair shampoo and conditioner in reliance on the representation that the Products “repair two years of damage in just two minutes” and is acting on behalf of a class defined as all persons in the State of California who purchased the Products (hereafter, the “California Class”).

To cure the defects described above, we demand that you (i) cease and desist from continuing to advertise that the Products as able to “repair two years of damage in just two

minutes"; (ii) issue an immediate recall on any Products with such misrepresentations or false claims; and (iii) make full restitution to all purchasers throughout the United States of all purchase money obtained from sales thereof.

We further demand that you preserve all documents and other evidence which refer or relate to any of the above-described practices including, but not limited to the following:

- (i) All documents concerning the manufacture, labeling and packaging process for the Products;
- (ii) All communications with the FDA concerning the product development, labeling, packaging, marketing and sales of the Products;
- (iii) All documents concerning the advertisement, marketing, or sale of the Products; and
- (iv) All communications with customers concerning complaints or comments concerning the Products.

We are willing to discuss the demands asserted in this letter. If you wish to enter into such discussions, please contact me immediately. If I do not hear from you promptly, I will conclude that you are not interested in resolving this dispute short of litigation. If you contend that any statement in this letter is inaccurate in any respect, please provide us with your contentions and supporting documents promptly.

Very truly yours,



C.K. Lee, Esq.

## 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**

Suzanna Lee, Valerie Liu and John Does 1-100

(b) County of Residence of First Listed Plaintiff Queens  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

C.K. Lee, Esq., Lee Litigation Group, PLLC  
30 East 39th St., Second Floor, New York, NY 10016  
Tel: (212) 465-1188

**DEFENDANTS**

The Procter &amp; Gamble Company

County of Residence of First Listed Defendant

**CHEN, J.**

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 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)

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 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. 1332(d); New York General Business Law Section 349

Brief description of cause:  
Deceptive and unfair trade practices

**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

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

465309 4891

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
2015 NOV 13 AM 10:49  
FILED  
CLERK

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, C.K. Lee, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? \_\_\_\_\_

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes ☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes (If yes, please explain) ☒ No

I certify the accuracy of all information provided above.

Signature: \_\_\_\_\_

