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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

RG18933751

KARI MILLER and SAMANTHA
PAULSON, on behalf of
themselves and those similarly
situated,

Plaintiffs,

v.

PETER THOMAS ROTH, LLC;
PETER THOMAS ROTH
DESIGNS LLC; PETER THOMAS
ROTH GLOBAL, LLC; PETER
THOMAS ROTH LABS LLC; and
DOES 1-100,

Defendants.

Case No. _____
Unlimited Civil Case
Class Action Complaint for Fraud,
Deceit, and/or Misrepresentation;
Violation of the Consumer Legal
Remedies Act; False Advertising;
Negligent Misrepresentation; and
Unfair, Unlawful, and Deceptive Trade
Practices.
Jury Trial Demanded

1 Plaintiffs Kari Miller and Samantha Paulson bring this action on behalf of
2 themselves and all others similarly situated against Peter Thomas Roth, LLC;
3 Peter Thomas Roth Designs LLC; Peter Thomas Roth Global, LLC; Peter Thomas
4 Roth Labs, LLC; and Does 1-100 (collectively “Defendants”). Plaintiffs’
5 allegations against Defendants are based upon information and belief and upon
6 investigation of Plaintiffs’ counsel, except for allegations specifically pertaining
7 to Plaintiffs, which are based upon Plaintiffs’ personal knowledge.

8 **Introduction**

9 1. Defendants are large companies that sell skin care products under the
10 brand name “Peter Thomas Roth.” To increase their sales, Defendants trick
11 consumers by making false claims about the capabilities of their products.
12 Defendants do not disclose to consumers that their products are scientifically
13 incapable of achieving the promised results.

14 2. This case is about two of Defendants’ product lines. First, Defendants
15 market and sell a “Water Drench” line of products. Defendants falsely and
16 deceptively represent that the active ingredient in these products, hyaluronic acid,
17 will draw moisture from the atmosphere into the user’s skin, and will hold 1,000
18 times its weight in water for up to 72 hours. Second, Defendants market and sell a
19 line of “Rose Stem Cell” products by falsely and deceptively representing that
20 rose stem cells are capable of repairing, regenerating, and rejuvenating human
21 skin. Defendants have profited enormously from their false marketing campaigns,
22 while their customers are left with overpriced, ineffective skin care products.

23 **Parties**

24 3. Plaintiff Kari Miller is, and was at all relevant times, an individual and
25 resident of California. Ms. Miller currently resides in Concord, California.
26

1 4. Plaintiff Samantha Paulson is, and was at all relevant times, and
2 individual and resident of California. Ms. Paulson currently resides in El Dorado
3 Hills, California.

4 5. Defendant Peter Thomas Roth, LLC is a New York limited liability
5 company with its principal place of business in New York, New York.

6 6. Defendant Peter Thomas Roth Designs LLC is a Delaware limited
7 liability company with its principal place of business in New York, New York.

8 7. Defendant Peter Thomas Roth Global, LLC is a New York limited
9 liability company with its principal place of business in New York, New York.

10 8. Defendant Peter Thomas Roth Labs LLC is a New York limited
11 liability company with its principal place of business in New York, New York.

12 9. The true names and capacities of Defendants sued as Does 1 through
13 100, inclusive, are unknown to Plaintiffs. Plaintiffs will seek leave of Court to
14 amend this Class Action Complaint when said true names and capacities have
15 been ascertained.

16 10. At all times herein mentioned, Defendants, and each of them, were
17 members of, and engaged in, a joint venture, partnership and common enterprise,
18 and acting within the course and scope of, and in pursuance of, said joint venture,
19 partnership, and common enterprise.

20 11. At all times herein mentioned, the acts and omissions of Defendants,
21 and each of them, concurred and contributed to the various acts and omissions of
22 each and all of the other Defendants in proximately causing the injuries and
23 damages as herein alleged.

24 12. At all times herein mentioned, Defendants, and each of them, ratified
25 each and every act or omission complained of herein. At all times herein
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1 mentioned, Defendants, and each of them, aided and abetted the acts and
2 omissions of each and all of the other Defendants in proximately causing the
3 damages, and other injuries, as herein alleged.

4 **Jurisdiction and Venue**

5
6 13. This Court has personal jurisdiction over Plaintiffs because they each
7 submit to the Court's jurisdiction. This Court has personal jurisdiction over each
8 Defendant because it conducts substantial business in the District and thus has
9 sufficient minimum contacts with Alameda County and California.

10 14. In accordance with California Civil Code Section 1780(d), Plaintiffs
11 are filing with this Complaint declarations establishing that, within the requisite
12 period, they purchased Peter Thomas Roth products in California. (*See Exhibit*
13 *A.*)

14 **Substantive Allegations**

15 15. The market for cosmetics is fiercely competitive. Cosmetics
16 manufacturers continually attempt to gain market share by touting the latest
17 ingredients in their products and marketing them as being capable of improving
18 consumers' appearance.

19 16. Even in an industry known for hype, Defendants' outrageous marketing
20 practices stand out among those of their competitors. Defendants position
21 themselves as being a "clinical" skin care brand backed by cutting-edge
22 technology with significant benefits for consumers' health and physical
23 appearance. As discussed below, Defendants' claims about their "technology" are
24 not just hype; rather, they are demonstrably false.

25
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1 17. Under the brand name “Peter Thomas Roth,” Defendants are large skin
2 care companies that market, advertise and sell products such as skin creams,
3 serums, and face masks to consumers. Defendants sell their products at
4 department stores, such as Macy’s and Nordstrom; specialty beauty stores like
5 Sephora; the television shopping channel QVC; and Defendants’ website,
6 www.peterthomasroth.com (the “Website”).

7 18. Defendants understand that consumers are concerned about looking
8 youthful, reducing the appearance of wrinkles and fine lines on their faces, and
9 maintaining healthy, clear skin. Defendants know that consumers are therefore
10 willing to pay more for products that promise to make them look younger, keep
11 their skin healthy, and reverse the signs of aging.

12 19. Accordingly, Defendants have embarked on a long term advertising
13 campaign to trick consumers into believing that many of their products contain
14 cutting-edge scientific technologies that will offer younger, healthier skin, when
15 Defendants know that their claims are false.

16 20. This case is about two of Defendants’ lines of products: the “Rose Stem
17 Cell” line, and the “Water Drench” line.

18 **A. Defendants Make False Claims About Their “Rose Stem Cell” Line of**
19 **Products.**

20 21. Defendants sell various products as part of their “Rose Stem Cell” line.
21 These products include:

- 22 a. Rose Stem Cell Gel Mask;
- 23 b. Rose Stem Cell Bio-Repair Precious Cream;
- 24 c. Rose Stem Cell Bio-Repair Cleansing Gel; and
- 25 d. Hello Kitty Rose Repair Cleansing Gel.

26 (Collectively, the “Rose Stem Cell Products.”)

1 22. In addition, Defendants also sell a number of limited edition gift sets,
2 travel kits, and sample sets (“Bundled Sets”) that include one or more Rose Stem
3 Cell Products. For example, Defendants frequently offer a “Mask-a-Holic” set
4 that includes the Rose Stem Cell Mask as well as other face masks from
5 Defendants’ collection.

6 23. When designing Bundled Sets, Defendants typically package their
7 products in boxes that have either a clear front that allow consumers to see the
8 front of each of the products contained inside, or they use boxes that show
9 photographs or images of the jars and tubes of the products contained inside.
10 Thus, when Defendants’ include a product in a Bundled Set, consumers see the
11 same marketing information for that product that they would see if they were
12 viewing the product by itself. Similarly, Defendants typically print descriptions of
13 each product on the back of the Bundled Set that are similar to the descriptions
14 appearing on the back or side of the boxes for the full-size version of the product,
15 so that consumers usually receive the same information about a product regardless
16 of how the product is packaged.

17 **1. Defendants Falsely and Deceptively Represent to Consumers**
18 **that the Rose Stem Cell Products Can Heal, Repair, and**
19 **Regenerate Human Skin.**

20 24. Throughout the class period, Defendants have engaged in a long term
21 campaign to increase their sales of the Rose Stem Cell Products by tricking
22 consumers into believing that the products can heal, repair, and regenerate human
23 skin, providing significant anti-aging and healing benefits. Defendants claim that
24 these capabilities are due to the fact that the Rose Stem Cell Products contain rose
25 stem cells. As explained below, however, these representations are falsely and
26 deceptive.

1 25. For example, both the box and the plastic container for the Rose Stem
2 Cell Bio-Repair Gel Mask make specific claims about the product’s anti-aging
3 and healing properties. First, the use of the phrase “Bio-Repair” in the product’s
4 title, which appears in a large font, suggests to the consumer that the product is
5 capable of repairing the body. Second, the box and container state the product
6 contains “five perfect reparative rose stem cells.” Third, the box and container
7 state that “cutting-edge plant biotechnology isolates and replicates.” Fourth, the
8 box and container states not only that the product “helps reduce the look of fine
9 lines & wrinkles,” but also that it “regenerates” and “rejuvenates”:



1 26. The other Rose Stem Cell Products' boxes and containers have
2 substantially similar representations. The box and container for the Rose Stem
3 Cell Bio-Repair Precious Cream state that "[c]utting-edge plant biotechnology
4 isolates and replicates the perfect rose stem cells for maximum anti-age repair,"
5 and that the product "helps repair, regenerate and rejuvenate skin." It further
6 states that the product can "repair the signs of aging." Similarly, the boxes and
7 containers for the Rose Stem Cell Bio-Repair Cleansing Gel and the Hello Kitty
8 Rose Repair Cleansing Gel state that the product "repairs" and "renews" skin, and
9 that it contains "five perfect reparative rose stem cells" to "help repair the signs of
10 aging."

11 27. The Website contains photographs of the Rose Stem Cell Products'
12 containers and, therefore, makes the exact same representations. (*See, e.g.*,
13 <https://www.peterthomasroth.com/collections/rose-stem-cell/> (last accessed Dec.
14 24, 2018).)

15 28. The representations that Defendants make on the Rose Stem Cell
16 Products' boxes and containers are viewed by consumers who shop for their
17 products, regardless of whether they shop at retail stores or online. Defendants
18 prominently place images of the containers on the Website, where they are
19 viewed by consumers who choose to shop online. At Defendants' instruction,
20 retail stores make the boxes and containers available for consumers to view as
21 they shop, and also prominently place photographs of the boxes and containers
22 (which are provided by Defendants) on their websites for consumers to read.

23 29. For example, Sephora's website contains images of the Rose Stem Cell
24 Bio-Repair Mask. (*See* [https://www.sephora.com/product/rose-stem-cell-bio-
25 repair-gel-mask-P386377](https://www.sephora.com/product/rose-stem-cell-bio-repair-gel-mask-P386377)) The description next to that image reiterates the
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1 representations on the container, stating that the product is a “Bio-Repair Gel”
2 with “rose stem cell technology,” “[c]utting-edge plant biotechnology,” and
3 “state-of-the-art breakthrough technology” to make the skin look more youthful.
4 (*Id.*)

5 30. Finally, in a marketing video that Defendants created for the Rose Stem
6 Cell Products, Defendants claim that the product is “state of the art twenty-first
7 century breakthrough stem cell technology,” and that it is a “rejuvenating gel to
8 stimulate cellular turnover for younger looking skin.”

9 **2. Defendants’ Representations Regarding the Rose Stem Cell**
10 **Products Are False and Deceptive.**

11 31. Defendants’ representations regarding the Rose Stem Cell Products are
12 falsely and deceptive.

13 32. While medical research has shown that *human* stem cells can provide
14 tremendous health benefits to people under specific circumstances, there is
15 absolutely no evidence that *rose* stem cells can provide such benefits. Plant stem
16 cells cannot “repair,” “rejuvenate,” or “regenerate” human skin, as Defendants
17 claim. Nor can they “stimulate cellular turnover,” as Defendants claim in their
18 marketing video. Accordingly, Defendants’ representations are falsely and
19 deceptive.

20 33. Indeed, assuming that Defendants’ Rose Stem Cell Products actually
21 contain rose stem cells, those stem cells would be dead by the time consumers
22 apply them to their skin. Plant stem cells are fragile and cannot survive the
23 manufacturing, shipping, and storage to which the Rose Stem Cell Products are
24 necessarily subjected. Dead stem cells—whether they are of the human or plant
25 variety—are incapable of having any effect on plants, let alone humans.

26 Accordingly, even if one were to assume that living rose stem cells could have

1 some health benefit for humans—a false assumption—the Rose Stem Cell
2 Products still would be completely ineffective.

3 34. Defendants’ falsely and deceptive marketing practices are an attempt to
4 capitalize on the recent media attention that has been given to medical research of
5 human stem cells, with the goal of confusing consumers and causing them to
6 erroneously believe that they will receive significant health benefits by using the
7 Rose Stem Cell Products.

8 **B. Defendants Make False and Deceptive Claims About Their “Water
9 Drench” Line of Products.**

10 35. Defendants sell various products as part of their “Water Drench” line.
11 These products include:

- 12 a. Water Drench Cloud Cleanser;
- 13 b. Water Drench Hyaluronic Cloud Serum;
- 14 c. Water Drench Hyaluronic Cloud Cream; and
- 15 d. Water Drench Hyaluronic Cloud Hydra-Gel Eye Patches.

16 (Collectively, the “Water Drench Products.”)

17 36. Defendants also sell a number of Bundled Sets that include the Water
18 Drench Products. For example, at various points during the class period,
19 Defendants have packaged and sold samples of the (i) Water Drench Cloud
20 Cleanser; (ii) Water Drench Hyaluronic Cloud Serum; and (iii) Water Drench
21 Hyaluronic Cloud Cream, under the names “Water Drench Luxe Kit” and “Get
22 Drenched Kit.” Sometimes Defendants package various Water Drench Products
23 into Bundled Sets along with other products from their catalog. For example,
24 Defendants currently sell a “Jet, Set Facial Kit!” that includes two Water Drench
25 Products, and two other products manufactured and sold by Defendants.
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1 **1. Defendants Falsely and Deceptively Represent to Consumers**
2 **that the Water Drench Products Moisturize Skin by Drawing**
3 **Large Quantities of Water from the Atmosphere Into the Skin.**

4 37. Throughout the class period, Defendants have made false
5 representations and misleading marketing to trick consumers into believing that
6 the Water Drench Products contain unique moisturizing properties. Specifically,
7 Defendants falsely and deceptively represent that, because of the presence of
8 hyaluronic acid in the Water Drench Products, the products are capable of
9 drawing large quantities of water from the atmosphere into the user’s skin, for
10 long-lasting benefits. As explained below, however, these representations are also
11 falsely and deceptive.

12 38. Throughout the class period, the box for the Water Drench Cloud
13 Cream states that the product contains a “30% hyaluronic acid complex” that
14 “draws atmospheric vapor [and] helps lock in hydration for up to 72 hours.” It
15 further states:

16 Drench your skin with a liquid cloud of pure,
17 endless moisture drawn right from the atmosphere.
18 This concentrated 30% Hyaluronic Acid complex
19 transforms atmospheric vapor into fresh, pure water
20 from the clouds, providing your skin with a
21 continuous burst of intense hydration that lasts up to
22 72 hours. Three molecular sizes of Hyaluronic
23 Acid, a potent hydrator that constantly attracts and
24 retains up to 1,000 times its weight in water from
25 moisture in the atmosphere, helps replenish skin to
26 make it appear more supple, full and smooth.
ProHyal+ helps improve hydration for healthier-
looking skin. The appearance of fine lines and
wrinkles is visibly reduced, leaving a silky,
hydrated and more youthful-looking complexion.



39. Similarly, the box for Defendants’ Water Drench Hyaluronic Cloud Serum states: “An invisible veil of hydration attracts up to 1,000 times its weight in water from moisture in the atmosphere,” and that this “[h]elps replenish the appearance of aging and dehydrated skin with vital moisture, imparting a look of youthful radiance.”

40. The box for Defendants’ Water Drench Cloud Cream Cleanser states that “Hyaluronic Acid attracts and retains up to 1,000 times its weight in water from the moisture in the atmosphere,” and that it “draws water vapor from the clouds to help lock in moisture.”

41. Finally, the box for Defendants’ Water Drench Hyaluronic Cloud Hydra-Gel Eye Patches states that the product “[h]elps hydrate, moisturize and instantly improve the look of fine lines, crow’s feet and under-eye darkness with pure, plumping water vapor continuously drawn from the clouds.” The box further states that “[m]ultiple sizes of Hyaluronic Acid attract and retain up to 1,000 times their weight in water from moisture in the atmosphere to lock in hydration.”

1 42. All Water Drench Products contain “cloud” in their product titles, and
2 the packaging for all these products utilize a water vapor cloud background
3 image, to prompt consumers to think about how the product will absorb water
4 from the air.

5 43. The Website makes the exact same representations. In addition to
6 prominently featuring photographs of the Water Drench Products’ containers, the
7 website contains descriptions of the products that mirror the representations on
8 the boxes. (*See, e.g.*, [https://www.peterthomasroth.com/water-drench-hyaluronic-
9 cloud-cream-1801012.html#start=1](https://www.peterthomasroth.com/water-drench-hyaluronic-cloud-cream-1801012.html#start=1) (last accessed Dec. 24, 2018).)

10 44. The representations that Defendants make on the Water Drench
11 Products’ boxes and containers are viewed by consumers who shop for their
12 products, regardless of whether they shop at retail stores or online. At Defendants’
13 instruction, retail stores make the boxes and containers available for consumers to
14 view as they shop, and also prominently place photographs of the boxes and
15 containers (which are provided by Defendants) on their websites for consumers to
16 read.

17 45. For example, Sephora’s website contains images of the Water Drench
18 Products’ containers. (*See, e.g.*, [https://www.sephora.com/product/water-drench-
19 hyaluronic-cloud-cream-P415701?icid2=products%20grid:p415701:product](https://www.sephora.com/product/water-drench-hyaluronic-cloud-cream-P415701?icid2=products%20grid:p415701:product) (last
20 accessed December 24, 2018).) The description next to those images reiterate the
21 representations on the Water Drench Products containers and boxes.

22 46. Defendants have also created marketing videos that appear on
23 YouTube, the Website, on various social media sites, and next to the product
24 listing on their retailers’ websites. These videos typically feature Mr. Peter
25
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1 Thomas Roth or spokespeople who repeat the claims that are being made on the
2 packaging for the Water Drench Products.

3 47. For example, in one video regarding the Cloud Serum, Mr. Roth states:
4 “Hyaluronic acid absorbs 1,000 times its weight in water from the vapors, from
5 the moisture in the air, from the clouds. So it’s up in the clouds, they’re coming
6 down into the air and pulling it right in.” In that video, Mr. Roth then purports to
7 demonstrate how the product works by holding up two vials—one that contains
8 something that is supposed to represent hyaluronic acid before being placed on
9 the skin, and another that is supposed to represent the hyaluronic acid after it has
10 been placed on the skin and has absorbed water. The second vial is far larger than
11 the second, indicating that the hyaluronic acid has absorbed incredible amounts of
12 water. Mr. Roth then says, “[t]hat’s how your skin is going to feel. It’s going to
13 feel all moisturized from the water in the air, not creams and lotions on your
14 face.” He further says that after a consumer puts the product on her skin, “it’s
15 drawing 1,000 times its weight in water—75% hyaluronic acid—all day long into
16 your skin.”

17 48. In a video regarding the Cloud Cream, Mr. Roth makes substantially
18 identical representations. In that video, however, Mr. Roth does not disclose that
19 the vials he is holding up do not actually contain hyaluronic acid. In fact, as he
20 holds up the vials, he says “this is hyaluronic acid without water; this is when it’s
21 exposed to water.” Then he says, “can you imagine how moist your face is going
22 to be, just from water in the atmosphere, vapors in the atmosphere? You’re going
23 to put this on, you’re going to look younger, your face is going to be moisturized
24 all day long.” (See <https://www.youtube.com/watch?reload=9&v=TIhqaxeYVKs>
25 (last accessed December 24, 2018).)
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1 49. Defendants also encourage their retailers to provide such promotional
2 videos to their customers. On the Sephora webpage for the Water Drench Cloud
3 Cream, a Peter Thomas Roth spokesperson discusses how the product draws in
4 moisture from the atmosphere and holds 1,000 times its weight in water. She too
5 holds up vials that purport to be hyaluronic acid, and hyaluronic acid after being
6 exposed to water, but does not inform people that what is inside is another
7 product. (See <https://www.sephora.com/product/water-drench-hyaluronic-cloud-cream-P415701>
8 (last accessed December 24, 2018).) Other videos like this
9 appear all over the internet in connection with advertisements for the Water
10 Drench Products.

11 **2. Defendants' Representations Regarding the Water Drench**
12 **Products Are False.**

13 50. Defendants' representations regarding the Water Drench Products are
14 falsely and deceptive.

15 51. Defendants represent that the hyaluronic acid in their Water Drench
16 Products can absorb 1,000 times its weight in water. That representation is falsely
17 and deceptive. Hyaluronic acid is incapable of absorbing anywhere near 1,000
18 times its weight in water, even when it is in its anhydrous (i.e., waterless;
19 completely dry) form.

20 52. Hyaluronic acid is the most capable of absorbing water when it is in its
21 anhydrous form. But the hyaluronic acid contained in the Water Drench Products
22 is not in its anhydrous form. Rather, it is already saturated with water. Indeed, the
23 first ingredient in the Cloud Serum, Cloud Cream, and Cloud Hydra-Gel Eye
24 Patches is water. Because the hyaluronic acid contained in these products is
25 already water-saturated, it is incapable of absorbing any additional water at all, let
26

1 alone “attract[ing] and retain[ing] up to 1,000 times its weight in water from
2 moisture in the atmosphere,” as Defendants claim.

3 53. The only Water Drench Product that does not contain water as its
4 primary ingredient is the Cloud Cleanser. Nevertheless, Defendants’
5 representations regarding the Cloud Cleanser’s ability to absorb water from the
6 atmosphere are equally falsely and deceptive, because the product is designed to
7 be mixed with water from the faucet before being applied to the face.
8 Accordingly, by the time the cleanser reaches the face, it is already saturated with
9 water.

10 54. Further, even assuming that the hyaluronic acid in the Water Drench
11 Products is capable of absorbing any additional water by the time it is applied to a
12 consumer’s face—an assumption that is unwarranted—Defendants’ representation
13 that the acid pulls water from the air or clouds is also falsely and deceptive. That
14 is because the acid would tend to draw water *out* of the skin, thereby achieving
15 the *opposite* effect as the one the company advertises. Hyaluronic acid does not
16 know how to pull water *only* from the air, as Defendants represent.

17 55. Therefore, Defendants’ representations on the Water Drench Products’
18 packaging and on the Website (i.e., (i) that the hyaluronic acid in the Water
19 Drench Products “attracts and retains up to 1,000 times its weight in water from
20 moisture in the atmosphere”; (ii) that the hyaluronic acid in the Water Drench
21 Products “transforms atmospheric vapor into fresh, pure water from the clouds”;
22 (iii) that the hyaluronic acid in the Water Drench Products provides skin “with a
23 continuous burst of intense hydration that lasts up to 72 hours”; (iv) that the
24 hyaluronic acid in Defendants’ products “draws water vapor from the clouds to
25 help lock in moisture”; and (v) that the Water Drench Products “transform[]
26

1 atmospheric vapor into fresh, pure water from the clouds, providing your skin
2 with a continuous burst of intense hydration that lasts up to 72 hours”) are all
3 falsely and deceptive.

4 **C. Defendants Intend to Continue to Falsely and Deceptively Advertise**
5 **the Water Drench and Rose Stem Cell Products.**

6 56. The market for beauty and skin care is robust and continues to grow.
7 Women increasingly have more disposable income, and thus are more likely to
8 purchase more expensive brands, such as those sold by Defendants. Further, men
9 increasingly are using beauty and skin care products. In addition, the ubiquity of
10 social media has caused a surge in interest in looking young and camera-ready.
11 Moreover, as the population ages, the interest in anti-aging products has grown.

12 57. To take advantage of this growing market, Defendants have a
13 tremendous incentive to falsely and deceptively advertise their Rose Stem Cell
14 and Water Drench Products, as these products tap into consumers’ increasing
15 concerns over aging and interest in higher-end products. Not surprisingly, these
16 products are among some of Defendants’ best sellers. For example, in a search
17 performed on December 5, 2018 on Sephora’s website, the Water Drench
18 Hyaluronic Cloud Cream was apparently Defendants’ sixth most popular item out
19 of the 77 items Defendants sell through that retailer. The same search revealed
20 that the Rose Stem Cell Mask is also in the top third of Defendants’ Sephora
21 items in terms of popularity.

22 58. Because of the interest in these kinds of products, Defendants are able
23 to charge exorbitant amounts for their pseudo-science. Thus, given that
24 Defendants’ profits will likely grow from selling over-priced products to a
25 growing market for skin care products, Defendants have an incentive to continue
26 to make false representations.

1 **California Regulations Governing Cosmetic Labeling**

2 59. Under the Sherman Food Drug & Cosmetic Law (the “Sherman Law”),
3 California laws regulate the content of labels on cosmetics and require truthful,
4 accurate information on the labels of cosmetics.

5 60. Under the Sherman Law, cosmetics are “misbranded” if “its labeling is
6 false or misleading in any particular,” or if it does not contain certain information
7 on its label or in its labeling. California Health & Safety Code § 111730.

8 61. Defendants’ marketing, advertising, and sale of Defendants’ Products
9 violates the false advertising provisions of the Sherman Law (California Health &
10 Safety Code § 110390, *et. seq.*), including but not limited to:

- 11
- 12 a. Section 110390, which makes it unlawful to disseminate false or
13 misleading cosmetics advertisements that include statements on
14 products and product packaging or labeling or any other medium
15 used to directly or indirectly induce the purchase of a cosmetic
16 product;
 - 17 b. Section 110395, which makes it unlawful to manufacture, sell,
18 deliver, hold or offer to sell any falsely or misleadingly advertised
19 cosmetic; and
 - 20 c. Sections 110398 and 110400, which make it unlawful to advertise
21 misbranded cosmetic or to deliver or proffer for delivery any
22 cosmetic that has been falsely or misleadingly advertised.

23 62. Defendants’ marketing, advertising, and sale of the Rose Stem Cell
24 Products and the Water Drench Products violates the misbranding provisions of
25 the Sherman Law (California Health & Safety Code § 111730, *et. seq.*), including
26 but not limited to:

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- d. Section 111735 (a cosmetic is misbranded if words, statements and other information required by the Sherman Law to appear on cosmetic labeling is either missing or not sufficiently conspicuous);
- e. Section 111745 (a cosmetic is misbranded if any word, statement, or other information required pursuant to this part to appear on the label or labeling is not prominently placed upon the label or labeling with conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.);
- f. Section 111760, which makes it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any cosmetic that is misbranded;
- g. Section 111765, which makes it unlawful for any person to manufacture, or sell any cosmetic that is misbranded; and
- h. Section 111770, which makes it unlawful for any person to misbrand any cosmetic; and
- i. Section 111775, which makes it unlawful for any person to receive in commerce any cosmetic that is misbranded, or to deliver or proffer for delivery any cosmetic.

63. Under California law, a cosmetic product that is “misbranded” cannot legally be manufactured, advertised, distributed, sold, or possessed. Misbranded products have no economic value and are legally worthless.

D. Plaintiffs’ Experiences

64. Plaintiffs are reasonably diligent consumers, and when they purchased

1 Defendants' Products, they reasonably relied on Defendants' false
2 representations.

3 **1. Samantha Paulson**

4 65. Plaintiff Samantha Paulson is a consumer who is interested in beauty
5 products. Ms. Paulson, who is a Navy veteran and a cancer survivor, has a scar on
6 her neck caused by cancer-related surgery. Approximately one year ago, she
7 visited an Ulta store in Citrus Heights, California, where she was shopping for a
8 cosmetic product to improve the appearance of the scar. She saw the Peter
9 Thomas Roth Rose Stem Cell Cream, and read on the box that the product was
10 capable of "Bio-Repair"; that the product contains "five perfect reparative rose
11 stem cells"; that "cutting-edge plant biotechnology isolates and replicates"; and
12 that the product "regenerates," "rejuvenates," and "helps reduce the look of fine
13 lines & wrinkles."

14 66. Based on these representations, Ms. Paulson believed that the product
15 was capable of repairing, regenerating, and rejuvenating her skin. She also
16 believed, based on these representations, that the product would help improve the
17 appearance of her scar. Accordingly, she decided to purchase the product.

18 67. She repeatedly used the product, but did not observe any improvement
19 to her skin. She tried return the product to Ulta, but the store would not allow her
20 to return it.

21 68. Had Mr. Paulson known that the Rose Stem Cell Cream is incapable of
22 repairing, regenerating, and rejuvenating human skin, she would not have
23 purchased it, or would have paid less for it.

24 69. Ms. Paulson continues to want to purchase products that could help
25 improve the appearance of her scar. She desires to purchase other cosmetic
26

1 products from retailers such as Ulta, and regularly visits stores where Defendants'
2 products are sold. Without purchasing and having the products professionally
3 tested or consulting scientific experts, Ms. Paulson will be unable to determine if
4 representations that Defendants make regarding the properties and features of its
5 products are true. Ms. Paulson understands that the formulation of Defendants'
6 Products may change over time or that Defendants may choose to market other
7 products that contain false representations about the product. But as long as
8 Defendants may use inaccurate representations about the capabilities of their
9 products, then when presented with Defendants' advertising, Ms. Paulson
10 continues to have no way of determining whether the representations regarding
11 those capabilities are true. Thus, Ms. Paulson is likely to be repeatedly presented
12 with false information when shopping and unable to make informed decisions
13 about whether to purchase Defendants' products. Thus, she is likely to be
14 repeatedly misled by Defendants' conduct, unless and until Defendants are
15 compelled to utilize accurate representations regarding the actual capabilities of
16 plant stem cells.

17 **2. Kari Miller**

18 70. Plaintiff Kari Miller is a consumer who is interested in beauty products.
19 She has been familiar with Defendants' brand for several years and has purchased
20 various products sold by Defendants at Sephora and QVC.

21 71. While browsing the Peter Thomas Roth Website in late 2017, Ms.
22 Miller saw the Water Drench Products. She saw the images of the Water Drench
23 Products' packaging and container on the Website, and read the representations
24 made there. Among other things, she read the representations that (i) hyaluronic
25 acid "attracts and retains up to 1,000 times its weight in water from moisture in
26

1 the atmosphere”; (ii) hyaluronic acid “transforms atmospheric vapor into fresh,
2 pure water from the clouds”; (iii) hyaluronic acid provides skin “with a
3 continuous burst of intense hydration that lasts up to 72 hours”; (iv) hyaluronic
4 acid “draws water vapor from the clouds to help lock in moisture”; and (v) the
5 Water Drench Products “transform[] atmospheric vapor into fresh, pure water
6 from the clouds, providing your skin with a continuous burst of intense hydration
7 that lasts up to 72 hours.”

8 72. Ms. Miller reasonably understood these representations to mean that
9 the Water Drench Products would be exceptionally hydrating on her skin. On the
10 basis of these representations, Ms. Miller decided to purchase a Water Drench
11 Luxe kit, which included the Water Drench Hyaluronic Cloud Cream, the Water
12 Drench Hyaluronic Cloud Cleanser, and the Water Drench Hyaluronic Cloud
13 Serum. On December 4, 2017, she paid \$52.00 for the kit using her credit card.

14 73. She received the product shortly thereafter and began using it. She tried
15 all three Water Drench Products in the kit. After repeatedly using each of the
16 three products, she realized that they did not improve the hydration of her skin, let
17 alone provide the significant amount of moisture that Defendants had represented.

18 74. Had Ms. Miller known that any of Defendants’ representations set forth
19 in paragraph 71 above were false, she would not have purchased the Water
20 Drench Luxe Kit, or would have paid less for it.

21 75. Ms. Miller continues to desire products that offer exceptional
22 moisturizing qualities, regardless of whether those products contain hyaluronic
23 acid. She desires to purchase other moisturizing products from retailers such as
24 QVC, and regularly visits stores where Defendants’ products are sold. Without
25 purchasing and having the products professionally tested or consulting scientific
26

1 experts, Ms. Miller will be unable to determine if representations that Defendants
2 make regarding the properties and features of hyaluronic acid and/or the
3 moisturizing properties of its products are true. Ms. Miller understands that the
4 formulation of the Water Drench Products may change over time or that
5 Defendants may choose to market other products with hyaluronic acid that
6 contain false representations about the product. But as long as Defendants may
7 use inaccurate representations about the moisturizing capabilities of hyaluronic
8 acid, then when presented with Defendants' packaging, Ms. Miller continues to
9 have no way of determining whether the representations regarding those
10 capabilities are true. Thus, Ms. Miller is likely to be repeatedly presented with
11 false information when shopping and unable to make informed decisions about
12 whether to purchase Defendants' products. Thus, she is likely to be repeatedly
13 misled by Defendants' conduct, unless and until Defendants are compelled to
14 utilize accurate representations regarding the actual capabilities of hyaluronic
15 acid.

16 **Class Allegations**

17
18 76. In addition to their individual claims, Plaintiffs bring this action
19 pursuant to section 382 of the California Code of Civil Procedure and section
20 1781 of the California Civil Code.

21 **A. The Rose Stem Cell Class**

22 77. Plaintiff Samantha Paulson seeks to represent the "Rose Stem Cell
23 Class" of persons, defined as: "All persons who, between December 28, 2014 and
24 the present, purchased, in the United States, any Rose Stem Cell Product" (the
25 "Rose Stem Cell Class"). Plaintiff Paulson also seeks to represent a subclass of
26 persons defined as "All Rose Stem Class Members who, purchased, in California,

1 any Rose Stem Cell Product” (the “Rose Stem Cell Subclass”).

2 78. Excluded from the Rose Stem Cell Class are Defendants, their
3 affiliates, successors and assigns, officers and directors, and members of their
4 immediate families.

5 79. The Rose Stem Cell Class is so numerous that joinder of all members is
6 impracticable. The precise number of members in the Rose Stem Cell Class is not
7 yet known to Ms. Paulson, but she estimates that it is well in excess of 1,000
8 people.

9 80. There are questions of law and fact that are common to the Rose Stem
10 Cell Class, including, but not limited to, the following:

- 11 • whether Defendants misrepresented or omitted material facts in
12 connection with the promotion, marketing, advertising, packaging,
13 labeling and sale of the Rose Stem Cell Products;
- 14 • whether Defendants represented that products in the Rose Stem Cell have
15 characteristics, benefits, uses or qualities that they do not have;
- 16 • whether Defendants misled class members by representing that the Rose
17 Stem Cell Products are capable of “Bio-Repair”;
- 18 • whether Defendants misled class members by representing that the Rose
19 Stem Cell Products contain “reparative” rose stem cells;
- 20 • whether Defendants misled class members by representing that the Rose
21 Stem Cell Products contain “cutting-edge plant biotechnology” that
22 “isolates and replicates.”
- 23 • whether Defendants misled class members by representing that the Rose
24 Stem Cell Products “regenerate[.]” and “rejuvenate[.]”
- 25 • whether Defendants’ nondisclosures and misrepresentations would be
26 material to a reasonable consumer;

- 1 • whether the nondisclosures and misrepresentations were likely to deceive
2 a reasonable consumer in violation of the consumer protection statutes of
3 California;
- 4 • Whether the nondisclosures and misrepresentations were likely to deceive
5 a reasonable consumer in violation of the consumer protection statutes of
6 the various states;
- 7 • whether Defendants were unjustly enriched;
- 8 • whether Defendants' unlawful, unfair and/or deceptive practices harmed
9 Ms. Paulson and the members of the Rose Stem Cell Class;
- 10 • whether Ms. Paulson and the members of the Rose Stem Cell Class are
11 entitled to damages, restitution, and/or equitable or injunctive relief;
- 12 • whether Defendants breached their obligations to the Rose Stem Cell
13 Class;
- 14 • whether Defendants engaged in the alleged conduct knowingly, recklessly,
15 or negligently;
- 16 • the amount of revenues and profits Defendants received and/or the amount
17 of monies or other obligations lost by class members as a result of such
18 wrongdoing;
- 19 • whether class members are entitled to injunctive relief and other equitable
20 relief and, if so, what is the nature of such relief; and
- 21 • whether class members are entitled to payment of actual, incidental,
22 consequential, exemplary, and/or statutory damages plus interest, and if
23 so, what is the nature of such relief.

24 81. Ms. Paulson's claims against Defendants are typical of the claims of
25 the Rose Stem Cell Class because Ms. Paulson and all other members of the class
26 purchased the Rose Stem Cell Products with the same attendant advertising,

1 warranties, and representations. With respect to the class allegations, Ms. Paulson
2 was subjected to the exact same business practices and representations.

3 82. Ms. Paulson will fairly and adequately protect the interests of the Water
4 Drench Class.

5 83. Ms. Paulson has demonstrated her commitment to the case, has
6 diligently educated herself as to the issues involved, and to the best of her
7 knowledge does not have any interests adverse to the proposed class.

8 84. The questions of law and fact common to the members of the Rose
9 Stem Cell Class predominate over any questions affecting only individual
10 members.

11 85. A class action is superior to other available methods for a fair and
12 efficient adjudication of this controversy as many members of the proposed Rose
13 Stem Cell Class have damages arising from Defendants' wrongful course of
14 conduct which would not be susceptible to individualized litigation of this kind,
15 including, but not limited to, the costs of experts and resources that may be
16 required to examine the business practices in question.

17 86. Given the relative size of damages sustained by the individual members
18 of the Rose Stem Cell Class, the diffuse impact of the damages, and homogeneity
19 of the issues, the interests of members of the Rose Stem Cell Class individually
20 controlling the prosecution of separate actions is minimal.

21 87. There is no litigation already commenced for these class
22 representatives, nor is there anticipated to be subsequent litigation commenced by
23 other members of the Rose Stem Cell Class concerning Defendants' alleged
24 conduct. Consequently, concerns with respect to the maintenance of a class action
25 regarding the extent and nature of any litigation already commenced by members
26

1 of the Rose Stem Cell Class are non-existent.

2 88. Ms. Paulson is unaware of any difficulties that are likely to be
3 encountered in the management of this Class Action Complaint that would
4 preclude its maintenance as a class action.

5 **B. The Water Drench Class**

6 89. Plaintiff Kari Miller seeks to represent the “Water Drench Class” of
7 persons, defined as: “All persons who, between December 28, 2014 and the
8 present, purchased, in the United States, any Water Drench Product” (the Water
9 Drench Product Class”). Plaintiff Miller additionally seeks to represent a Subclass
10 of “All Water Drench Class Members who, purchased, in California, any Water
11 Drench Product” (the “Water Drench Product Subclass”).

12 90. Excluded from the Water Drench Class are Defendants, their affiliates,
13 successors and assigns, officers and directors, and members of their immediate
14 families.

15 91. The Water Drench Class is so numerous that joinder of all members is
16 impracticable. The precise number of members in the Water Drench Class is not
17 yet known to Ms. Miller, but she estimates that it is well in excess of 1,000
18 people.

19 92. There are questions of law and fact that are common to the Water
20 Drench Class, including, but not limited to, the following:

- 21
- 22 • whether Defendants misrepresented or omitted material facts in
23 connection with the promotion, marketing, advertising, packaging,
24 labeling and sale of the Water Drench Products;
 - 25 • whether Defendants represented that products in the Water Drench
26 Products have characteristics, benefits, uses or qualities that they do not

- 1 have;
- 2 • whether Defendants misled class members by representing that the
- 3 hyaluronic acid in the Water Drench Products “attracts and retains up to
- 4 1,000 times its weight in water from moisture in the atmosphere”
- 5 • whether Defendants misled class members by representing that the
- 6 hyaluronic acid in the Water Drench Products “transforms atmospheric
- 7 vapor into fresh, pure water from the clouds”;
- 8 • whether Defendants misled class members by representing that the
- 9 hyaluronic acid in the Water Drench Products provides skin “with a
- 10 continuous burst of intense hydration that lasts up to 72 hours”;
- 11 • whether Defendants misled class members by representing that the
- 12 hyaluronic acid in Defendants’ products “draws water vapor from the
- 13 clouds to help lock in moisture”;
- 14 • whether Defendants misled class members by representing that the Water
- 15 Drench Products “transform[] atmospheric vapor into fresh, pure water
- 16 from the clouds, providing your skin with a continuous burst of intense
- 17 hydration that lasts up to 72 hours”;
- 18 • whether Defendants’ nondisclosures and misrepresentations would be
- 19 material to a reasonable consumer;
- 20 • whether the nondisclosures and misrepresentations were likely to deceive
- 21 a reasonable consumer in violation of the consumer protection statutes of
- 22 California;
- 23 • whether Defendants were unjustly enriched;
- 24 • whether Defendants’ unlawful, unfair and/or deceptive practices harmed
- 25 Ms. Miller and the members of the Water Drench Class;
- 26 • whether Ms. Miller and the members of the Water Drench Class are
- entitled to damages, restitution, and/or equitable or injunctive relief;

- 1 • whether Defendants breached their obligations to the Water Drench Class;
- 2 • whether Defendants engaged in the alleged conduct knowingly, recklessly,
- 3 or negligently;
- 4 • the amount of revenues and profits Defendants received and/or the amount
- 5 of monies or other obligations lost by class members as a result of such
- 6 wrongdoing;
- 7 • whether class members are entitled to injunctive relief and other equitable
- 8 relief and, if so, what is the nature of such relief; and
- 9 • whether class members are entitled to payment of actual, incidental,
- 10 consequential, exemplary, and/or statutory damages plus interest, and if
- 11 so, what is the nature of such relief.

12 93. Ms. Miller's claims against Defendants are typical of the claims of the
13 Water Drench Class because Ms. Miller and all other members of the class
14 purchased the Water Drench Products with the same attendant advertising,
15 warranties, and representations. With respect to the class allegations, Ms. Miller
16 was subjected to the exact same business practices and representations.

17 94. Ms. Miller will fairly and adequately protect the interests of the Water
18 Drench Class.

19 95. Ms. Miller has demonstrated her commitment to the case, has diligently
20 educated herself as to the issues involved, and to the best of her knowledge does
21 not have any interests adverse to the proposed class.

22 96. The questions of law and fact common to the members of the Water
23 Drench Class predominate over any questions affecting only individual members.

24 97. A class action is superior to other available methods for a fair and
25 efficient adjudication of this controversy as many members of the proposed Water
26 Drench Class have damages arising from Defendants' wrongful course of conduct

1 which would not be susceptible to individualized litigation of this kind, including,
2 but not limited to, the costs of experts and resources that may be required to
3 examine the business practices in question.

4 98. Given the relative size of damages sustained by the individual members
5 of the Water Drench Class, the diffuse impact of the damages, and homogeneity
6 of the issues, the interests of members of the Water Drench Class individually
7 controlling the prosecution of separate actions is minimal.

8 99. There is no litigation already commenced for these class
9 representatives, nor is there anticipated to be subsequent litigation commenced by
10 other members of the Water Drench Class concerning Defendants' alleged
11 conduct. Consequently, concerns with respect to the maintenance of a class action
12 regarding the extent and nature of any litigation already commenced by members
13 of the Water Drench Class are non-existent.

14 100. Ms. Miller is unaware of any difficulties that are likely to be
15 encountered in the management of this Class Action Complaint that would
16 preclude its maintenance as a class action.

17 **Causes of Action**

18
19 101. Irrespective of any representations to the contrary in this Class Action
20 Complaint, Plaintiffs do not allege, and specifically disclaim any contention, that
21 Defendants' representations regarding the Rose Stem Cell Products and Water
22 Drench Products cannot be substantiated. Rather, Plaintiffs allege, and
23 specifically contend, that Defendants' representations regarding the Rose Stem
24 Cell Products and Water Drench Products are misleading, demonstrably false or
25 untrue.
26

1 California Civil Code §1770(a)(7), Defendants’ acts and practices constitute
2 improper representations that the goods and/or services it sells are of a particular
3 standard, quality, or grade, when they are of another. In violation of California
4 Civil Code §1770(a)(9), Defendants advertised goods with intent not to sell them
5 as advertised.

6 109. Specifically, Defendants’ acts and practices caused Ms. Miller and
7 similarly situated consumers to falsely believe (i) that the hyaluronic acid in the
8 Water Drench Products “attracts and retains up to 1,000 times its weight in water
9 from moisture in the atmosphere”; (ii) that the hyaluronic acid in the Water
10 Drench Products “transforms atmospheric vapor into fresh, pure water from the
11 clouds”; (iii) that the hyaluronic acid in the Water Drench Products provides skin
12 “with a continuous burst of intense hydration that lasts up to 72 hours”; (iv) that
13 the hyaluronic acid in Defendants’ products “draws water vapor from the clouds
14 to help lock in moisture”; and (v) that the Water Drench Products “transform[]
15 atmospheric vapor into fresh, pure water from the clouds, providing your skin
16 with a continuous burst of intense hydration that lasts up to 72 hours.”

17 110. Ms. Miller requests that this Court enjoin Defendants from continuing
18 to employ the unlawful methods, acts and practices alleged herein pursuant to
19 California Civil Code § 1780(a)(2). If Defendants are not restrained from
20 engaging in these types of practices in the future, Ms. Miller and the other
21 members of the Water Drench Class will continue to suffer harm.

22 111. On or about May 3, 2018, Ms. Miller, on behalf of herself and those
23 similarly situated, gave notice and demand that Defendants correct, repair, replace
24 or otherwise rectify the unlawful, unfair, false and/or deceptive practices
25 complained of herein. (A true and correct copy of that notice and demand,
26

1 including confirmation of receipt, is attached hereto as Exhibit B.) Defendants
2 failed to do so in that, among other things, they failed to identify similarly situated
3 customers, notify them of their right to correction, repair, replacement or other
4 remedy, and provide that remedy. Accordingly, Ms. Miller seeks, pursuant to
5 California Civil Code § 1780(a)(3), on behalf of herself and those similarly
6 situated class members, compensatory damages, punitive damages and restitution
7 of any ill-gotten gains due to Defendants’ acts and practices.

8 112. Ms. Miller also requests that this Court award her costs and reasonable
9 attorneys’ fees pursuant to California Civil Code § 1780(d).

10 **Second Cause of Action**
11 **(Violation of the Consumers Legal Remedies Act,**
12 **California Civil Code § 1750, et seq.)**
13 **On Behalf of Ms. Paulson and the Rose Stem Cell Subclass**

14 113. Ms. Paulson realleges and incorporates by reference the paragraphs of
15 this Class Action Complaint as if set forth herein.

16 114. This cause of action is brought pursuant to the California Consumers
17 Legal Remedies Act, California Civil Code § 1750, et seq. (“CLRA”).

18 115. Defendants’ actions, representations and conduct have violated, and
19 continue to violate the CLRA, because they extend to transactions that are
20 intended to result, or which have resulted, in the sale of goods to consumers.

21 116. Ms. Paulson and other members of the Rose Stem Cell Class are
22 “consumers” as that term is defined by the CLRA in California Civil Code §
23 1761(d).

24 117. The products that Ms. Paulson and similarly situated members of the
25 Rose Stem Cell Class purchased from Defendants are “goods” within the meaning
26 of California Civil Code § 1761.

118. By engaging in the actions, representations, and conduct set forth in

1 this Class Action Complaint, Defendants have violated, and continue to violate,
2 §§ 1770(a)(5), 1770(a)(7), and 1770(a)(9) of the CLRA. In violation of California
3 Civil Code §1770(a)(5), Defendants represented that goods have approval,
4 characteristics, uses, benefits, and qualities that they do not have. In violation of
5 California Civil Code §1770(a)(7), Defendants' acts and practices constitute
6 improper representations that the goods and/or services it sells are of a particular
7 standard, quality, or grade, when they are of another. In violation of California
8 Civil Code §1770(a)(9), Defendants advertised goods with intent not to sell them
9 as advertised.

10 119. Specifically, Defendants' acts and practices caused Ms. Paulson and
11 similarly situated consumers to falsely believe that the Rose Stem Cell Products
12 (i) are capable of "Bio-Repair"; (ii) contain "reparative" rose stem cells; (iii)
13 contain "cutting-edge plant biotechnology [that] isolates and replicates"; (iv)
14 "help[] reduce the look of fine lines & wrinkles"; and (iv) "regenerate[]" and
15 "rejuvenate[]"; and (v) "stimulate cellular turnover for younger looking skin."

16 120. Ms. Paulson requests that this Court enjoin Defendants from continuing
17 to employ the unlawful methods, acts and practices alleged herein pursuant to
18 California Civil Code § 1780(a)(2). If Defendants are not restrained from
19 engaging in these types of practices in the future, Ms. Paulson and the other
20 members of the Rose Stem Cell Subclass will continue to suffer harm.

21 121. On or about May 3, 2018, Ms. Miller, on behalf of herself and those
22 similarly situated, including Plaintiff Paulson, gave notice and demand that
23 Defendants correct, repair, replace or otherwise rectify the unlawful, unfair, false
24 and/or deceptive practices complained of herein. (A true and correct copy of that
25 notice and demand, including confirmation of receipt, is attached hereto as
26

1 Exhibit B.) Defendants failed to do so in that, among other things, they failed to
2 identify similarly situated customers, notify them of their right to correction,
3 repair, replacement or other remedy, and provide that remedy. Accordingly, Ms.
4 Paulson seeks, pursuant to California Civil Code § 1780(a)(3), on behalf of
5 herself and those similarly situated class members, compensatory damages,
6 punitive damages and restitution of any ill-gotten gains due to Defendants' acts
7 and practices.

8 122. Ms. Paulson also requests that this Court award her costs and
9 reasonable attorneys' fees pursuant to California Civil Code § 1780(d).

10 **Third Cause of Action**
11 **(False Advertising, Business and Professions Code § 17500, et seq. ("FAL"))**
12 **On Behalf of Ms. Miller and the Water Drench Subclass**

13 123. Ms. Miller realleges and incorporates by reference the paragraphs of
14 this Class Action Complaint as if set forth herein.

15 124. Beginning at an exact date unknown to Ms. Miller, but within three (3)
16 years preceding the filing of the Class Action Complaint, Defendants have made
17 untrue or false statements in connection with the advertising and marketing of
18 Water Drench Products.

19 125. Defendants have made representations and statements (by omission and
20 commission) that lead reasonable consumers to believe: (i) that the hyaluronic
21 acid in the Water Drench Products "attracts and retains up to 1,000 times its
22 weight in water from moisture in the atmosphere"; (ii) that the hyaluronic acid in
23 the Water Drench Products "transforms atmospheric vapor into fresh, pure water
24 from the clouds"; (iii) that the hyaluronic acid in the Water Drench Products
25 provides skin "with a continuous burst of intense hydration that lasts up to 72
26 hours"; (iv) that the hyaluronic acid in Defendants' products "draws water vapor

1 from the clouds to help lock in moisture”; and (v) that the Water Drench Products
2 “transform[] atmospheric vapor into fresh, pure water from the clouds, providing
3 your skin with a continuous burst of intense hydration that lasts up to 72 hours.”
4 Defendants, however, deceptively failed to inform consumers that these
5 representations are false.

6 126. Ms. Miller and those similarly situated relied to their detriment on
7 Defendants’ false and deceptive advertising and marketing practices. Had Ms.
8 Miller and those similarly situated been adequately informed and not intentionally
9 deceived by Defendants, they would have acted differently by, without limitation,
10 paying less for the Water Drench Products.

11 127. Defendants’ acts and omissions are likely to deceive the general public.

12 128. Defendants engaged in these false and deceptive advertising and
13 marketing practices to increase its profits. Accordingly, Defendants have engaged
14 in false advertising, as defined and prohibited by section 17500, et seq. of the
15 California Business and Professions Code.

16 129. The aforementioned practices, which Defendants have used, and
17 continue to use, to their significant financial gain, also constitute unlawful
18 competition and provide an unlawful advantage over Defendants’ competitors as
19 well as injury to the general public.

20 130. Ms. Miller seeks, on behalf of herself and those similarly situated, full
21 restitution of monies, as necessary and according to proof, to restore any and all
22 monies acquired by Defendants from Ms. Miller, the general public, or those
23 similarly situated by means of the false and deceptive advertising and marketing
24 practices complained of herein, plus interest thereon.

25 131. Ms. Miller seeks, on behalf of those similarly situated, an injunction to
26

1 prohibit Defendants from continuing to engage in the false and deceptive
2 advertising and marketing practices complained of herein. The acts complained of
3 herein occurred, at least in part, within three (3) years preceding the filing of this
4 Class Action Complaint.

5 132. Ms. Miller and those similarly situated are further entitled to and do
6 seek both a declaration that the above-described practices constitute false and
7 deceptive advertising, and injunctive relief restraining Defendants from engaging
8 in any such advertising and marketing practices in the future. Such misconduct by
9 Defendants, unless and until enjoined and restrained by order of this Court, will
10 continue to cause injury in fact to the general public and the loss of money and
11 property in that Defendants will continue to violate the laws of California, unless
12 specifically ordered to comply with the same. This expectation of future
13 violations will require current and future customers to repeatedly and
14 continuously seek legal redress in order to recover monies paid to Defendants to
15 which Defendants are not entitled. Ms. Miller, those similarly situated and/or
16 other consumers nationwide have no other adequate remedy at law to ensure
17 future compliance with the California Business and Professions Code alleged to
18 have been violated herein.

19 133. As a direct and proximate result of such actions, Defendants and the
20 other members of the Water Drench Subclass have suffered, and continue to
21 suffer, injury in fact and have lost money and/or property as a result of such false
22 and deceptive advertising in an amount which will be proven at trial, but which is
23 in excess of the jurisdictional minimum of this Court.
24
25
26

Fourth Cause of Action
(False Advertising, Business and Professions Code § 17500, et seq. ("FAL"))
On Behalf of Ms. Paulson and the Rose Stem Cell Subclass

1
2
3 134. Ms. Paulson realleges and incorporates by reference the paragraphs of
4 this Class Action Complaint as if set forth herein.

5 135. Beginning at an exact date unknown to Ms. Paulson, but within three
6 (3) years preceding the filing of the Class Action Complaint, Defendants have
7 made untrue or false statements in connection with the advertising and marketing
8 of Rose Stem Cell Products.

9 136. Defendants have made representations and statements (by omission and
10 commission) that lead reasonable consumers to believe that the Rose Stem Cell
11 Products (i) are capable of "Bio-Repair"; (ii) contain "reparative" rose stem cells;
12 (iii) contain "cutting-edge plant biotechnology [that] isolates and replicates"; (iv)
13 "help[] reduce the look of fine lines & wrinkles"; (iv) "regenerate[]" and
14 "rejuvenate[]"; and (iv) "stimulate cellular turnover for younger looking skin."
15 Defendants, however, deceptively failed to inform consumers that these claims
16 are false.

17 137. Ms. Paulson and those similarly situated relied to their detriment on
18 Defendants' false and deceptive advertising and marketing practices. Had Ms.
19 Paulson and those similarly situated been adequately informed and not
20 intentionally deceived by Defendants, they would have acted differently by,
21 without limitation, paying less for the Rose Stem Cell Products.

22 138. Defendants' acts and omissions are likely to deceive the general public.

23 139. Defendants engaged in these false and deceptive advertising and
24 marketing practices to increase its profits. Accordingly, Defendants have engaged
25 in false advertising, as defined and prohibited by section 17500, et seq. of the
26 California Business and Professions Code.

1 140. The aforementioned practices, which Defendants have used, and
2 continue to use, to their significant financial gain, also constitute unlawful
3 competition and provide an unlawful advantage over Defendants' competitors as
4 well as injury to the general public.

5 141. Ms. Paulson seeks, on behalf of herself and those similarly situated, full
6 restitution of monies, as necessary and according to proof, to restore any and all
7 monies acquired by Defendants from Ms. Paulson, the general public, or those
8 similarly situated by means of the false and deceptive advertising and marketing
9 practices complained of herein, plus interest thereon.

10 142. Ms. Paulson seeks, on behalf of those similarly situated, an injunction
11 to prohibit Defendants from continuing to engage in the false and deceptive
12 advertising and marketing practices complained of herein. The acts complained of
13 herein occurred, at least in part, within three (3) years preceding the filing of this
14 Class Action Complaint.

15 143. Ms. Paulson and those similarly situated are further entitled to and do
16 seek both a declaration that the above-described practices constitute false and
17 deceptive advertising, and injunctive relief restraining Defendants from engaging
18 in any such advertising and marketing practices in the future. Such misconduct by
19 Defendants, unless and until enjoined and restrained by order of this Court, will
20 continue to cause injury in fact to the general public and the loss of money and
21 property in that Defendants will continue to violate the laws of California, unless
22 specifically ordered to comply with the same. This expectation of future
23 violations will require current and future customers to repeatedly and
24 continuously seek legal redress in order to recover monies paid to Defendants to
25 which Defendants are not entitled. Ms. Paulson, those similarly situated and/or
26

1 other consumers nationwide have no other adequate remedy at law to ensure
2 future compliance with the California Business and Professions Code alleged to
3 have been violated herein.

4 144. As a direct and proximate result of such actions, Defendants and the
5 other members of the Rose Stem Cell Subclass have suffered, and continue to
6 suffer, injury in fact and have lost money and/or property as a result of such false
7 and deceptive advertising in an amount which will be proven at trial, but which is
8 in excess of the jurisdictional minimum of this Court.

9 **Fifth Cause of Action**
10 **(Fraud, Deceit, and/or Misrepresentation)**
11 **On Behalf of Ms. Miller and the Water Drench Class**

12 145. Ms. Miller realleges and incorporates by reference all preceding
13 paragraphs of this complaint as if fully set forth herein.

14 146. Defendants' representations to Ms. Miller and those similarly situated
15 on the Website, on product packaging, on social media channels, and through its
16 retailers were false. In particular, these representations were false: (i) that the
17 hyaluronic acid in the Water Drench Products "attracts and retains up to 1,000
18 times its weight in water from moisture in the atmosphere"; (ii) that the
19 hyaluronic acid in the Water Drench Products "transforms atmospheric vapor into
20 fresh, pure water from the clouds"; (iii) that the hyaluronic acid in the Water
21 Drench Products provides skin "with a continuous burst of intense hydration that
22 lasts up to 72 hours"; (iv) that the hyaluronic acid in Defendants' products "draws
23 water vapor from the clouds to help lock in moisture"; and (v) that the Water
24 Drench Products "transform[] atmospheric vapor into fresh, pure water from the
25 clouds, providing your skin with a continuous burst of intense hydration that lasts
26 up to 72 hours."

1 147. Defendants knew that these representations were false when they made
2 them. Defendants run one of the largest cosmetics companies in the world.
3 Accordingly, they chose the ingredients they incorporate in their products, and
4 they are fully aware of the properties and actual capabilities of those ingredients.
5 Defendants are also aware of scientific research (or the lack thereof) regarding
6 those ingredients. Further, Defendants test their products on human skin, and such
7 tests would have revealed the falsity of Defendants’ representations.

8 148. Defendants further concealed, suppressed, and omitted material facts
9 that would have revealed that the representations regarding hyaluronic acid were
10 false.

11 149. Defendants’ misrepresentations and omissions were material at the time
12 they were made. They concerned material facts that were essential to the analysis
13 undertaken by Ms. Miller and those similarly situated as to whether to purchase
14 the Water Drench Products.

15 150. Ms. Miller and those similarly situated reasonably relied to their
16 detriment on Defendants’ representations. Specifically, Ms. Miller and those
17 similarly situated purchased the Water Drench Products because they believed
18 Defendants’ representations regarding hyaluronic acid. This reliance was
19 reasonable because Ms. Miller and those similarly situated reasonably expected
20 that Defendants would have scientific substantiation for their claims. Ms. Miller
21 and those similarly situated had no reason to doubt that established “clinical skin
22 care” company such as Defendants would not use sound science when developing
23 and marketing their products.

24 151. Had Ms. Miller and those similarly situated been adequately informed
25 and not intentionally deceived by Defendants, they would have acted differently
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1 by, without limitation, not purchasing (or paying less for) the Water Drench
2 Products.

3 152. Defendants had a duty to inform members of the Water Drench Class at
4 the time of their purchase that the hyaluronic acid in the Water Drench Products:
5 (i) does not “attract[] and retain[] up to 1,000 times its weight in water from
6 moisture in the atmosphere”; (ii) does not “transform[] atmospheric vapor into
7 fresh, pure water from the clouds”; (iii) does not provide skin “with a continuous
8 burst of intense hydration that lasts up to 72 hours”; (iv) does not “draw[] water
9 vapor from the clouds to help lock in moisture”; and (v) does not “transform[]
10 atmospheric vapor into fresh, pure water from the clouds, providing your skin
11 with a continuous burst of intense hydration that lasts up to 72 hours.” In making
12 their representations and omissions, Defendants breached their duty to class
13 members. Defendants also gained financially from, and as a result of, their breach.

14 153. By and through such fraud, deceit, misrepresentations and/or
15 omissions, Defendants intended to induce Ms. Miller and those similarly situated
16 to alter their position to their detriment. Specifically, Defendants fraudulently and
17 deceptively induced Ms. Miller and those similarly situated to, without limitation,
18 purchase Water Drench Products.

19 154. As a direct and proximate result of Defendants’ misrepresentations and
20 omissions, Ms. Miller and those similarly situated have suffered damages. In
21 particular, Ms. Miller seek to recover on behalf of herself and those similarly
22 situated the amount of the price premium they paid (i.e., the difference between
23 the price consumers paid for the Water Drench Products and the price they would
24 have paid but for Defendants’ misrepresentations), in an amount to be proven at
25 trial using econometric or statistical techniques such as hedonic regression or
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1 conjoint analysis.

2 155. Defendants' conduct as described herein was willful and malicious and
3 was designed to maximize Defendants' profits even though Defendants knew that
4 it would cause loss and harm to Ms. Miller and those similarly situated.

5 **Sixth Cause of Action**
6 **(Fraud, Deceit, and/or Misrepresentation)**
7 **On Behalf of Ms. Paulson and the Rose Stem Cell Class**

8 156. Ms. Paulson realleges and incorporates by reference all preceding
9 paragraphs of this complaint as if fully set forth herein.

10 157. Defendants' representations to Ms. Paulson and those similarly situated
11 on the Website, on product packaging, on social media channels, and through its
12 retailers were false. In particular, these representations were false: (i) that the
13 Rose Stem Cell Products are capable of "Bio-Repair"; (ii) that the Rose Stem Cell
14 Products contain "reparative" rose stem cells; (iii) that the Rose Stem Cell
15 Products contain "cutting-edge plant biotechnology [that] isolates and replicates";
16 (iv) that the Rose Stem Cell Products "help[] reduce the look of fine lines &
17 wrinkles"; (iv) that the Rose Stem Cell Products "regenerate[]" and
18 "rejuvenate[]"; and (v) that the Rose Stem Cell Products "stimulate cellular
19 turnover for younger looking skin."

20 158. Defendants knew that these representations were false when they made
21 them. Defendants run one of the largest cosmetics companies in the world.
22 Accordingly, they chose the ingredients they incorporate in their products, and
23 they are fully aware of the properties and actual capabilities of those ingredients.
24 Defendants are also aware of scientific research (or the lack thereof) regarding
25 those ingredients. Further, Defendants test their products on human skin, and such
26 tests would have revealed the falsity of Defendants' representations.

1 159. Defendants further concealed, suppressed, and omitted material facts
2 that would have revealed that the representations regarding rose stem cells were
3 false. In particular, Defendants failed to inform Ms. Paulson and those similarly
4 situated that any rose stem cells in their products would be dead on arrival at a
5 retailer's store or a consumer's home.

6 160. Defendants' misrepresentations and omissions were material at the time
7 they were made. They concerned material facts that were essential to the analysis
8 undertaken by Ms. Paulson and those similarly situated as to whether to purchase
9 the Rose Stem Cell Products.

10 161. Ms. Paulson and those similarly situated reasonably relied to their
11 detriment on Defendants' representations. Specifically, Ms. Paulson and those
12 similarly situated purchased the Rose Stem Cell Products because they believed
13 Defendants' representations regarding rose stem cells. This reliance was
14 reasonable because Ms. Paulson and those similarly situated reasonably expected
15 that Defendants would have scientific substantiation for their claims. Ms. Paulson
16 and those similarly situated had no reason to doubt that established "clinical skin
17 care" company such as Defendants would not use sound science when developing
18 and marketing their products.

19 162. Had Ms. Paulson and those similarly situated been adequately informed
20 and not intentionally deceived by Defendants, they would have acted differently
21 by, without limitation, not purchasing (or paying less for) the Rose Stem Cell
22 Products.

23 163. Defendants had a duty to inform members of the Rose Stem Cell Class
24 at the time of their purchase that: (i) the Rose Stem Cell Products are incapable of
25 "Bio-Repair"; (ii) the Rose Stem Cell Products do not contain "reparative" rose
26

1 stem cells; (iii) the Rose Stem Cell Products do not contain “cutting-edge plant
2 biotechnology [that] isolates and replicates”; (iv) the Rose Stem Cell Products “do
3 not help[] reduce the look of fine lines & wrinkles”; (iv) the Rose Stem Cell
4 Products do not “regenerate[]” and “rejuvenate[]”; and (v) the Rose Stem Cell
5 Products do not “stimulate cellular turnover for younger looking skin.” In making
6 their representations and omissions, Defendants breached their duty to class
7 members. Defendants also gained financially from, and as a result of, their breach.

8 164. By and through such fraud, deceit, misrepresentations and/or
9 omissions, Defendants intended to induce Ms. Paulson and those similarly
10 situated to alter their position to their detriment. Specifically, Defendants
11 fraudulently and deceptively induced Ms. Paulson and those similarly situated to,
12 without limitation, purchase Rose Stem Cell Products.

13 165. As a direct and proximate result of Defendants’ misrepresentations and
14 omissions, Ms. Paulson and those similarly situated have suffered damages. In
15 particular, Ms. Paulson seek to recover on behalf of herself and those similarly
16 situated the amount of the price premium they paid (i.e., the difference between
17 the price consumers paid for the Rose Stem Cell Products and the price they
18 would have paid but for Defendants’ misrepresentations), in an amount to be
19 proven at trial using econometric or statistical techniques such as hedonic
20 regression or conjoint analysis.

21 166. Defendants’ conduct as described herein was willful and malicious and
22 was designed to maximize Defendants’ profits even though Defendants knew that
23 it would cause loss and harm to Ms. Paulson and those similarly situated.
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Seventh Cause of Action
(Negligent Misrepresentation)
On Behalf of Ms. Miller and the Water Drench Class

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3 167. Ms. Miller realleges and incorporate by reference the paragraphs of this
4 Class Action Complaint as if set forth herein.

5 168. In marketing and selling the Water Drench Products to consumers,
6 Defendants made the following false statements: (i) that the hyaluronic acid in the
7 Water Drench Products “attracts and retains up to 1,000 times its weight in water
8 from moisture in the atmosphere”; (ii) that the hyaluronic acid in the Water
9 Drench Products “transforms atmospheric vapor into fresh, pure water from the
10 clouds”; (iii) that the hyaluronic acid in the Water Drench Products provides skin
11 “with a continuous burst of intense hydration that lasts up to 72 hours”; (iv) that
12 the hyaluronic acid in Defendants’ products “draws water vapor from the clouds
13 to help lock in moisture”; and (v) that the Water Drench Products “transform[]
14 atmospheric vapor into fresh, pure water from the clouds, providing your skin
15 with a continuous burst of intense hydration that lasts up to 72 hours.”

16 Defendants, however, deceptively failed to inform consumers that all of these
17 statements are false. Defendants also deceptively failed to inform consumers that
18 the hyaluronic acid in the Water Drench Products is already saturated by the time
19 it is applied to the a user’s skin, and that to the extent it is even capable of
20 absorbing moisture, it would absorb moisture from the user’s skin, not from the
21 atmosphere.

22 169. These representations were material at the time they were made. They
23 concerned material facts that were essential to the decision of Ms. Miller and
24 those similarly situated regarding how much to pay for the Water Drench
25 Products.

26 170. Defendants made identical misrepresentations and omissions to

1 members of the Water Drench Class regarding the Water Drench Products.

2 171. Defendants should have known their representations were false, and
3 had no reasonable grounds for believing them to be true when they were made.
4 Defendants run one of the largest cosmetics companies in the world. Accordingly,
5 they chose the ingredients they incorporate in their products, and they are fully
6 aware of the properties and actual capabilities of those ingredients. Defendants are
7 also aware of scientific research (or the lack thereof) regarding those ingredients.
8 Further, Defendants test their products on human skin, and such tests would have
9 revealed the falsity of Defendants' representations.

10 172. By and through such negligent misrepresentations, Defendants intended
11 to induce Ms. Miller and those similarly situated to alter their position to their
12 detriment. Specifically, Defendants negligently induced Ms. Miller and those
13 similarly situated, without limitation, to purchase the Water Drench Products at
14 the price they paid.

15 173. Ms. Miller and those similarly situated reasonably relied on
16 Defendants' representations. Specifically, Ms. Miller and those similarly situated
17 paid as much as they did for Water Drench Products because of the false
18 representations described herein.

19 174. Because they reasonably relied on Defendants' false representations,
20 Ms. Miller and those similarly situated were harmed in the amount of the price
21 premium they paid (i.e., the difference between the price consumers paid for
22 Water Drench Products and the price they would have paid but for Defendants'
23 misrepresentations), in an amount to be proven at trial using econometric or
24 statistical techniques such as hedonic regression or conjoint analysis.
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Eighth Cause of Action
(Negligent Misrepresentation)
On Behalf of Ms. Paulson and the Rose Stem Cell Class

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3 175. Ms. Paulson realleges and incorporates by reference the paragraphs of
4 this Class Action Complaint as if set forth herein.

5 176. In marketing and selling the Rose Stem Cell Products to consumers,
6 Defendants made the following false statements: (i) that the Rose Stem Cell
7 Products are capable of “Bio-Repair”; (ii) that the Rose Stem Cell Products
8 contain “reparative” rose stem cells; (iii) that the Rose Stem Cell Products contain
9 “cutting-edge plant biotechnology [that] isolates and replicates”; (iv) that the Rose
10 Stem Cell Products “help[] reduce the look of fine lines & wrinkles”; (iv) that the
11 Rose Stem Cell Products “regenerate[]” and “rejuvenate[]”; and (v) that the Rose
12 Stem Cell Products “stimulate cellular turnover for younger looking skin.”

13 Defendants deceptively failed to inform consumers that all of these statements are
14 false. Defendants also deceptively failed to inform consumers that the rose stem
15 cells in their products would be dead on arrival at a retailer’s store or a
16 consumer’s home.

17 177. These representations were material at the time they were made. They
18 concerned material facts that were essential to the decision of Ms. Paulson and
19 those similarly situated regarding how much to pay for the Rose Stem Cell
20 Products.

21 178. Defendants made identical misrepresentations and omissions to
22 members of the Rose Stem Cell Class regarding the Rose Stem Cell Products.

23 179. Defendants should have known their representations were false, and
24 had no reasonable grounds for believing them to be true when they were made.
25 Defendants run one of the largest cosmetics companies in the world. Accordingly,
26 they chose the ingredients they incorporate in their products, and they are fully

1 aware of the properties and actual capabilities of those ingredients. Defendants are
2 also aware of scientific research (or the lack thereof) regarding those ingredients.
3 Further, Defendants test their products on human skin, and such tests would have
4 revealed the falsity of Defendants' representations.

5 180. By and through such negligent misrepresentations, Defendants intended
6 to induce Ms. Paulson and those similarly situated to alter their position to their
7 detriment. Specifically, Defendants negligently induced Ms. Paulson and those
8 similarly situated, without limitation, to purchase the Rose Stem Cell Products at
9 the price they paid.

10 181. Ms. Paulson and those similarly situated reasonably relied on
11 Defendants' representations. Specifically, Ms. Paulson and those similarly
12 situated paid as much as they did for Rose Stem Cell Products because of the false
13 representations described herein.

14 182. Because they reasonably relied on Defendants' false representations,
15 Ms. Paulson and those similarly situated were harmed in the amount of the price
16 premium they paid (i.e., the difference between the price consumers paid for Rose
17 Stem Cell Products and the price they would have paid but for Defendants'
18 misrepresentations), in an amount to be proven at trial using econometric or
19 statistical techniques such as hedonic regression or conjoint analysis.

20 **Ninth Cause of Action**
21 **(Unfair, Unlawful and Deceptive Trade Practices,**
22 **Business and Professions Code § 17200, et seq.)**
23 **On Behalf of Ms. Miller and the Water Drench Subclass**

24 183. Ms. Miller realleges and incorporates by reference the paragraphs of
25 this Class Action Complaint as if set forth herein.

26 184. Within four years preceding the filing of this Class Action Complaint,
and at all times mentioned herein, Defendants have engaged, and continue to

1 engage, in unfair, unlawful and deceptive trade practices in California by carrying
2 out the unfair, deceptive and unlawful business practices outlined in this Class
3 Action Complaint. In particular, in connection with the marketing of the Water
4 Drench Products, Defendants have engaged, and continue to engage, in unfair,
5 unlawful and deceptive trade practices by, without limitation, the following:

6 a. falsely and deceptively representing to Ms. Miller and those similarly
7 situated that the hyaluronic acid in the Water Drench Products “attracts
8 and retains up to 1,000 times its weight in water from moisture in the
9 atmosphere”;

10 b. falsely and deceptively representing to Ms. Miller and those similarly
11 situated that the hyaluronic acid in the Water Drench Products “transforms
12 atmospheric vapor into fresh, pure water from the clouds”;

13 c. falsely and deceptively representing to Ms. Miller and those similarly
14 situated that the hyaluronic acid in the Water Drench Products provides
15 skin “with a continuous burst of intense hydration that lasts up to 72
16 hours”;

17 d. falsely and deceptively representing to Ms. Miller and those similarly
18 situated that the hyaluronic acid in Defendants’ products “draws water
19 vapor from the clouds to help lock in moisture”;

20 e. falsely and deceptively representing to Ms. Miller and those similarly
21 situated that the Water Drench Products “transform[] atmospheric vapor
22 into fresh, pure water from the clouds, providing your skin with a
23 continuous burst of intense hydration that lasts up to 72 hours.”

24 f. engaging in fraud and negligent misrepresentation as described herein;

25 g. violating the CLRA as described herein;
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1 h. violating the FAL as described herein;

2 i. violating the advertising provisions of the Sherman Law (Article 3),
3 including without limitation, California Health & Safety Code §§ 110390,
4 110395, 110398 and 110400; and

5 j. violating the misbranded cosmetics provisions of the Sherman Law
6 (Chapter 7, Article), including without limitation, California Health & Safety
7 Code §§ 111730, 111735, 111745, 111760, 111765, 111770, and 111775.

8 185. Ms. Miller and those similarly situated relied to their detriment on
9 Defendants' unfair, deceptive and unlawful business practices. Had Ms. Miller
10 and those similarly situated been adequately informed and not deceived by
11 Defendants, they would have acted differently by, without limitation, paying less
12 for the Water Drench Products.

13 186. Defendants' acts and omissions are likely to deceive the general public.

14 187. Defendants engaged in these unfair practices to increase their profits.
15 Accordingly, Defendants have engaged in unlawful trade practices, as defined and
16 prohibited by section 17200, et seq. of the California Business and Professions
17 Code.

18 188. The aforementioned practices, which Defendants have used to their
19 significant financial gain, also constitute unlawful competition and provides an
20 unlawful advantage over Defendants' competitors as well as injury to the general
21 public.

22 189. As a direct and proximate result of such actions, Ms. Miller and the
23 other members of the Water Drench Class have suffered and continue to suffer
24 injury in fact and have lost money and/or property as a result of such deceptive,
25 unfair and/or unlawful trade practices and unfair competition in an amount which
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1 will be proven at trial, but which is in excess of the jurisdictional minimum of this
2 Court. Among other things, Ms. Miller and the class lost the amount of the price
3 premium they paid (i.e., the difference between the price consumers paid for
4 Water Drench Products and the price they would have paid but for Defendants'
5 misrepresentations), in an amount to be proven at trial using econometric or
6 statistical techniques such as hedonic regression or conjoint analysis;

7 190. Ms. Miller seeks, on behalf of those similarly situated, a declaration
8 that the above-described trade practices are fraudulent and unlawful.

9 191. Ms. Miller seeks, on behalf of those similarly situated, an injunction to
10 prohibit Defendants from offering the Water Drench Products within a reasonable
11 time after entry of judgment, unless Defendants modify the Website and other
12 marketing materials to remove the misrepresentations and to disclose the omitted
13 facts. Such misconduct by Defendants, unless and until enjoined and restrained by
14 order of this Court, will continue to cause injury in fact to the general public and
15 the loss of money and property in that Defendants will continue to violate the
16 laws of California, unless specifically ordered to comply with the same. This
17 expectation of future violations will require current and future consumers to
18 repeatedly and continuously seek legal redress in order to recover monies paid to
19 Defendants to which Defendants were not entitled. Ms. Miller, those similarly
20 situated, and/or other consumers have no other adequate remedy at law to ensure
21 future compliance with the California Business and Professions Code alleged to
22 have been violated herein.

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1 f. falsely and deceptively representing to Ms. Paulson and those similarly
2 situated that

3 the Rose Stem Cell Products “stimulate cellular turnover for younger
4 looking skin.”

5 g. engaging in fraud and negligent misrepresentation as described herein;

6 h. violating the CLRA as described herein;

7 i. violating the FAL as described herein;

8 j. violating the advertising provisions of the Sherman Law (Article 3),
9 including without limitation, California Health & Safety Code §§ 110390,
10 110395, 110398 and 110400; and

11 k. violating the misbranded cosmetics provisions of the Sherman Law
12 (Chapter 7, Article), including without limitation, California Health & Safety
13 Code §§ 111730, 111735, 111745, 111760, 111765, 111770, and 111775.

14 194. Ms. Paulson and those similarly situated relied to their detriment on
15 Defendants’ unfair, deceptive and unlawful business practices. Had Ms. Paulson
16 and those similarly situated been adequately informed and not deceived by
17 Defendants, they would have acted differently by, without limitation, paying less
18 for the Rose Stem Cell Products.

19 195. Defendants’ acts and omissions are likely to deceive the general public.

20 196. Defendants engaged in these unfair practices to increase their profits.
21 Accordingly, Defendants have engaged in unlawful trade practices, as defined and
22 prohibited by section 17200, et seq. of the California Business and Professions
23 Code.

24 197. The aforementioned practices, which Defendants have used to their
25 significant financial gain, also constitute unlawful competition and provides an
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1 unlawful advantage over Defendants' competitors as well as injury to the general
2 public.

3 198. As a direct and proximate result of such actions, Ms. Paulson and the
4 other members of the Rose Stem Cell Subclass have suffered and continue to
5 suffer injury in fact and have lost money and/or property as a result of such
6 deceptive, unfair and/or unlawful trade practices and unfair competition in an
7 amount which will be proven at trial, but which is in excess of the jurisdictional
8 minimum of this Court. Among other things, Ms. Paulson and the class lost the
9 amount of the price premium they paid (i.e., the difference between the price
10 consumers paid for Rose Stem Cell Products and the price they would have paid
11 but for Defendants' misrepresentations), in an amount to be proven at trial using
12 econometric or statistical techniques such as hedonic regression or conjoint
13 analysis;

14 199. Ms. Paulson seeks, on behalf of those similarly situated, a declaration
15 that the above-described trade practices are fraudulent and unlawful.

16 200. Ms. Paulson seeks, on behalf of those similarly situated, an injunction
17 to prohibit Defendants from offering the Rose Stem Cell Products within a
18 reasonable time after entry of judgment, unless Defendants modify the Website
19 and other marketing materials to remove the misrepresentations and to disclose
20 the omitted facts. Such misconduct by Defendants, unless and until enjoined and
21 restrained by order of this Court, will continue to cause injury in fact to the
22 general public and the loss of money and property in that Defendants will
23 continue to violate the laws of California, unless specifically ordered to comply
24 with the same. This expectation of future violations will require current and future
25 consumers to repeatedly and continuously seek legal redress in order to recover
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1 monies paid to Defendants to which Defendants were not entitled. Ms. Paulson,
2 those similarly situated, and/or other consumers have no other adequate remedy at
3 law to ensure future compliance with the California Business and Professions
4 Code alleged to have been violated herein.

5 **Eleventh Cause of Action**
6 **(Unjust Enrichment)**
7 **On Behalf of Ms. Miller and the Water Drench Class**

8 201. Ms. Miller realleges and incorporates by reference the paragraphs of
9 this Class Action Complaint as if set forth herein.

10 202. Although there are numerous permutations of the elements of the unjust
11 enrichment cause of action in the various states, there are few real differences. In
12 all states, the focus of an unjust enrichment claim is whether the defendant was
13 unjustly enriched. At the core of each states' law are two fundamental elements –
14 the defendant received a benefit from the plaintiff and it would be inequitable for
15 the defendant to retain that benefit without compensating the plaintiff. The focus
16 of the inquiry is the same in each state.

17 203. Ms. Miller and the Water Drench Class members conferred a benefit on
18 the Defendants by purchasing Water Drench Products.

19 204. Defendants have been unjustly enriched in retaining the revenues from
20 these purchases of Water Drench Products. Retention of those revenues is unjust
21 and inequitable because Defendants falsely and deceptively represented: (i) that
22 the hyaluronic acid in the Water Drench Products “attracts and retains up to 1,000
23 times its weight in water from moisture in the atmosphere”; (ii) that the
24 hyaluronic acid in the Water Drench Products “transforms atmospheric vapor into
25 fresh, pure water from the clouds”; (iii) that the hyaluronic acid in the Water
26 Drench Products provides skin “with a continuous burst of intense hydration that

1 lasts up to 72 hours”; (iv) that the hyaluronic acid in Defendants’ products “draws
2 water vapor from the clouds to help lock in moisture”; and (v) that the Water
3 Drench Products “transform[] atmospheric vapor into fresh, pure water from the
4 clouds, providing your skin with a continuous burst of intense hydration that lasts
5 up to 72 hours.” These representations caused injuries to Ms. Miller and those
6 similarly situated because they paid a price premium due to the false labeling and
7 advertising connected to the Water Drench Products.

8 205. Because Defendants’ retention of the non-gratuitous benefit conferred
9 on them by Ms. Miller and those similarly situated is unjust and inequitable,
10 Defendants must pay restitution to Ms. Miller and the Water Drench Class
11 members for their unjust enrichment, as ordered by the Court.

12 206. Ms. Miller, therefore, seeks an order requiring Defendants to make
13 restitution to her and other members of the Water Drench Class.

14 **Twelfth Cause of Action**
15 **(Unjust Enrichment)**
16 **On Behalf of Ms. Paulson and the Rose Stem Cell Class**

17 207. Ms. Paulson realleges and incorporates by reference the paragraphs of
18 this Class Action Complaint as if set forth herein.

19 208. Although there are numerous permutations of the elements of the unjust
20 enrichment cause of action in the various states, there are few real differences. In
21 all states, the focus of an unjust enrichment claim is whether the defendant was
22 unjustly enriched. At the core of each states’ law are two fundamental elements –
23 the defendant received a benefit from the plaintiff and it would be inequitable for
24 the defendant to retain that benefit without compensating the plaintiff. The focus
25 of the inquiry is the same in each state.

26 209. Ms. Paulson and the Rose Stem Cell Class members conferred a benefit

1 on the Defendants by purchasing Rose Stem Cell Products.

2 210. Defendants have been unjustly enriched in retaining the revenues from
3 these purchases of Rose Stem Cell Products. Retention of those revenues is unjust
4 and inequitable because Defendants falsely and deceptively represented: (i) that
5 the Rose Stem Cell Products are capable of “Bio-Repair”; (ii) that the Rose Stem
6 Cell Products contain “reparative” rose stem cells; (iii) that the Rose Stem Cell
7 Products contain “cutting-edge plant biotechnology [that] isolates and replicates”;
8 (iv) that the Rose Stem Cell Products “help[] reduce the look of fine lines &
9 wrinkles”; (iv) that the Rose Stem Cell Products “regenerate[]” and
10 “rejuvenate[]”; and (v) that the Rose Stem Cell Products “stimulate cellular
11 turnover for younger looking skin.” These representations caused injuries to Ms.
12 Paulson and those similarly situated because they paid a price premium due to the
13 false labeling and advertising connected to the Rose Stem Cell Products.

14 211. Because Defendants’ retention of the non-gratuitous benefit conferred
15 on them by Ms. Paulson and those similarly situated is unjust and inequitable,
16 Defendants must pay restitution to Ms. Paulson and the Rose Stem Cell Class
17 members for their unjust enrichment, as ordered by the Court.

18 212. Ms. Paulson, therefore, seeks an order requiring Defendants to make
19 restitution to her and other members of the Rose Stem Cell Class.

20 **Prayer for Relief**

21 WHEREFORE, Plaintiffs, individually and on behalf all others similarly
22 situated, respectfully requests that this Court enter a judgment against
23 Defendants and in favor of Plaintiffs, and grant the following relief:

24 A. Determine that this action may be maintained as a Class action
25 with respect to the Classes identified herein and certify it as such under section
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1 382 of the Code of Civil Procedure or alternatively certify all issues and claims
2 that are appropriately certified, and designate and appoint Plaintiffs as Class
3 Representatives of their respective classes, and Plaintiffs' counsel as Class
4 Counsel;

5 B. Declare, adjudge and decree the conduct of the Defendants as
6 alleged herein to be unlawful, unfair and/or deceptive;

7 C. Enjoining Defendants, directly or through any company,
8 corporation, partnership, subsidiary, division, trade name, or other device, in
9 connection with the manufacturing, labeling, packaging, advertising, promotion,
10 offering for sale, sale, or distribution of any product containing hyaluronic acid,
11 from making a representation about the product's or ingredient's ability to hold,
12 retain, or absorb water in any quantity and from any source unless, at the time the
13 representation is made, Defendants possess and rely upon competent and reliable
14 evidence, that, when considered in light of the entire body of relevant and reliable
15 evidence, is sufficient in quantity and quality based on standards generally
16 accepted in the relevant fields, to support such representation. For the purposes of
17 this paragraph, "competent and reliable evidence" means tests, analyses, research,
18 studies, or other evidence based on the expertise of professionals in the relevant
19 area, that have been conducted and evaluated in an objective manner by qualified
20 persons, using procedures generally accepted in the profession to yield accurate
and reliable results.

21 D. Enjoining Defendants, directly or through any company,
22 corporation, partnership, subsidiary, division, trade name, or other device, in
23 connection with the manufacturing, labeling, packaging, advertising, promotion,
24 offering for sale, sale, or distribution of any product containing plant stem cells,
25 from making a representation about the product's or plant stem cells' ability to
26 repair, rejuvenate, revitalize or otherwise improve the skin unless, at the time the

1 representation is made, Defendants possess and rely upon competent and reliable
2 evidence, that, when considered in light of the entire body of relevant and reliable
3 evidence, is sufficient in quantity and quality based on standards generally
4 accepted in the relevant fields, to support such representation. For the purposes of
5 this paragraph, “competent and reliable evidence” means tests, analyses, research,
6 studies, or other evidence based on the expertise of professionals in the relevant
7 area, that have been conducted and evaluated in an objective manner by qualified
8 persons, using procedures generally accepted in the profession to yield accurate
9 and reliable results.

10 E. Enjoining Defendants, directly or through any company,
11 corporation, partnership, subsidiary, division, or other device, in connection with
12 the manufacturing, labeling, packaging, advertising, promotion, offering for sale,
13 sale, or distribution of any cosmetic product, to not provide to others the means
14 and instrumentalities with which to make any representation prohibited by
15 Paragraphs C and D above. For the purposes of this paragraph, “means and
16 instrumentalities” means any information, including, but not necessarily limited
17 to, any advertising, labeling, or promotional, sales training, or purported
18 substantiation materials, for use by trade customers in their marketing of such
19 product or service.

20 F. Award Plaintiffs and the Class actual, compensatory damages, as
21 proven at trial;

22 G. Award Plaintiffs and the Class restitution of all monies paid to
23 Defendants as a result of unlawful, deceptive, and unfair business practices;

24 H. Award Plaintiffs and the Class exemplary damages in such amount
25 as proven at trial;

26 I. Award Plaintiffs and the Class reasonable attorneys’ fees, costs,
and pre- and post-judgment interest; and

1 J. Award Plaintiffs and the Class such other further and different
2 relief as the nature of the case may require or as may be determined to be just,
3 equitable, and proper by this Court.

4 **Jury Trial Demand**

5 Plaintiffs demand a trial by jury.

6 Respectfully submitted,

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8 Dated: December 27, 2018

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