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FILED
Superior Court of California
County of Los Angeles

APR 26 2017

Sherri R. Carter, Executive Officer/Clerk
By _____ Deputy
Shaunya Bolden

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BY FAX

CARMEN OTERO and ABBEY LERMAN, as individuals and on behalf of other members of the general public similarly situated,

Plaintiffs,

v.

ZELTIQ AESTHETICS, INC, a Delaware corporation; and DOES 1-10, inclusive,

Defendants.

Case No.: BC659192

CLASS ACTION COMPLAINT FOR:

(1) Violations of California's Consumers Legal Remedies Act;
(2) Violation of False Advertising Law, California Business & Professions Code § 17500; and
(3) Violation of Unfair Competition Law, California Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

CIT/CASE: BC659192
LEA/DEF#:

RECEIPT #: CCH465980152
DATE PAID: 04/26/17 04:01 PM
PAYMENT: $435.00 310
RECEIVED:
CHECK: $435.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00

CIT/CASE: BC659192
LEA/DEF#:

RECEIPT #: CCH465980153
DATE PAID: 04/26/17 04:02 PM
PAYMENT: $1,000.00 310
RECEIVED:
CHECK: $1,000.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00

INTRODUCTION

1. Plaintiffs Carmen Otero and Abbey Lerman ("Plaintiffs") bring this action for themselves and on behalf of all persons in the United States who, at any time since four years prior to the filing of this complaint, purchased one or more CoolSculpting procedures. The "CoolSculpting system" is a medical device which is manufactured, marketed, distributed, and sold by Zeltiq Aesthetics, Inc. and DOES 1-10 ("Zeltiq" or "Defendants").

2. This case arises out of the unlawful, false, misleading, and deceptive marketing practices used by Defendants with regard to its CoolSculpting system and procedures. Defendants have deceptively led customers to believe that they were purchasing, for a premium price, medical treatments that have gone through the rigorous FDA-approval process, with all of the safety and efficacy that this implies. However, in reality, Defendants' CoolSculpting system has merely received 510(k) premarket notification clearance ("510(k)"), not premarket FDA approval ("PMA"), a crucial distinction that Defendants misrepresent and/or fail to disclose to consumers. PMA requires rigorous trials and testing, and comes with an endorsement by the FDA as to the safety and effectiveness of a product, while 510(k) merely entails a finding by FDA that Defendants' medical device is substantially equivalent to a pre-existing device that was that was in commercial distribution before May 28, 1976, the enactment date of the Medical Device Amendments (MDA) to the Federal Food, Drug and Cosmetic Act (FDCA).

3. In order to increase revenue and gain an advantage over competitors, Defendants exploit, to their benefit, the lack of understanding and confusion of FDA terminology by consumers and employees at the various medical offices, spas and other entities that administer the Coolsculpting treatments. This conduct violates regulations promulgated by the FDA pursuant to the FDCA, which state:

> Sec. 807.97 Misbranding by reference to premarket notification.
>
> Submission of a premarket notification in accordance with this subpart, and a subsequent determination by the Commissioner that the device intended for introduction into commercial distribution is substantially equivalent to a device in commercial distribution before May 28, 1976, or is substantially equivalent

> to a device introduced into commercial distribution after May 28, 1976, that has subsequently been reclassified into class I or II, does not in any way denote official approval of the device. ***Any representation that creates an impression of official approval of a device because of complying with the premarket notification regulations is misleading and constitutes misbranding.***

21 CFR § 807.97 (emphasis added).

4. California's Sherman Food, Drug, and Cosmetic Law (the "Sherman Law"), Cal. Health & Safety Code §§ 109875-111915, incorporates and mirrors the FDCA, including without limitation, 21 CFR § 807.97. The Sherman Law further provides that "[i]t is unlawful for any person to disseminate any false advertisement of any food, drug, device, or cosmetic. An advertisement is false if it is false or misleading in any particular". Cal. Health & Safety Code § 110390. These regulatory and statutory violations, among others, serve as predicate violations for Plaintiffs' UCL, FAL and CLRA claims asserted herein.

5. The global market for aesthetic procedures is significant. In the United States alone, the American Society of Aesthetic Plastic Surgery, or the ASAPS, estimates that consumers spent approximately $13.5 billion on aesthetic procedures in 2015.[1] Zeltiq markets its CoolSculpting product extensively throughout North America and Europe, and trains its direct customers – medical offices, spas, etc. – on how to market the CoolSculpting procedures to patients. Zeltiq is "driving growth in CoolSculpting procedures through [its] targeted marketing programs," including "sales training, practice marketing strategies, and metric analysis," and "partner[s] with [its] customers' practices on marketing, advertising and promotional activities in their local markets to drive demand for CoolSculpting."[2]

6. In 2015, Zeltiq launched a direct-to-customer advertising campaign, in order to "enhance and expand our brand awareness." This campaign included television commercials, radio spots, digital advertising, print advertising, out-of-home advertising, social media, and public relations.[3]

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[1] *See* Zeltiq's Form 10-K for the period ending 12/13/16, at page 3.

[2] *Id* at 4.

[3] *Id* at 4, 17.

7. In its advertising, Zeltiq touts the fact that the CoolSculpting system has been "cleared" by the FDA, as if this fact conveys some assurance to the consumer that the CoolSculpting sytem is safe and effective because of such FDA premarket clearance, when FDA has promulgated regulations and expressly admonished Zeltiq that such premarket clearance "does not in any way denote official approval of the device" and "[a]ny representation that creates an impression of official approval of a device because of complying with the premarket notification regulations is misleading and constitutes misbranding." 21 CFR § 807.97. For example, Zeltiq has made the following claims on its website and in advertisements and marketing materials:

- Developed by Harvard scientists, the CoolSculpting treatment **is the only FDA-cleared**, non-surgical fat reduction treatment that uses controlled cooling to eliminate unwanted fat cells.
- **Cleared by the FDA**, CoolSculpting works by gently cooling targeted fat cells in the body to induce a natural, controlled elimination of fat cells without affecting surrounding tissue, and the treated fat cells are gone for good.
- In the U.S., the CoolSculpting procedure is **FDA-cleared** for the treatment of visible fat bulges in the submental area, thigh, abdomen and flank, along with bra fat, back fat, upper arms, and underneath the buttocks (also known as banana roll).
- Additional excerpts from Zeltiq's website connoting purported official FDA endorsement of the safety and effectiveness of CoolSculpting:

SHAPE WHAT YOU SEE WITHOUT SURGERY OR DOWNTIME

FDA-CLEARED

NON-SURGICAL

ELIMINATES FAT

The CoolSculpting fat-freezing procedure is the only FDA-cleared,* non-surgical fat-reduction treatment that uses controlled cooling to eliminate stubborn fat that resists all efforts through diet and exercise. The results are proven, noticeable, and lasting–so you'll look great from every angle.

IS THE COOLSCULPTING PROCEDURE SAFE?

The CoolSculpting procedure is FDA-cleared for the treatment of visible fat bulges in the submental area, thigh, abdomen, and flank. As the #1 non-invasive fat reduction procedure and with millions of CoolSculpting procedures performed worldwide, it is proven to be a safe and effective treatment.*

8. Nowhere in Defendants marketing materials and advertising campaign do they adequately state that their CoolSculpting system has only been reviewed by the FDA in accordance with premarket notification requirements. Nor do Defendants make any attempt in their marketing materials to explain or even hint to consumers what clearance via premarketing notification means as opposed to PMA.

9. Instead, by stating that the device and/or procedures are "Cleared by the FDA" and "FDA-cleared," Defendants have capitalized on reasonable consumers' lack of understanding of FDA terminology and the vast difference between "approval" and "clearance" in terms of safety, efficacy, trials and testing, etc. Defendants' use of the term "FDA-cleared" in its marketing materials has no other purpose but to imply an official endorsement of its product by the FDA, conduct Zeltiq has repeatedly been admonished by FDA not to engage in.

10. Also, on information and belief, Defendants convey during their sales training with direct purchasers of the CoolSculpting devices (e.g., medical clinics and spas) that the procedure is FDA-approved or that FDA clearance is equivalent to FDA approval. When discussing questions that prospective patients may have, provider employees are counseled by Defendants to tell patients that FDA clearance is equivalent to FDA approval, and that the only difference is the terminology.

11. By deceiving consumers about the nature of its product, Zeltiq is able to command a premium price, increasing consumers' willingness to pay and reduce the market share of competing products, thereby increasing its own sales and profits.

12. Reasonable consumers must, and do, rely on Zeltiq's overall marketing,

including, without limitation, television, radio, print media, brochures and posters, and sales representatives' sales pitches distributed to Zeltiq's direct purchasers for use in marketing CoolSculpting treatments. As such, reasonable consumers remain unaware that they are not receiving treatments that have undergone the rigorous FDA-approval process.

13. Defendants' deceptive marketing poses a serious health concern to consumers. By implying that CoolSculpting has undergone the numerous studies, tests, and trials required for FDA approval, and has met the FDA's high standards for safety and efficacy, Zeltiq is putting consumers at risk. Consumers rely on this representation and trust the FDA's endorsement, and thus forgo further independent research and investigation that a reasonable consumer would undertake prior to consenting to a novel medical procedure.

14. If Plaintiffs and Class Members knew that the CoolSculpting system and/or treatments had not undergone the rigorous process of FDA approval, Plaintiffs and Class Members would not have purchased and undergone the procedures or would have paid less for them.

15. By employing the marketing tactics illustrated above, Zeltiq intends for consumers to rely on its representations regarding the FDA's endorsement of CoolSculpting, when in fact no endorsement has been given. Because Zeltiq does not make this distinction in its advertising and marketing, Plaintiffs and Class Members (as well as members of the general public) remain subject to Zeltiq's deceptive advertising.

16. As a result of their reliance on Defendants' omissions and mischaracterizations, consumers have suffered an ascertainable loss of money, including, but not limited to, out of pocket costs incurred in purchasing CoolSculpting procedures. Further, as a result of its deceptive marketing and unfair competition with other similar manufacturers and brands, Zeltiq realized sizable profits.

PARTIES

PLAINTIFF CARMEN OTERO

17. Plaintiff Carmen Otero is a California citizen who resides in Lakeside, California, in San Diego County. During the class period alleged herein, and most recently in

or around February 2017, Plaintiff Otero purchased CoolSculpting treatments from "LaserAway" in Hillcrest, California, in San Diego County.

18. Plaintiff Otero purchased Defendant's CoolSculpting treatments in reliance on Zeltiq's marketing of the CoolSculpting system, specifically claims that the device was approved by the FDA. Among other marketing sources, Plaintiff Otero saw advertisements online and at the LaserAway clinic that caused her to believe that the CoolSculpting system was FDA-approved.

19. In deciding to purchase the CoolSculpting treatments, Plaintiff Otero saw, relied upon, and reasonably believed that the CoolSculpting system was FDA-approved. The FDA approval status of the CoolSculpting system was, and is, important to Plaintiff Otero. In fact, Defendant's representations and omissions regarding the FDA's involvement with the CoolSculpting system were material to Plaintiff Otero in her decision to purchase CoolSculpting treatments.

20. If Plaintiff Otero had known at the time of purchase that the CoolSculpting system was not FDA-approved, she would have paid less for the treatments, declined to undergo the treatments, and/or considered alternative treatments that were FDA-approved.

PLAINTIFF ABBEY LERMAN

21. Plaintiff Abbey Lerman is a California citizen who resides in Los Angeles, California. During the class period alleged herein, and most recently in or around June 2015, Plaintiff Lerman purchased CoolSculpting treatments from several providers in Los Angeles County, including DMH Aesthetics and Forever Young Medical Day Spa.

22. Plaintiff Lerman purchased Defendants' CoolSculpting treatments in reliance on Zeltiq's marketing of the CoolSculpting system, specifically claims that the device was approved by the FDA. Among other marketing sources, Plaintiff Lerman saw advertisements online that caused her to believe that the CoolSculpting system was FDA-approved.

23. In deciding to purchase the CoolSculpting treatments, Plaintiff Lerman saw, relied upon, and reasonably believed that the CoolSculpting system was FDA-approved. The FDA approval status of the CoolSculpting system was, and is, important to Plaintiff Lerman.

In fact, Defendant's representations and omissions regarding the FDA's involvement with the CoolSculpting system were material to Plaintiff Lerman in her decision to purchase CoolSculpting treatments.

24. If Plaintiff Lerman had known at the time of purchase that the CoolSculpting system was not FDA-approved, she would have paid less for the treatments, declined to undergo the treatments, and/or considered alternative treatments that were FDA-approved.

DEFENDANT

25. Defendant Zeltiq Aesthetics, Inc. is a corporation organized and in existence under the laws of the State of Delaware and is registered to do business in the State of California. Zeltiq's corporate headquarters and principal place of business are located at 4410 Rosewood Drive, Pleasanton, CA 94588 in the County of Alameda. Zeltiq tests, produces, manufactures, markets, distributes, and sells its CoolSculpting system and treatments worldwide, nationwide, and throughout California.

26. At all relevant times, Defendant was and is engaged in the business of testing, producing, manufacturing, marketing, distributing, and selling the CoolSculpting system and CoolSculpting treatments in Los Angeles County, San Diego County, and throughout the United States of America.

JURISDICTION

27. This Court has jurisdiction over this action pursuant to California Code of Civil Procedure § 410.10.

28. Personal jurisdiction over Defendants is proper because Defendants have purposefully availed themselves of the privilege of conducting business activities in California, including, but not limited to, testing, manufacturing, marketing, distributing, and/or selling their Coolsculpting system and treatments to Plaintiffs and prospective class members.

29. This class action is brought pursuant to California Code of Civil Procedure § 382. Plaintiffs are California residents. The monetary damages and restitution sought by Plaintiffs and the prospective class members exceed the minimal jurisdiction limits of the

Superior Court and will be established according to proof at trial.

VENUE

30. Venue is proper in this Court pursuant to California Code of Civil Procedure §§ 395, 395.5 and California Civil Code § 1780 because Plaintiff Lerman resides in the County of Los Angeles, California, and the acts, omissions, and contractual performance alleged herein took place in the County of Los Angeles, California. Plaintiff Lerman's Declaration, as required under Cal. Civ. Code section 1780(d), which reflects that Defendants are doing business in Los Angeles County, California, is filed concurrently as **Exhibit 1.**

FACTUAL ALLEGATIONS

31. The global market for aesthetic procedures is significant. In the United States alone, consumers spent approximately $13.5 billion on aesthetic procedures in 2015, according to Zeltiq's 2016 Annual Report. Zeltiq markets its CoolSculpting product extensively throughout North America, and in its advertising, Zeltiq touts the fact that its CoolSculpting system has received FDA "clearance." In fact, Zeltiq's entire marketing strategy seems to revolve around the FDA's purported endorsement of its product.

32. By stating that the device and/or procedures are "FDA-cleared," Defendants have capitalized on reasonable consumers' understanding (or lack thereof) of FDA terminology and the vast difference between "FDA approval" and "premarket clearance" under FDCA Section 510(k) in terms of safety, efficacy, trials and testing, etc., and has thus misbranded its product pursuant to 21 CFR § 807.97.

33. Section 510(k) of the FDCA requires device manufacturers such as Zeltiq to notify the FDA of their intent to market a medical device at least 90 days in advance. This is known as Premarket Notification or 510(k). This allows the FDA to determine whether the device is substantially equivalent to a pre-existing device that was that was in commercial distribution before May 28, 1976, the enactment date of the Medical Device Amendments (MDA) to the FDCA. Prior to that time, the market for medical devices was largely unregulated at the national level. With the MDA, Congress gave the FDA comprehensive jurisdiction over all "devices intended for human use." 21 U.S.C.A. §360c(a)(1).

34. New medical devices that can show substantial equivalence to a pre-existing device are subject to much less stringent scrutiny than devices that are newly introduced to the market via the FDA premarket approval process ("PMA"). Therefore, it behooves a manufacturer to link their "new" medical device to a pre-1976 device, to avoid costly and time-consuming FDA review and get their products to the market more quickly. Medical devices that go through this less stringent, fast-tracked FDA review process attain 510(k) clearance.

35. By contrast, PMA is extremely rigorous, and requires a manufacturer to present the FDA with "all information" known or reasonably knowable about the device, including detailed information about the design, manufacture, uses, and labeling of the device. To obtain PMA approval of a medical device, the FDA must find that the medical device has sufficient scientific evidence showing the device is safe and effective for its intended use. Only then is a medical device manufacturer permitted to use the term "FDA-approved" in its marketing of a medical device.

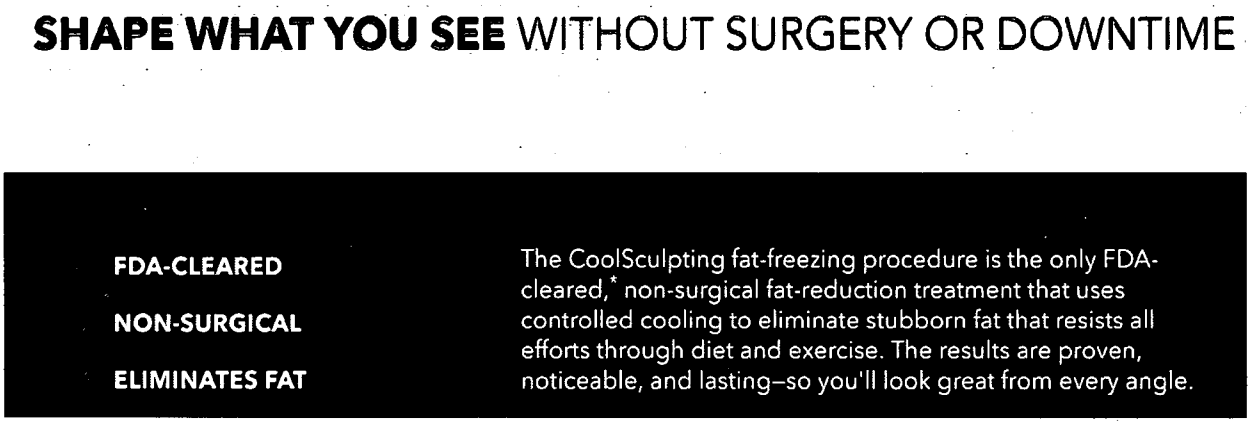
36. The significant evidence needed to obtain FDA-approval of a medical device is not required when a medical device manufacturer applies for FDA review via the premarket notification process. For this reason, FDA regulations specifically provide that "[a]ny representation that creates an impression of official approval of a device because of complying with the premarket notification regulations is misleading and constitutes misbranding" to protect consumers from deceptive marketing practices. 21 CFR § 807.97.

37. In September 2010, the FDA issued its first 510(k) "clearance letter" to Zeltiq in response to its premarket notification for the CoolSculpting system. This letter, and all subsequent clearance letters sent to Zeltiq by the FDA, explicitly states: "Please be advised that FDA's issuance of a substantial equivalence determination does not mean that FDA has made a determination that your device complies with other requirements of the Act" and "please note the regulation entitled, 'Misbranding by reference to premarket notification' (21 CFR Part 807.97)."

38. In defiance of the FDCA, and the FDA's unequivocal admonitions regarding

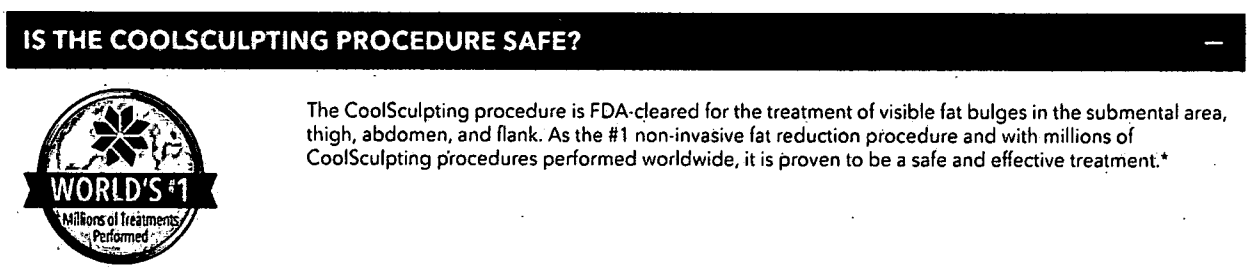
misbranding, Zeltiq has chosen to include reference to its "FDA clearance" in virtually all of its advertising and marketing materials which deceptively imply to consumers that the FDA has approved CoolSculpting as being safe and effective. For example, in Figure 1 below, an advertisement featured on Zeltiq's website,[4] "FDA-CLEARED" is listed as the first benefit of CoolSculpting, offset in large, bold capitalized font to the left of the other text, with a large checkmark next to it, demonstrating to the consumer that this is the most important quality of the product. Nowhere on this webpage touting the CoolSculpting procedure as "FDA-cleared" does Zeltiq inform consumers what this standard of FDA review means, or clarify that "FDA-cleared" is not the same as "FDA-approved."

Figure 1:



39. Figure 2 below appears on the "FAQ" page of Zeltiq's website.[5] In response to the question, "Is the CoolSculpting Procedure Safe?", the very first words of the response are "The CoolSculpting procedure is FDA-cleared . . ." Zeltiq is expressly representing to the consumer that there is a strong correlation between FDA clearance and CoolSculpting being "proven to be a safe and effective treatment."

Figure 2:



[5] http://www.coolsculpting.com/what-is-coolsculpting/faqs/, last visited April 18, 2017.

40. Further, the asterisk at the end of the text in Figure 2, immediately following the language ". . . it is proven to be a safe and effective treatment", directs the consumer to yet another statement about FDA clearance: "In the U.S., the CoolSculpting procedure is FDA-cleared for the treatment of visible fat bulges in the submental area, thigh, abdomen and flank, along with bra fat, back fat, upper arms, and underneath the buttocks (also known as banana roll)." This language also appears at the bottom of every page of Zeltiq's website.[6] Yet, Zeltiq does not inform consumers on its website that "FDA-cleared" is not equivalent to "FDA-approved."

41. Zeltiq acknowledges that "FDA clearance" is a selling point – both implicitly by the prominent use of this in their advertising, and overtly in a recent lawsuit filed against competitors whose products are "falsely touted as providing the same treatments as Zeltiq's CoolSculpting device" and described "using explicit references to facts that apply exclusively to Zeltiq, such as 'patented,' 'clinically proved' or 'FDA-approved.'"[7] In its own complaint, Zeltiq implies that its product is FDA-approved, while simultaneously complaining about the false advertising employed by its competitors.

42. Zeltiq provides a great deal of support and training to the direct purchasers of the CoolSculpting system. Zeltiq conducts on-location training to clinic and spa providers, and offers more intensive training to providers at "CoolSculpting University." Zeltiq employs a team of "Practice Development Managers" to "assist[] practices to market CoolSculpting to patients" and train customers on "practice enhancement execution protocols" including "branding, grassroots initiatives and digital marketing tactics."[8] Thus, Zeltiq's deceptive messaging about its FDA clearance is passed along to its direct customers and ultimately to patients.

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[6] http://www.coolsculpting.com/, last visited April 18, 2017.

[7] *See Zeltiq Aesthetics, Inc. vs. Total Body Laser Skin Care LLC et al.*, 16-cv-00793 (W.D. Wisc., December 1, 2016) (Complaint at 5).

[8] Form 10-K at 9.

43. Also, on information and belief, Defendants convey during their sales training that the Coolsculpting procedure is FDA-approved and/or that FDA clearance is equivalent to FDA approval. On information and belief, Defendants counsel providers to tell patients that FDA clearance is equivalent to FDA approval when discussing the CoolScupting system with prospective patients, the only difference is the terminology, since the CoolSculpting system is a medical device rather than a drug.

44. By deceiving consumers about the nature of its product, Zeltiq is able to command a premium price, increasing consumers' willingness to pay and reduce the market share of competing products, thereby increasing its own sales and profits.

45. Reasonable consumers must, and do, rely on Zeltiq's overall marketing, including, without limitation, television, radio and print media, and brochures and posters for use in medical offices. As such, reasonable consumers remain unaware that they are receiving treatments that have not undergone a rigorous FDA-approval process.

46. Defendants' deceptive marketing poses a serious health concern and safety risk to consumers. By implying that CoolSculpting has been endorsed by the FDA, and therefore undergone the numerous studies, tests, and trials required for FDA approval, and has met the FDA's high standards for safety and efficacy, Zeltiq is putting consumers at risk. Consumers rely on Zeltiq's representations and trust the FDA's endorsement, and thus forgo further independent research and investigation that a reasonable consumer will do before consenting to a novel medical procedure.

47. By employing the marketing tactics illustrated above, Zeltiq intends for consumers to rely on its representations regarding the FDA approval status of CoolSculpting rather than the much less rigorous process for FDA clearance. Because Zeltiq does not make this distinction in its advertising and marketing, Plaintiffs and Class Members (as well as members of the general public) remain subject to Zeltiq's deceptive advertising and misrepresentations.

48. By employing the marketing tactics illustrated above, Zeltiq intends for consumers to rely on its representations regarding the FDA's endorsement of its

CoolSculpting system, and thousands of reasonable consumers did in fact so rely.

49. If Plaintiffs and Class Members knew that the CoolSculpting system was not FDA-approved, Plaintiffs and Class Members would not have purchased the CoolSculpting treatments or would have paid less for them.

50. Zeltiq knows, or should reasonably know, that consumers purchase CoolSculpting treatments in part because of the supposed endorsement by the FDA, and knows that consumers will pay a premium for these treatments, and/or would not purchase them at all unless they are FDA-approved.

51. As a result of their reliance on Defendants' representations, consumers have suffered an ascertainable loss of money, including, but not limited to, out of pocket costs incurred in purchasing CoolSculpting treatments. Further, as a result of its deceptive marketing and unfair competition with other similar manufacturers and brands, Zeltiq realized sizable profits.

52. As the intended, direct, and proximate result of Zeltiq's false, misleading, and deceptive representations and omissions, Zeltiq has been unjustly enriched through more sales of its CoolSculpting system and CoolSculpting treatments and higher profits at the expense of Plaintiffs and the Class members.

CLASS ALLEGATIONS

53. Plaintiffs bring this lawsuit as a class action on behalf of themselves and all others similarly situated as members of the proposed Class pursuant to California Code of Civil Procedure § 382.

54. All claims alleged herein arise under California law for which Plaintiffs seek relief authorized by California law.

55. The Class and subclass(es) Plaintiffs seek to represent are defined as:

> **Nationwide Class**: All individuals in the United States who purchased any CoolSculpting treatments since four years prior to the filing of this complaint (the "Nationwide Class" or "Class").
>
> **California Sub-Class**: All members of the Nationwide Class who reside in the State of California (the "California SubClass").

CLRA Sub-Class: All members of the California Sub-Class who are "consumers" within the meaning of California Civil Code § 1761(d) (the "CLRA SubClass").

56. Members of the Nationwide Class, Class, California Sub-Class and CLRA Sub-Class are referred to herein as "Class Members."

57. Plaintiffs reserve the right to redefine the Class and to add additional subclasses as appropriate based on further investigation, discovery, and specific theories of liability.

58. Excluded from the Class and Sub-Classes are: (1) Defendants, any entity or division in which Defendants have a controlling interest, and their legal representatives, officers, directors, assigns, and successors; (2) the Judge to whom this case is assigned and the Judge's staff; (3) any Judge sitting in the presiding state and/or federal court system who may hear an appeal of any judgment entered; and (4) those persons who have suffered personal injuries as a result of the facts alleged herein.

59. There is a well-defined community of interest in the litigation and the class members are readily ascertainable.

60. Numerosity: Although the exact number of Class Members is uncertain and can only be ascertained through appropriate discovery, the number is great enough such that joinder is impracticable. The disposition of the claims of these Class Members in a single action will provide substantial benefits to all parties and to the Court. The Class Members are readily identifiable from information and records in Defendants' possession, custody, or control.

61. Typicality: Plaintiffs' claims are typical of the claims of the Class in that Plaintiffs, like all Class Members, purchased CoolSculpting treatments and were subjected to the same deceptive advertising practices by Defendants since four years prior to the filing of this complaint. The representative Plaintiffs, like all Class Members, have been damaged by Defendants' misconduct in that they incurred expenses due to their reliance on Defendants' deceptive representations and omissions regarding the CoolSculpting system and CoolSculpting treatments, as described throughout this complaint. Furthermore, the factual

bases of Defendants' misconduct are common to all Class Members and represent a common thread resulting in injury to all Class Members.

62. Commonality: There are numerous questions of law and fact common to Plaintiffs and the Class that predominate over any question affecting only individual Class Members. These common legal and factual issues include the following:

a. Whether Zeltiq misrepresented and/or failed to disclose material facts concerning its CoolSculpting system;

b. Whether the CoolSculpting system and treatments are misbranded under federal and/or state laws;

c. Whether Zeltiq's conduct was unlawful, unfair and/or deceptive;

d. Whether Zeltiq has a duty to disclose the true nature of the FDA's involvement with the CoolSculpting system and the distinction between the various levels of "approval";

e. Whether Plaintiffs and other Class Members are entitled to equitable relief, including but not limited to a preliminary and/or permanent injunction;

f. Whether Plaintiffs and other Class Members are entitled to damages;

g. Whether Defendants knew or reasonably should have known of their deceptive representations and omissions relating to its CoolSculpting system; and

h. Whether Defendants are obligated to inform Class Members of their right to seek reimbursement for having paid for CoolSculpting treatments in reliance on Defendants' misrepresentations.

63. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of the Class Members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, including consumer and product defect class actions, and Plaintiffs intend to prosecute this action vigorously.

64. Predominance and Superiority: Plaintiffs and Class Members have all suffered

and will continue to suffer harm and damages as a result of Defendants' unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy at law. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Defendants' misconduct. Absent a class action, Class Members will continue to incur damages, and Defendants' misconduct will continue without remedy. Class treatment of common questions of law and fact would also be a superior method to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the courts and the litigants, and will promote consistency and efficiency of adjudication.

FIRST CAUSE OF ACTION

(Violation of California's Consumers Legal Remedies Act, California Civil Code § 1750, *et seq.*,)

65. Plaintiffs re-allege and incorporate by reference each and every allegation contained in the preceding paragraphs of this Complaint as though fully set forth herein.

66. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the members of the CLRA Sub-Class.

67. Defendants are a "person" as defined by California Civil Code § 1761(c).

68. Plaintiffs and CLRA Sub-Class Members are "consumers" within the meaning of California Civil Code § 1761(d) because they bought the CoolSculpting treatments for personal use.

69. By failing to disclose Plaintiffs and prospective Class Members and concealing the true and actual nature of the FDA's review of the CoolSculpting system and the resulting premarket clearance of the device, Defendants violated California Civil Code § 1770(a), as they represented that the CoolSculpting system had characteristics and benefits that it does not have, represented that the CoolSculpting system was of a particular standard, quality, or grade when it was of another, and advertised the CoolSculpting system with the intent not to sell the

CoolSculpting treatments as advertised. *See* Cal. Civ. Code §§ 1770(a)(5)(7) & (9).

70. Defendant's unfair and deceptive acts or practices occurred repeatedly in Defendants' trade or business and were capable of deceiving a substantial portion of the purchasing public.

71. Defendants knew the CoolSculpting system did not possess the characteristics and benefits as represented and were not of the particular standard, quality or grade as represented.

72. As a result of their reliance on Defendants' representations and omissions, Class Members suffered an ascertainable loss of money, property, and/or value of their CoolSculpting procedures.

73. Defendants were under a duty to Plaintiffs and Class Members to disclose the true and actual nature of the FDA's involvement with the CoolSculpting system because:

a. Defendants were in a superior position to know the true nature of the FDA's review of the CoolSculpting system;

b. Plaintiffs and Class Members could not reasonably have been expected to know the distinction between FDA clearance and FDA approval; and

c. Defendants knew that Plaintiffs and Class Members could not reasonably have been expected to know the distinction between FDA clearance and FDA approval;

74. In failing to disclose and misrepresenting the true nature of the FDA's involvement with the CoolSculpting system, Defendants knowingly and intentionally concealed material facts and breached their duty not to do so.

75. The facts Defendants concealed from or misrepresented to Plaintiffs and Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase the CoolSculpting treatments or pay less. If Plaintiffs and Class Members had known that the CoolSculpting system was not FDA-approved, they would not have purchased the CoolSculpting treatments or would have paid less for them.

76. Plaintiffs and Class Members are reasonable consumers who expect manufacturers, like Zeltiq, to provide accurate and truthful representations regarding the safety and efficacy of their products. Further, reasonable consumers, like Plaintiffs, rely on the representations made by manufacturers regarding the safety and efficacy of their products in determining whether to purchase the particular products and consider that information important to their purchase decision.

77. As a direct and proximate result of Defendants' unfair methods of competition and/or unfair and deceptive practices, Plaintiffs and the Class have suffered and will continue to suffer actual damages.

78. Plaintiffs and the Class are entitled to equitable relief.

79. Plaintiffs provided Defendants with notice of its violations of the CLRA pursuant to California Civil Code § 1782(a). If Defendants fail to provide appropriate relief for its violations of the CLRA within 30 days, Plaintiffs will seek monetary, compensatory, and punitive damages, in addition to injunctive and equitable relief.

SECOND CAUSE OF ACTION

(Violation of California Business & Professions Code § 17500 *et seq.*)

80. Plaintiffs incorporate by reference the allegations contained in each and every paragraph of this Complaint.

81. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Nationwide Class, or in the alternative, on behalf of the California Sub-Class.

82. California Business & Professions Code § 17500 prohibits unfair, deceptive, untrue, and misleading advertising in connection with the disposal of personal property (among other things), including, without limitation, false statements as to the use, worth, benefits, or characteristics of the property.

83. Defendants have committed acts of untrue and misleading advertising by engaging in false representations as to the true nature of the FDA's involvement with the CoolSculpting system in violation of the FDCA per 21 CFR § 807.97, which states that "[a]ny representation that creates an impression of official approval of a device because of complying

with the premarket notification regulations is misleading and constitutes misbranding", and Cal. Health & Safety Code § 110390 which provides that "[i]t is unlawful for any person to disseminate any false advertisement of any food, drug, device, or cosmetic. An advertisement is false if it is false or misleading in any particular."In addition, Defendants made such untrue or misleading advertisements with the intent to dispose of said products and/or services.

84. Defendants knew, or in the exercise of reasonable care should have known, that these representations were misleading and deceptive.

85. Defendants' misleading representations and omissions regarding its CoolSculpting system were, and continue to be, likely to deceive members of the public.

86. As a result of their reliance on Defendants' misrepresentations and omissions, Class Members suffered an ascertainable loss of money, property, and/or value of their CoolSculpting treatments.

87. As a direct and proximate result of Defendants' unfair and deceptive practices, Plaintiffs and the Class have suffered and will continue to suffer actual damages.

88. Defendants have been unjustly enriched and should be required to make restitution to Plaintiffs and the Class. Pursuant to § 17535 of the Business & Professions Code, Plaintiffs and Class Members are entitled to an order of this Court enjoining such future conduct on the part of Zeltiq, and such other orders and judgments which may be necessary to disgorge Zeltiq's ill-gotten gains and restore to any person in interest any money paid for its CoolSculpting devices and/or treatments as a result of the wrongful conduct of Zeltiq.

THIRD CAUSE OF ACTION

(Violation of California Business & Professions Code § 17200 *et seq.*)

89. Plaintiffs incorporate by reference the allegations contained in each and every paragraph of this Complaint.

90. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the Nationwide Class, or in the alternative, on behalf of themselves and on behalf of the California Sub-Class.

91. As a result of their reliance on Defendants' misrepresentations and omissions,

Class Members suffered an ascertainable loss of money, property, and/or value of their CoolSculpting treatments.

92. California Business & Professions Code § 17200 prohibits acts of "unfair competition," including any "unlawful, unfair or fraudulent business act or practice" and "unfair, deceptive, untrue or misleading advertising."

93. Plaintiffs and Class Members are reasonable consumers who expect manufacturers, like Zeltiq, to provide accurate and truthful representations regarding the safety and efficacy of their products. Further, reasonable consumers, like Plaintiffs, rely on the representations made by manufacturers regarding the safety and efficacy of products, particularly medical devices and treatments, in determining whether to purchase the particular products, and consider that information important to their purchase decision.

94. In failing to disclose and actively misrepresenting the true nature of the FDA's involvement with the CoolSculpting system, Defendants have knowingly and intentionally concealed material facts and breached its duty not to do so.

95. Defendants were under a duty to Plaintiffs and Class Members to disclose the distinction between "FDA Approval" and "FDA Clearance" and the true nature of the FDA's involvement with the CoolSculpting system, because:

a) Defendants were in a superior position to know the true nature of FDA clearance;

b) Defendants made partial representations about the FDA's involvement with the CoolSculpting system without revealing the material information needed to determine whether to purchase; and

c) Defendants actively concealed the true nature of the FDA's involvement with the CoolSculpting system from Plaintiffs and the Class.

96. The facts Defendants concealed from or misrepresented to Plaintiffs and Class Members are material in that a reasonable consumer would have considered them to be important in deciding whether to purchase CoolSculpting procedures or pay less. If Plaintiffs and Class Members had known that the CoolSculpting system was not FDA-approved, they

would not have purchased CoolSculpting treatments or would have paid less for them.

97. Defendants' conduct was and is likely to deceive consumers.

98. Defendants' acts, conduct and practices were unlawful, in that they constituted:

a. Violations of California's Consumers Legal Remedies Act;

b. Violations of California's False Advertising Law;

c. Violations of the Federal Food Drug & Cosmetic Act; and

d. Violations of California's Sherman Food, Drug, and Cosmetic Law

99. By their conduct, Defendants have engaged in unfair competition and unlawful, unfair, and fraudulent business practices.

100. Defendants' unfair or deceptive acts or practices occurred repeatedly in Defendants' trade or business, and were capable of deceiving a substantial portion of the purchasing public.

101. As a direct and proximate result of Defendants' unfair and deceptive practices, Plaintiffs and the Class have suffered and will continue to suffer actual damages.

102. Defendants have been unjustly enriched and should be required to make restitution to Plaintiffs and the Class pursuant to §§ 17203 and 17204 of the Business & Professions Code.

PRAYER FOR RELIEF

103. Plaintiffs, on behalf of themselves, and all others similarly situated, request the Court to enter judgment against Defendants, as follows:

a. An order certifying the proposed Class and Sub-Classes, designating Plaintiffs as named representatives of the Class, and designating the undersigned as Class Counsel;

b. An order enjoining Defendants from further deceptive advertising, sales, and other business practices with respect to its representations regarding the CoolSculpting system and treatments;

c. An injunction:

i. Ordering Defendants to cease using "FDA cleared" and similar

language on its website and in its advertisements and other marketing materials; or

ii. Ordering Defendants to disclose, anytime "FDA cleared" or similar language is used, the distinction between FDA clearance and FDA approval;

d. A declaration requiring Defendants to comply with the various provisions of the Federal Food Drug & Cosmetic Act, California's False Advertising Law and CLRA alleged herein and to make all the required representations;

e. An award to Plaintiffs and the Class for compensatory, exemplary, and statutory damages, including interest, in an amount to be proven at trial;

f. A declaration that Defendants must disgorge, for the benefit of the Class, all or part of the ill-gotten profits it received from the sale of its CoolSculpting system and treatments, or make full restitution to Plaintiffs and Class Members;

g. An award of attorneys' fees and costs, as allowed by law;

h. An award of attorneys' fees and costs pursuant to California Code of Civil Procedure § 1021.5;

i. An award of pre-judgment and post-judgment interest, as provided by law;

j. Leave to amend the Complaint to conform to the evidence produced at trial; and

k. Such other relief as may be appropriate under the circumstances.

DEMAND FOR JURY TRIAL

104. Plaintiffs hereby demand a trial by jury of any and all issues in this action so triable.

Dated: April 26, 2017

Respectfully submitted,

Capstone Law APC

By: /s/ Lee A. Cirsch
Lee A. Cirsch
Robert K. Friedl
Trisha K. Monesi

Attorneys for Plaintiffs
Carmen Otero and Abbey Lerman

EXHIBIT 1

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Attorneys for Plaintiffs
Carmen Otero and Abbey Lerman

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CARMEN OTERO and ABBEY LERMAN, as individuals and on behalf of other members of the general public similarly situated,

Plaintiff,

v.

ZELTIQ AESTHETICS, INC., a Delaware corporation,

Defendant.

Case No.:

DECLARATION OF ABBEY LERMAN IN SUPPORT OF VENUE FOR CLASS ACTION COMPLAINT PURSUANT TO CIVIL CODE SECTION 1780(d)

DECLARATION OF ABBEY LERMAN

I, ABBEY LERMAN, declare under penalty of perjury as follows:

1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information and belief, and as to those matters I believe them to be true. I am over the age of eighteen, a citizen of the State of California, and a Plaintiff in this action.

2. Pursuant to California Civil Code section 1780(d), this Declaration is submitted in support of Plaintiff's Selection of Venue for the Trial of Plaintiff's Cause of Action alleging violation of California's Consumers Legal Remedies Act.

3. I reside in Los Angeles, California, which is in the County of Los Angeles.

4. I purchased CoolSculpting treatments, most recently in June 2015, from several different providers, including DMH Aesthetics and Forever Young Medical Day Spa. Each of these is located in the County of Los Angeles and is authorized by Zeltiq to sell and perform CoolSculpting treatments.

5. I am informed and believe that Defendant Zeltiq Aesthetics, Inc. ("Defendant") is a Delaware corporation organized and existing under the laws of the State of Delaware, and registered to conduct business in California. Defendant Zeltiq Aesthetics, Inc.'s corporate headquarters are located at 4410 Rosewood Drive, Pleasanton, CA 94588.

6. On information and belief, Defendant designs, tests, manufactures, markets, distributes, and/or sells its CoolSculpting system and CoolSculpting treatments, which are at issue in Plaintiff's Complaint, filed concurrently herewith, in Los Angeles County and throughout the United States of America.

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7. The transactions described above form the basis of this action, or a substantial portion thereof, and occurred in the County of Los Angeles. On information and belief, Defendant conducts business in Los Angeles County, California, including, but not limited to, marketing, distributing, and/or selling its products to Class Members. Accordingly, Los Angeles County is a proper place for trial of this action.

8. I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct.

Executed April 25, 2017 in Los Angeles, California.

DocuSigned by:
Abbey Lerman
2000A0EDDD414E1...
Abbey Lerman

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Lee Cirsch (SBN 227668) CAPSTONE LAW APC 1875 Century Park East, Suite 1000 Los Angeles, CA 90067 TELEPHONE NO.: 310.556.4811 FAX NO.: 310.946.0396 ATTORNEY FOR (Name): Plaintiffs CARMEN OTERO and ABBEY LERMAN	FILED Superior Court of California County of Los Angeles APR 26 2017 Sherri R. Carter, Executive Officer/Clerk By _____ Deputy Shaunya Bolden
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Center	
CASE NAME: CARMEN OTERO and ABBEY LERMAN v. ZELTIQ AESTHETICS	

BY FAX

CIVIL CASE COVER SHEET	Complex Case Designation	CASE NUMBER:
☑ Unlimited (Amount demanded exceeds $25,000) ☐ Limited (Amount demanded is $25,000 or less)	☐ Counter ☐ Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	BC659192 JUDGE: DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- ☑ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment
- ☐ Wrongful termination (36)
- ☐ Other employment (15)

Contract
- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property
- ☐ Eminent domain/inverse condemnation (14)
- ☐ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer
- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review
- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☐ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☐ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
- ☐ RICO (27)
- ☐ Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
- ☐ Partnership and corporate governance (21)
- ☐ Other petition *(not specified above)* (43)

2. This case ☐ is ☑ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☐ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. ☑ monetary b. ☑ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action *(specify)*: 1
5. This case ☑ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: April 26, 2017
Lee Cirsch
(TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

BY FAX

SHORT TITLE: CARMEN OTERO and ABBEY LERMAN v. ZELTIQ, INC.	CASE NUMBER BC659192

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
2. Permissive filing in central district.
3. Location where cause of action arose.
4. Mandatory personal injury filing in North District.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.
11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury).

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	☐ A6070 Asbestos Property Damage ☐ A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	☐ A7210 Medical Malpractice - Physicians & Surgeons ☐ A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	☐ A7250 Premises Liability (e.g., slip and fall) ☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) ☐ A7270 Intentional Infliction of Emotional Distress ☐ A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: CARMEN OTERO and ABBEY LERMAN v. ZELTIQ, INC.	CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	☑ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	☐ A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	☐ A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
	Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Employment	Wrongful Termination (36)	☐ A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	☐ A6024 Other Employment Complaint Case ☐ A6109 Labor Commissioner Appeals	1, 2, 3 10
Contract	Breach of Contract/ Warranty (06) (not insurance)	☐ A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) ☐ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) ☐ A6019 Negligent Breach of Contract/Warranty (no fraud) ☐ A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5
	Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case ☐ A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11 5, 11 5, 6, 11
	Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1, 2, 5, 8
	Other Contract (37)	☐ A6009 Contractual Fraud ☐ A6031 Tortious Interference ☐ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9
Real Property	Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels_____	2, 6
	Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6
Unlawful Detainer	Unlawful Detainer-Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Fost-Foreclosure (34)	☐ A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: CARMEN OTERO and ABBEY LERMAN v. ZELTIQ, INC.	CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	☐ A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	☐ A6151 Writ - Administrative Mandamus	2, 8
		☐ A6152 Writ - Mandamus on Limited Court Case Matter	2
		☐ A6153 Writ - Other Limited Court Case Review	2
	Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	☐ A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	☐ A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	☐ A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	☐ A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	☐ A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	☐ A6141 Sister State Judgment	2, 5, 11
		☐ A6160 Abstract of Judgment	2, 6
		☐ A6107 Confession of Judgment (non-domestic relations)	2, 9
		☐ A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
		☐ A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	☐ A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	☐ A6030 Declaratory Relief Only	1, 2, 8
		☐ A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		☐ A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
		☐ A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	☐ A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	☐ A6121 Civil Harassment	2, 3, 9
		☐ A6123 Workplace Harassment	2, 3, 9
		☐ A6124 Elder/Dependent Adult Abuse Case	2, 3, 9
		☐ A6190 Election Contest	2
		☐ A6110 Petition for Change of Name/Change of Gender	2, 7
		☐ A6170 Petition for Relief from Late Claim Law	2, 3, 8
		☐ A6100 Other Civil Petition	2, 9

SHORT TITLE: CARMEN OTERO and ABBEY LERMAN v. ZELTIQ, INC.	CASE NUMBER

Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: ☑ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐ 11.			ADDRESS: 90035
CITY:	STATE:	ZIP CODE: 90035	

Step 5: Certification of Assignment: I certify that this case is properly filed in the CENTRAL District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: April 26, 2017

(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.