

1 Daniel L. Warshaw (CA Bar No. 185365)
2 Michael H. Pearson (CA Bar No. 277857
PEARSON, SIMON & WARSHAW, LLP
3 15165 Ventura Boulevard, Suite 400
4 Sherman Oaks, California 91403
Telephone: (818) 788-8300

5 Alex Straus (CA Bar No. 321366)
6 MILBERG COLEMAN BRYSON
7 PHILLIPS GROSSMAN PLLC
8 16748 McCormick Street
Los Angeles, CA 91436
Telephone: (917) 471-1894

9 *Attorneys for Plaintiff and the Proposed Class*

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Superior Court of California,
County of San Francisco

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Clerk of the Court

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Deputy Clerk

10 *Additional Attorneys Listed on Signature Page*

CGC-22-603458

11
12 **THE SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL**

14 HOWARD CLARK, individually and on
behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 MEYER CORPORATION, U.S.,

18 Defendant.

CASE NO.

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT FOR:

- 19 1. UNJUST ENRICHMENT
(In the Alternative)
- 20 2. VIOLATION OF CALIFORNIA LEGAL
REMEDIES ACT, Cal. Bus. & Prof.
Code §§ 1750, *et seq.*
- 21 3. VIOLATION OF CALIFORNIA FALSE
ADVERTISING LAW, Cal. Bus. & Prof.
Code §§ 17500, *et seq.*
- 22 4. VIOLATION OF CALIFORNIA
UNFAIR COMPETITION LAW, Cal.
Bus. & Prof. Code §§ 17200, *et seq.*
- 23 5. BREACH OF EXPRESS WARRANTY,
Cal. Com. Code §§ 2313, *et seq.*
- 24 6. BREACH OF IMPLIED WARRANTY,
Cal. Com. Code §§ 2314, *et seq.*

1 **I. NATURE OF THE CASE**

2 1. In recent years, “forever chemicals” have received widespread media
3 attention and have raised substantial health and environmental concerns among
4 government officials, public health authorities, and the public itself. Chief among the
5 “forever chemicals” are PFAS (per- and polyfluoroalkyl substances), including
6 Perfluorooctanoic acid (PFOA). Consumer goods manufacturers have capitalized on
7 concerns over these chemicals by marketing “PFAS-free” and “PFOA-free” products
8 ranging from children’s clothing, to makeup, to cookware items, which routinely
9 command a premium price because consumers wish to buy—and will pay a premium
10 price for—products that are free of such chemicals.

11 2. Nonstick cookware is a consumer household good that has recently
12 received a significant amount of attention from health agencies as being “unsafe” due
13 to its frequent inclusion of potentially harmful PFAS, including PFOA. As a result,
14 consumer demand has increased for “safe” nonstick cookware that provides nonstick
15 benefits without the use of forever chemicals.

16 3. Health-conscious consumers will pay a premium price for safe nonstick
17 cookware to avoid ingesting chemicals and other toxicants when eating food or when
18 serving it to their families.

19 4. Plaintiff is one such consumer. Plaintiff purchased Defendant’s cookware,
20 that is purportedly “PFOA FREE” and uses “PFOA-free nonstick” technology (the
21 “PFOA-free Representations”), but later learned that the products were not, in fact,
22 PFOA-free. Plaintiff thus brings this action for himself and on behalf of other
23 consumers who purchased Defendant’s Anolon nonstick cookware that was falsely
24 labeled and advertised with the PFOA-free Representations (the “Class Products”).
25 Plaintiff seeks damages and equitable remedies for himself and for the putative Class.¹
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27 _____
28 ¹ Throughout this Complaint, Plaintiff’s use of “the Class” to refer to putative members of the proposed National Class and all proposed Subclasses as defined in Section V below.

1 5. Defendant designs, manufactures, labels, markets, distributes, and sells the
2 Class Products to consumers throughout the United States, including in California.
3 The Class Products are sold at various online and brick-and-mortar retailers.

4 6. Defendant has capitalized on the ever-increasing consumer demand for
5 products free of potentially harmful chemicals, which is why it has affirmatively
6 advertised and labeled the Class Products with the PFOA-free Representations.

7 7. Consumers, including Plaintiff, purchase the Class Products because of the
8 PFOA-free Representations. Defendant even doubles down by confirming that “PFOA
9 FREE” means consumers can “Cook with pure freedom: PFOA-Free nonstick”—an
10 attribute it recognizes has value to consumers. All other things being equal, consumers
11 have a reasonable preference for consumer goods that are free from “forever
12 chemicals” like PFOA, which is why representations such as “PFOA FREE” are held
13 out to consumers as a point of differentiation for such products, including the Class
14 Products at issue in this action.

15 8. Through its uniform labeling and marketing of the Class Products,
16 Defendant has led reasonable consumers to believe that the Class Products are a
17 superior choice because they are free from potentially harmful PFAS, including
18 PFOA.

19 9. In reality, the Class Products contain multiple, potentially harmful per- and
20 polyfluoroalkyl substances (“PFAS”) including Perfluorooctanoic acid (“PFOA”).

21 10. Despite Defendant’s bold promise to the contrary, Plaintiff’s independent
22 industry standard testing confirmed the presence of PFOA and other PFAS chemicals
23 in the Class Products. The presence of PFOA and other PFAS contradicts Defendant’s
24 unvarying and explicit PFOA-free Representations.

25 11. Defendant either knowingly and willfully concealed and misrepresented
26 the true nature of the Class Products to consumers, or it failed to conduct due
27 diligence, i.e., basic lab testing to verify the accuracy of the PFOA-free
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1 Representations—the key characteristic differentiating Defendant’s purportedly
2 “PFOA-free” cookware products from other nonstick products.

3 12. Defendant’s misconduct is straightforward: It uniformly claimed on the
4 Class Product labels that they contain no PFOA, but they do contain PFOA. Had
5 Defendant disclosed to Plaintiff and the Class that the Class Products contain PFOA
6 and other PFAS chemicals—or had Defendant accurately labeled the Class Products
7 by omitting PFOA-free Representations—Plaintiff and the Class would not have
8 purchased the Class Products, or they would have paid less for them.

9 13. As a result of Defendant’s misconduct and misrepresentations, Plaintiff and
10 the Class suffered economic injury at the time of purchase because the products they
11 received differed from the products as represented on the product labels, and the
12 products Plaintiff received were of a different and substantially lesser value than
13 Defendant represented. In short, Plaintiff and the Class did not receive the benefit of
14 their bargain.

15 II. PARTIES

16 14. Plaintiff Howard Clark is a resident of, and is domiciled in, San
17 Francisco, California.

18 15. Defendant Meyer Corporation, U.S., is incorporated in Delaware and
19 maintains its headquarters and principal place of business at 525 Curtola Parkway,
20 Vallejo, California 94590. Defendant manufactures and markets the Class
21 Products.

22 III. JURISDICTION AND VENUE

23 16. **Subject Matter Jurisdiction.** This Court has original jurisdiction over this
24 action pursuant because it involves violations of California state law.

25 17. **Personal Jurisdiction.** This Court has personal jurisdiction over
26 Defendant because Defendant resides and is domiciled in the State of California and
27 because of the substantiality and nature of its contacts with this forum. Defendant
28 purposefully availed itself of the privilege of doing business within the state—

1 including within this county—and has had continuous and systematic general and
2 case-related business contacts within this county.

3 18. Additionally, Defendant committed the tortious acts at issue in this case
4 throughout the State of California, including within this county. This action thus arises
5 out of and relates to conduct within this forum.

6 19. In short, Defendant has been systematically and continuously present
7 within California and within this county, has served a market in California and in this
8 county for the Class Products—i.e., the products that caused economic injury to
9 Plaintiff and the Class—such that there is a strong relationship among Defendant, this
10 forum, and the litigation and there is a substantial connection between Defendant’s
11 forum contacts and the claims asserted in this action.

12 20. **Venue.** Venue is proper because a substantial part of the events or
13 omissions giving rise to Plaintiff’s claims occurred within this district—namely, this
14 action arises from misrepresentations made in connection with Defendant’s sale of
15 consumer goods for household use to Plaintiff, who resided in and purchased the
16 goods in this forum and who today resides in this forum.

17 **IV. ADDITIONAL FACTUAL ALLEGATIONS**

18 **A. PTFE (“Teflon”), PFAS, and PFOA**

19 21. In 1938, chemists accidentally synthesized a waxy, slippery, fluorinated
20 plastic known as Polytetrafluoroethylene (PTFE).² This slippery property made PTFE
21 an attractive compound for coating components and products to reduce friction.

22 22. PTFE was patented in 1941 and in 1945 was sold under the registered
23 trademark “Teflon.”

24 23. PTFE is in a group of nearly 4,000 compounds known as PFAS. PFAS are
25 a category of man-made chemicals that include fluorosurfactants, which reduce the
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28 ² <https://www.teflon.com/en/news-events/history>

1 surface tension between two substances.³ PFAS are necessary for the production of
2 PTFE (Teflon).

3 24. Fluorosurfactants typically are removed from PTFE toward the end of
4 production via a drying process. However, residual fluorosurfactants may remain in
5 the polymer dispersion even after it is applied to cookware or other hardware
6 components for its nonstick properties.

7 25. While there are thousands of PFAS, they all are categorized as either
8 “long-chain” or “short-chain” based on the number of carbon atoms comprising the
9 perfluoroalkyl tail. Long-chain PFAS contain eight or more carbon atoms, while any
10 PFAS containing fewer than eight carbon atoms in the perfluoroalkyl tail are
11 considered short-chain. All PFAS contain carbon-fluorine bonds—one of the strongest
12 in nature—making them highly persistent in the environment and in human bodies.⁴

13 26. PFOA is a PFAS compound with eight carbon atoms (commonly referred
14 to as C8), seven of which are fully fluorinated.⁵

15 27. PFOA is bioaccumulative, meaning it builds up in the body over time.
16 These chemicals are sometimes called “forever chemicals” and have been associated
17 with a host of serious adverse health consequences in humans.

18 28. It is well known in the cookware industry (but not among the general
19 public) that any nonstick coating that uses an 8-carbon perfluoroalkyl chemical at any
20 point in the manufacturing process contains some amount of PFOA in the finished
21 product.⁶

22
23 ³ PFAS include any organic compound with one or more fluorine atoms substituted for hydrogen
24 in an alkyl chain.

25 ⁴ <https://ntp.niehs.nih.gov/whatwestudy/topics/pfas/index.html>

26 ⁵ The related PFAS compound PFOS has all eight carbons fully fluorinated. PFOA and PFOS both
are commonly referred to as “C8.” PFOA’s CAS No. is 335-67-1.

27 ⁶ Schlummer, M., *et al.*, Emission of perfluoroalkyl carboxylic acids (PFCA) from heated surfaces
28 made of polytetrafluoroethylene (PTFE) applied in food contact materials and consumer products,
129 Chemosphere 46-53 (2015) (available at: <https://www.sciencedirect.com/science/article/abs/>

1 29. A reasonable manufacturer thus would know that PFOA and other PFAS
2 are likely to be present in the end products of this manufacturing process. A
3 reasonable manufacturer also would know that PFOA and other PFAS may migrate
4 during cooking, meaning that nonstick cookware containing PFOA and PFAS releases
5 the chemicals into the environment and into cooked food.

6 30. Thus, cookware manufacturers know, or should know from common
7 industry knowledge, that residual PFAS is present in the cookware and can be ingested
8 or dispersed into the environment.⁷

9 31. Unsurprisingly, an ordinary consumer would not expect to find PFOA in
10 products labeled “PFOA free.”

11 32. PFOA is a highly environmentally persistent chemical and was declared by
12 FDA as an emerging contaminant in 2014.⁸

13 33. PFOA is associated with negative health outcomes including kidney
14 cancer, testicular cancer, and liver damage.⁹

15 34. In 2017, the State of California added PFOA and the related chemical
16 PFOS to its Proposition 65 list as developmental/reproductive toxicants. PFOA and
17 PFOS were both listed in February 2022 as carcinogens.¹⁰ OEHHA set the notification

18 _____
19 [pii/S004565351401354X](#)). See also EPA, Drinking Water Health Advisory for Perfluorooctanoic
20 Acid (PFOA) (May 2016) at 21 (“Food can become contaminated with PFOA from preparation in
21 nonstick cookware coated with [PTFE] PFOA can be emitted from nonstick cookware coated
with PTFE.”) (available at: https://www.epa.gov/sites/default/files/2016-05/documents/pfoa_health_advisory_final-plain.pdf).

22 ⁷ Luo, et al., Raman imaging for the identification of Teflon microplastics and nanoplastics
23 released from non-stick cookware, *Science of the Total Environment* 851 (2022) 158293
(confirming that Teflon microplastics and nanoplastics are released during cooking “and are
24 directly present in our food”).

25 ⁸ <https://nepis.epa.gov/Exe/ZyPDF.cgi/P100LTG6.PDF?Dockey=P100LTG6.PDF>

26 ⁹ EPA, 2016 *supra*; Lau, C., et al. Perfluoroalkyl Acids: A Review of Monitoring and
27 Toxicological Findings, *Toxicological Sciences*, Vol. 99, Issue 2 at 366-94 (2007):
<https://doi.org/10.1093/toxsci/kfm128>

28 ¹⁰ https://oehha.ca.gov/media/downloads/proposition-65/p65chemicalslistsing_lelisttable2021p.pdf
(including PFOS “and its salts and transformation and degradation precursors” as well as PFOA).

1 level for PFOA at the lowest level of detection because “OEHHA’s reference levels
2 for cancer are below the limit of quantitation.”¹¹

3 35. The Safety Data Sheet (SDS) for PFOA warns that it is suspected of
4 causing cancer; may damage fertility or the unborn child; causes damage to the liver
5 through prolonged or repeated exposure; causes serious eye damage; and that it is
6 harmful if swallowed or inhaled.¹²

7 36. Due to health and environmental concerns, EPA and PFOA manufacturers
8 sought to eliminate PFOA from the manufacturing process for PTFE by 2015.¹³

9 **B. Plaintiff’s Testing**

10 37. Plaintiff sought independent, third-party testing from a reputable lab to
11 determine whether the Class Products contain PFOA or other PFAS.¹⁴

12 38. The lab that conducted the testing is accredited for PFAS analysis and the
13 test results meet all 2003 NELAC, 2009 TNI and 2016 TNI requirements for
14 accredited parameters. The method employed (EPA 537 Modified) is standard within
15 the industry for detecting and quantifying PFAS in solid matrices (like cookware).

16 39. Testing results showed PFOA present at 0.72 ug/kg (parts per billion) in
17 Defendant’s nonstick hard-anodized 8.5-inch skillet.

18 40. As a point of reference, EPA issued in 2016 an interim lifetime non-cancer
19 health advisory (HA) of 70 parts per *trillion* (0.00007 parts per billion) for PFOA in
20

21 PFOA was first listed as a developmental toxicant in November 2017 and added as a carcinogen in
22 February 2022.

23 ¹¹ <https://oehha.ca.gov/chemicals/perfluorooctanoic-acid-pfoa>

24 ¹² PFOA Safety Data Sheet: https://www.agilent.com/cs/library/msds/N-1588_NAEnglish.pdf

25 ¹³ EPA Fact Sheet: 2010/2015 PFOA Stewardship Program: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/fact-sheet-20102015-pfoa-stewardship-program#mfg>
26

27 ¹⁴ Plaintiff’s counsel spent years trying PFAS (“C8”) personal injury and wrongful death claims
28 against the chemical industry and were skeptical of Defendant’s representations, based upon their knowledge of the underlying science.

1 drinking water. In June of this year, EPA updated the advisory “because analyses of
2 more recent health effects studies show that PFOA can impact human health at
3 exposure levels much lower than reflected by the 2016 PFOA lifetime HA” and “EPA
4 has identified a pressing need to provide information to public health officials...”
5 EPA proposed a new interim lifetime non-cancer HA of 4 parts per *quadrillion* for
6 PFOA (0.000004 parts per billion).¹⁵

7 41. Plaintiff’s testing detected 12 total PFAS, including short-chain and long-
8 chain compounds, in the Class Products.

9 42. Plaintiff’s independent testing thus revealed PFOA and other PFAS within
10 the Class Products, in direct opposition to Defendant’s uniform representations.

11 **C. Defendant’s Misrepresentations**

12 43. Nonstick cookware is a highly competitive and lucrative business.¹⁶

13 44. Defendant, well aware of this competition and of consumer demand for
14 nonstick cookware, has sought to distinguish itself from competitors and to attract
15 consumers by marketing and labeling the Class Products with the PFOA-free
16 Representations. Specifically, Defendant has marketed the Class Products as being
17 “PFOA FREE” products, in a bold, all-capitalized font on the product packaging, and
18 in various other marketing materials, where it cannot be missed by consumers. The
19 only reason Defendant would tout the Class Products with the PFOA-free
20 Representations would be to induce purchase. Product labels themselves are a form of
21 marketing and the “real estate” on consumer product goods is extremely limited.
22 Manufacturers thus are careful to maximize available space and to include only claims
23 that would encourage interest and product purchase. In short, Defendant knew that the
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26 ¹⁵ EPA, Interim Drinking Water Health Advisory: Perfluorooctanoic Acid (PFOA) CASRN 335-
27 67-1 at 1, 10: <https://www.epa.gov/system/files/documents/2022-06/interim-pfoa-2022.pdf>

28 ¹⁶ <https://www.statista.com/statistics/956192/nonstick-cookware-market-value-worldwide/>

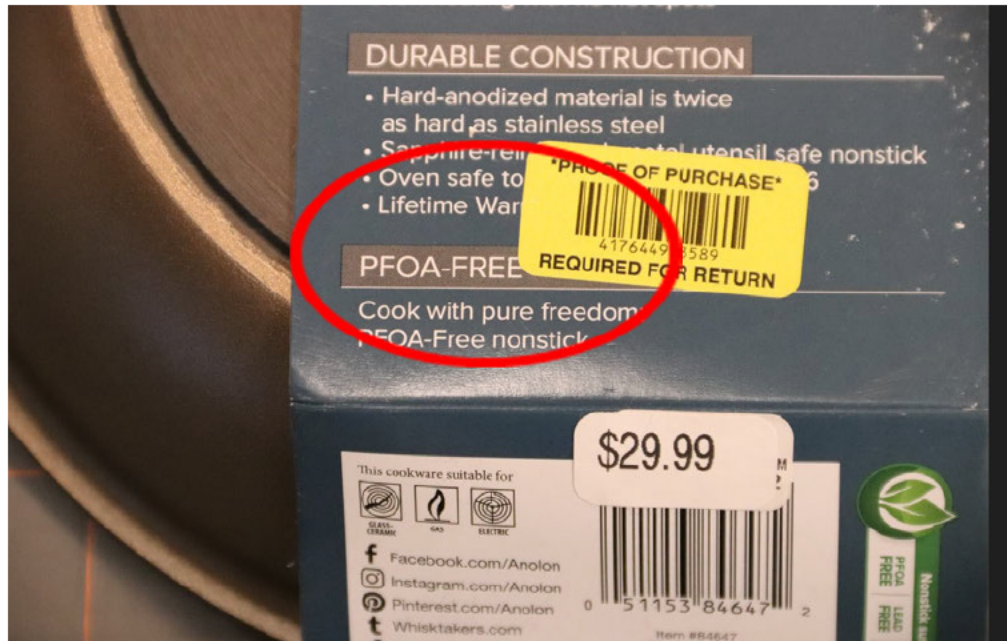
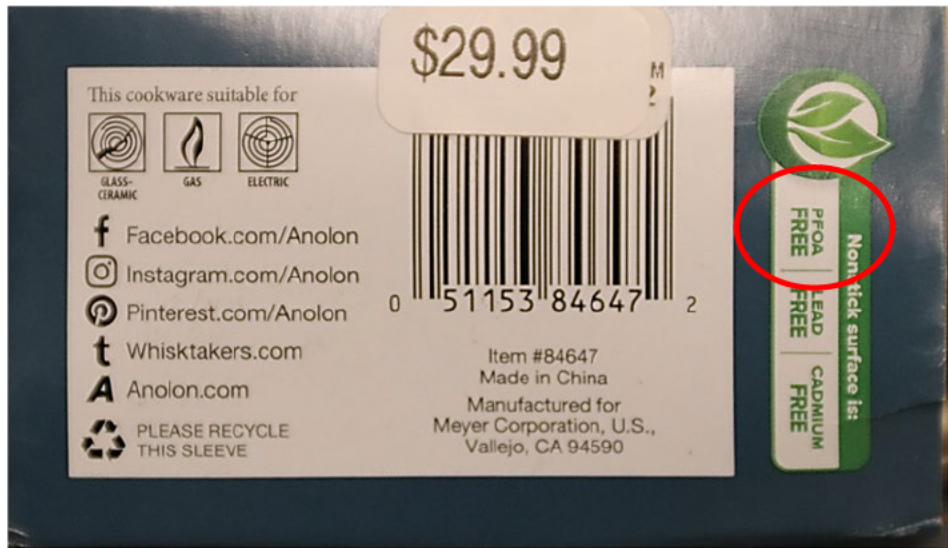
1 uniform PFOA-free Representations, which appear on every single label, matter to
2 consumers.

3 45. Defendant Meyer Corporation, U.S., manufactures and sells Anolon-
4 branded cookware. The product label itself states it is “Manufactured by Meyer
5 Corporation, U.S., Vallejo CA 94590.”

6 46. Defendant is well aware that consumers seek nonstick cookware products
7 that are free from potentially harmful chemicals like PFOA. Defendant makes the bold
8 promise of “PFOA FREE” and that consumers can “Cook with pure freedom” and
9 reiterates that their products are “PFOA-Free nonstick.” Defendant’s uniform labeling
10 is shown below:



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47. While consumers need go no further than the label to see (and believe) that the Class Products are indeed PFOA-free, looking elsewhere would only reinforce this message, and nowhere has Defendant indicated that “PFOA FREE” means anything other than free of PFOA. Defendant’s Help Page corroborates its intention to induce consumers to understand that a “safe” and toxin free product is necessarily “PFOA-free”:¹⁷

¹⁷ <https://anolon.com/pages/about>



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11 48. Elsewhere, Defendant confirms its intent to position its nonstick cookware
12 brands as innovative, safe, and sustainable products produced by an accountable and
13 trustworthy manufacturer, as seen on its official website:¹⁸

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15 At Meyer, we're much more than just cookware. We're Inventors. Imaginers. Innovators. Explorers. We're
16 passion and performance addicts, searching for the ideas that make people's lives better and make the
fast-paced world more creative, more convenient, and more satisfying.

17
18 And we're makers, too. With deep roots in creating, manufacturing, and bringing new products to market,
19 we stay connected to our core values of excellence, accountability, collaboration, innovation, customer
satisfaction, and continual improvement.

20 49. Similarly, any consumer reading Defendant's product descriptions on
21 Amazon.com would see only reinforcement of the "PFOA FREE" label claim, and
22 nothing to contradict it, as seen in the list of "Product Details":¹⁹

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24 ¹⁸ <https://meyerus.com/about/>

25 ¹⁹ https://www.amazon.com/dp/B07TNMN4Z4/ref=sspa_dk_detail_1?pd_rd_i=B07TNMN4Z4&pd_rd_w=3OyVf&content-id=amzn1.sym.bff6e147-54ad-4be3-b4ea-ec19ea6167f7&pf_rd_p=bff6e147-54ad-4be3-b4ea-ec19ea6167f7&pf_rd_r=D35EFX4FA0PZK56X5Y08&pd_rd_wg=YCDEH&pd_rd_r=52969dab-d6a1-4176-b795-f14701d86990&s=home-garden&sp_csd=d2lkZ2V0TmFtZT1zcF9kZXRhaWwy&th=1

- SEAMLESS SURFACE: Unique, flush rivets and ultra-durable, PFOA-free nonstick deliver one of the smoothest, longest lasting frying pan surfaces yet -- for recipes that glide off the pan and faster, easier cleanup

50. The page includes options to purchase a number of Class Products, from a grill pan to a roaster to saucepans and skillets, individually or in various combinations and sets, all under the umbrella of these misrepresentations. Although Defendant’s “PFOA-free” cookware products come in different shapes and sizes (e.g., cookware diameter, pots vs. pans, etc.), each is substantially similar to the others in design and function and all are sold in substantially similar packages—sometimes as sets—making substantially similar if not identical PFOA-free claims.

51. The omissions and misrepresentations identified in this Complaint are virtually identical across all shapes and sizes of Defendant’s “PFOA-free” products and the claims that form the basis of this action would be the same in all essential respects regardless of which shape or size product is considered. That is to say, whether one considers skillets of varying diameters, sauce pans of varying diameters, skillets vs. sauce pans, or entire sets of such products, all are substantially similar and thus contain PFOA, and Defendant’s PFOA-free claims are false or misleading as to all due to their uniform design. Thus, all constitute Class Products despite variations in size or shape.

52. And if a consumer were to ask about harmful chemicals in the Class Products—as some have—Defendant’s response also would be consistent with the label misrepresentation:

Customer questions & answers

🔍 Have a question? Search for answers

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Q: Is this made with Teflon?

A: Our nonstick cookware is PFOA-free, and the nonstick coatings do contain PTFE - actually, all nonstick coatings from any maker contain PTFE. "PTFE" is basically the chemical name of the nonstick coating - it's the actual ingredient that makes the cookware "nonstick." Rest assured, that our nonstick cookware is safe for... [see more](#)

By Manufacturer Customer Support on October 7, 2022

[See other answers](#)

53. Of note, the “Manufacturer” indication is a “badge” assigned by Amazon to “verified representatives of items listed on Amazon, such as the author, artist, or manufacturer of a product,”²⁰ and, here, Defendant represents that “our nonstick cookware is PFOA-free....”

54. The “Customer Questions and Answers” section on Defendant’s verified Amazon.com page for its Advanced Hard Anodized nonstick frying pan Class Products, includes the same assurance in response to a consumer inquiry:²¹

Q: The description is for a hard-anodized pan but it appears to be just another sort of a teflon coating. Where's the hard-anodized part?

A: Thank you for your inquiry and we apologize for any confusion. Hard anodization is an electrochemical process that gives the cookware a dark color and makes it twice as hard as stainless steel. The nonstick coating used on our hard anodized cookware lines are PFOA-free and contain PTFE. HArD anodized is the body of the pan, where the nonstick is usually found on the interior of the cookware. We hope this helps. [see less](#)

By Manufacturer Customer Support on November 20, 2019

[See other answers](#)

55. As the designer, manufacturer, and seller of the Class Products, Defendant knew, or at minimum should have known, that its nonstick cookware is treated with PFOA-containing compounds and other PFAS in order to enhance nonstick performance, and that residual PFAS, including PFOA, would remain in the Class Products.

²⁰ https://www.amazon.com/gp/help/customer/display.html/ref=cm_rm_bdg_help?ie=UTF8&nodeId=14279681

²¹ https://www.amazon.com/Anolon-Advanced-Anodized-Nonstick-8-5-Inch/dp/B000069RBS/ref=sr_1_2_sspa?keywords=anolon%2Bcookware&qid=1665438984&qu=eyJxc2MiOiIlLjY3IiwicXNhIjojNS44NSIsInFzclI6IjUuMjg1Q%3D%3D&sr=8-2-spons&th=1

1 56. Defendant either did not conduct proper testing for PFOA even though a
2 reasonable manufacturer would appreciate the need to do so, or it failed to disclose
3 test results revealing the presence of PFOA and other PFAS in the Class Products.

4 **D. Plaintiff's Purchase of the Class Products**

5 57. Plaintiff Howard Clark purchased Defendant's nonstick cookware from
6 Macy's located at Union Square in San Francisco on or about January 2022.

7 58. Plaintiff Howard Clark specifically sought to purchase PFOA-free
8 cookware. At the time of purchase, Plaintiff saw and relied on Defendant's PFOA-free
9 label claim as well as other PFOA-free claims made by Defendant in the course of
10 marketing the Class Products.

11 59. As a direct and intended result of Defendant's misrepresentations and
12 omissions, Plaintiff purchased an 8-inch fry pan and 12-inch skillet [Class Products].
13 Plaintiff would not have made this purchase, or would have paid less, but for the
14 presence of Defendant's false and misleading PFOA-free claim. In other words, if
15 Defendant had not falsely labeled the product, Plaintiff would not have bought it or
16 would have paid less for it.

17 60. When Plaintiff learned that the Defendant mislabeled its products,
18 including failing to disclose harmful chemicals the products contained, he stopped
19 using Defendant's nonstick cookware.

20 61. Plaintiff did not receive the benefit of his bargain because the cookware
21 failed to conform to Defendant's material PFOA-free representations. Had Plaintiff
22 been aware of the misrepresentations, he would not have purchased the product or
23 would have paid substantially less for it.

24 62. Plaintiff would like to purchase Defendant's products in the future if they
25 did met the PFOA-free representations made by Defendant. However, Plaintiff is
26 unable to rely on Defendant's representations regarding its products in deciding
27 whether to purchase Defendant's products in the future.

28

E. Economic Injury to Plaintiff and the Class

63. The Class Products are differentiated from other cookware products, including some nonstick products, by Defendant’s PFOA-free Representations and the concomitant omission that PFOA and other PFAS are in fact present in the Class Products.

64. Defendant’s representations/omissions were deceptive and misleading for the reasons set forth throughout this Complaint.

65. Defendant’s representations/omissions were made for the purpose of generating and increasing sales of the Class Products.

66. It would be reasonable for consumers to rely upon Defendant’s representations/omissions—as Plaintiff did—and to believe—as Plaintiff did—that a product touted as PFOA-free would, in fact, be “PFOA Free,” as stated on the label. In other words, Plaintiff, like any other ordinary reasonable consumer, was entitled to rely and in fact relied upon Defendant’s PFOA-free misrepresentations/omissions in making purchasing decisions.

67. As a direct and proximate result of Defendant’s misrepresentations/omissions, Plaintiff and the Class purchased the Class Products for their personal use.

68. Defendant’s representations/omissions conveyed to any reasonable consumer the impression that the Class Products’ purported PFOA-free design carried particular value. Plaintiff and the Class placed value on the Class Products’ supposed PFOA-free character.

69. Because the Class Products are not, in fact, PFOA-free, Plaintiff and the Class received products of substantially lesser value—products sold at a premium price—than Defendant represented.

70. Accordingly, Plaintiff and the Class did not realize the benefit of the bargain and their expectations were not met.

71. Plaintiff and the Class effectively paid more than the market value represented by the price bargained for. Plaintiff and the Class bargained with

1 Defendant on a particular market value for products that were believed to be PFOA-
2 free. But because Defendant delivered products that contained PFOA and other PFAS,
3 Plaintiff and the Class effectively paid a price that was higher than the market price to
4 which they and Defendant had agreed.

5 72. In other words, the Class Products are worth less than Plaintiff and the
6 Class paid for them and the cost of the Products would have been lower absent
7 Defendant's false and misleading representations/omissions.

8 73. Thus, through the use of misleading representations/omissions as to the
9 character and design of the Class Products—thereby misrepresenting the products'
10 true value—Defendant obtained enhanced negotiating leverage allowing it to
11 command a price Plaintiff and the Class would not have paid had they been fully
12 informed.

13 74. Absent the false and misleading representations/omissions, Plaintiff and
14 the Class would not have purchased the Class Products or would only have purchased
15 the products if offered at a lower price that reflected their true value.

16 75. By use of its misleading marketing and labeling claims, Defendant created
17 increased market demand for the Class Products and increased its market share
18 relative to what its demand and share would have been had Defendant marketed and
19 labeled the products truthfully.

20 76. Plaintiff and the Class lost money as a result of Defendant's
21 misrepresentations/omissions because they did not receive what they reasonably
22 believed they were paying for, while Defendant realized a commensurate unearned
23 gain because it did not deliver to Plaintiff and the Class what it led them to believe
24 they would receive.

25 77. Plaintiff and the Class detrimentally altered their position and suffered
26 damages in an amount that, at the very least, is commensurate with difference between
27 the reasonable or fair market value of the Class Products for which Plaintiff and the
28 Class paid, and the actual value of the Class Products that Defendant delivered.

1 78. The value of Defendant’s PFOA-free Representations—*i.e.*, the value that
2 a reasonable consumer would place on the Class Products’ purportedly PFOA-free
3 character—can be determined and expressed in terms of dollar value. Accordingly,
4 damages are capable of determination on a class-wide basis.

5 **V. CLASS ACTION ALLEGATIONS**

6 79. Plaintiff brings this action individually and as representative of all those
7 similarly situated, pursuant to California Code of Civil Procedure § 382, on behalf of
8 himself and the members of the following **Nationwide Class**:

9 During the maximum period permitted by law, all
10 persons residing in the United States who purchased
11 the Class Products.

12 80. In addition, or alternatively, Plaintiff brings this action on behalf of himself
13 and the members of the following **California Subclass**:

14 During the maximum period permitted by law, all
15 persons residing in the State of California who purchased
16 the Class Products.

17 81. Specifically excluded from these definitions are: (a) Defendant, any entity
18 in which Defendant has a controlling interest, and its legal representatives, officers,
19 directors, employees, assigns and successors; (b) the Judge to whom this case is
20 assigned and any member of the Judge’s staff or immediate family; (c) class counsel;
21 and (d) any person who timely and properly excludes himself or herself from the
22 Class. Plaintiff reserves the right to amend the Class and Subclass definitions as
23 necessary.

24 82. Certification of Plaintiff’s claims for class-wide treatment is appropriate
25 because Plaintiff can prove the elements of the claims on a class-wide basis using the
26 same evidence as individual Class and Subclass members would use to prove those
27 elements in individual actions alleging the same claims.

1 83. For convenience and simplicity, Plaintiff refers to the National Class and
2 the California Subclass collectively as “the Class” or “Class members,” except where
3 they are expressly distinguished.

4 84. **Numerosity.** The members of each proposed Class are so numerous and
5 geographically dispersed that individual joinder of all Class members is impracticable.

6 85. Although the precise number of Class members is unknown to Plaintiff,
7 upon information and belief the Class would easily number in the thousands if not
8 tens of thousands. Meyer Corporation identifies itself as a “global innovator” with
9 “products that can be found around the world on over 90 digital channels and in
10 thousands of stores.”²² Although the Class Products are only one line of Meyer’s
11 products, these representations suggest the breadth of Meyer’s market share and, thus,
12 the relatively large share the Class Products may be expected to garner in their market
13 niche, all of which suggests each Class would be comprised of numerous and
14 geographically dispersed members.

15 86. The true size of the Class may be ascertained through Defendant’s business
16 records, those of its authorized retailers, and by other traditional means including
17 notice publication.

18 87. **Typicality.** Plaintiff’s claims are typical of other Class members’ claims
19 because Plaintiff and the Class all purchased Class Products that are substantially
20 similar in design and were uniformly labeled and marketed. Plaintiff and the Class all
21 received less than the full value of Class Products they believed they were purchasing
22 based upon uniform misrepresentations/omissions. And reasonable consumers,
23 including Plaintiff and the Class alike, would not have purchased the Class Products
24 or paid as much had Defendant not misrepresented them as PFOA-free.

25 88. Plaintiff and the Class all were exposed to the same or substantially similar
26 misrepresentations and to the same omissions—namely, concealment of the presence

27 _____
28 ²² <https://meyerus.com/about/>

1 of PFOA in the purportedly PFOA-free Class Products. Defendant systematically
2 misrepresented the Class Products to all prospective consumers, including Plaintiff
3 and all Class members.

4 89. Plaintiff and each Class member suffered economic damages that are
5 calculable on a class-wide basis. The claims all arise from a single course of conduct
6 and each Class member would make similar legal and factual arguments to establish
7 Defendant's liability were they to proceed on an individual basis.

8 90. There are no defenses available that are unique to any named Plaintiff.
9 Defendant has engaged in systematic fraudulent behavior that was deliberate and
10 results in the same injury to all Class Members.

11 91. **Commonality.** Plaintiff and the Class are united by a community of
12 interest in obtaining appropriate remedies, including damages capable of
13 determination on a class-wide basis, potential injunctive relief injunctive relief, and,
14 alternatively, restitution. This action involves questions of law and fact that are
15 common to the Class that are susceptible to common answers and that predominate
16 over any individual questions specific to any Class members. These include:

- 17 a. whether Defendant misrepresented the Class Products as PFOA-free and
18 concomitantly failed to disclose the material fact that the Class Products in
19 fact contain PFOA and other PFAS;
- 20 b. whether the Class Products contain PFOA and other PFAS;
- 21 c. whether and when Defendant knew (or when it should have first known)
22 that the Class Products contain PFOA and other PFAS;
- 23 d. whether Defendant's labeling and marketing representations and omissions
24 were false, misleading and/or reasonably likely to deceive ordinary
25 reasonable consumers;
- 26 e. whether an ordinary reasonable consumer would have paid less money, or
27 any money at all, for the Class Products in the absence of Defendant's
28 misrepresentations/omissions;

- 1 f. the difference in value between the Class Products as represented for sale
- 2 (PFOA-free) and the actual value of the Class Products (not PFOA-free);
- 3 g. whether Defendant's misrepresentations/omissions would be material to a
- 4 reasonable consumer;
- 5 h. whether Defendant engaged in false or misleading advertising;
- 6 i. whether Defendant engaged in unfair, unconscionable, or deceptive trade
- 7 practices and whether it violated the various statutes and other laws cited in
- 8 Plaintiff's legal counts;
- 9 j. whether Defendant breached any warranty with respect to the Class
- 10 Products;
- 11 k. whether Plaintiff and the Class are entitled to damages and/or restitution
- 12 and, if so, the amount of such damages or restitution;
- 13 l. whether injunctive relief is appropriate under the circumstances;
- 14 m. whether Defendant was unjustly enriched at the expense of Plaintiff and the
- 15 Class as a result of its misconduct; and
- 16 n. whether Plaintiff and the other Class members are entitled to declaratory or
- 17 other equitable relief.

18 92. These common issues will drive the resolution of the litigation in that their
19 determination will resolve in one stroke issues that are central to the validity of each
20 Class member's claims.

21 93. The factual and legal issues identified above (a) remain common to the
22 Class, (b) arise from a common course of conduct and systemic policy decisions made
23 by Defendant, (c) predominate in number and importance over questions that may not
24 be common to the class, and (d) preclude neither class-wide calculation of damages
25 nor the methodological determination of how such damages should be allocated
26 among Class members.

27 94. **Adequate Representation.** Plaintiff is an adequate Class representative
28 because his interests do not conflict with the interests of the Class members. Plaintiff

1 commits to protecting the interests of the Class without exercising personal interest or
2 otherwise acting in a manner inconsistent with the best interests of the Class generally.
3 Plaintiff has retained attorneys with exceptional experience in complex litigation,
4 including extensive class action experience and experience in handling consumer
5 protection cases, as well as extensive litigation and trial experience in claims against
6 the chemical industry involving PFOA (C8). Plaintiff and his attorneys will
7 responsibly, ethically, and vigorously advocate on behalf of the Class and Plaintiff's
8 counsel have ample resources to do so.

9 95. Plaintiff has no interests antagonistic to those of the Class.

10 96. **Predominance.** The common questions of law or fact identified above are
11 substantially similar and predominate over those questions affecting only specific
12 members of the Class and Subclass.

13 97. **Superiority.** A class action is superior to any other means available to the
14 Class to obtain relief.

15 98. The damages suffered by individual Class members are relatively small
16 compared to the burden and expense of individual litigation of the claims described
17 here against Defendant so that making the class whole in the absence of a class action
18 is unlikely and impracticable.

19 99. This means Class members have relatively less interest in individually
20 controlling the prosecution of separate actions and it cannot be said that the interests
21 of individuals pursuing individual cases in conducting separate lawsuits is so strong as
22 to call for denial of a class action. Without class certification, the prosecution of
23 separate consumer actions by individual Class members would be impracticable and
24 financially difficult and, therefore, unlikely.

25 100. Denial of class treatment runs the risk of piecemeal litigation establishing
26 incompatible standards of conduct for Defendant or, alternatively, discouraging the
27 prosecution of meritorious but small claims and otherwise substantially impairing the
28 ability of Class members (and Defendant) to protect their rights and interests.

1 101. Defendant has no facially plausible interest in defending against separate,
2 geographically dispersed claims and, in fact, that would be more burdensome to
3 Defendant than defending against all potential claims in a single forum and
4 proceeding.

5 102. Likewise, the judicial system has no interest in burdening a number of
6 courts when the claims of this highly cohesive class can be fairly and efficiently
7 concentrated and managed by this Court.

8 103. Individualized actions would run the risk of creating inconsistent or
9 contradictory judgments arising from the same set of facts and would increase the
10 likely delay and expense to all parties involved and to the courts, including this Court.
11 By proceeding as a class action, the claims at issue can be managed efficiently
12 through economies of scale.

13 104. Additionally, the claims are manageable, each Subclass claim is governed
14 by one state's law and those laws are consonant with one another. Defendant's
15 misconduct impacts all Class members, whose losses are capable of calculation on a
16 class-wide or Subclass-wide basis.

17 105. Ultimately, the class action procedure is superior to other methods of
18 adjudicating the Plaintiff and Class members' claims. This is precisely why class
19 actions exist—class treatment facilitates the fair, uniform and efficient adjudication of
20 claims, as it would here, and it promotes judicial economy while avoiding the undue
21 financial, administrative and procedural burdens that necessarily would result from a
22 multiplicity of individual actions.

23 106. **Injunctive and Declaratory Relief.** Defendant acted or refused to act on
24 grounds generally applicable to the Class, making the award of equitable relief and/or
25 restitution appropriate to the Class in its entirety.

26 107. **Particular Issues.** Any or all of the issues identified above are
27 appropriate for certification because each is particular and common to the Class and
28

1 the resolution of each or all would materially advance the disposition of this action
2 and the parties' interests.

3 108. Plaintiff knows of no difficulty to be encountered in the maintenance of
4 this action that would preclude its maintenance as a class action.

5 **VI. CLAIMS FOR RELIEF**

6 **COUNT ONE**

7 **Unjust Enrichment/Restitution**

8 (On Behalf of the Nationwide Class and the California Subclass)

9 109. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
included herein.

10 110. Plaintiff brings this count on behalf of himself, the Nationwide Class, and
11 the California Subclass (referred to collectively in this Count as "the Class").

12 111. This Count is alleged in the alternative to Plaintiff's claims for legal
13 relief.

14 112. Plaintiff and the Class conferred a monetary benefit on Defendant in
15 purchasing the Class Products.

16 113. Defendant was aware of this benefit, voluntarily accepted it, and has
17 retained and appreciated this benefit, to which it is not entitled, at the expense of
18 Plaintiff and the Class.

19 114. Defendant either knew or should have known that payments rendered by
20 Plaintiff and the Class were given and received with the expectation that the Class
21 Products free of PFOA and other PFAS when that was not so. It is inequitable for
22 Defendant to retain the benefit of payments under these circumstances.

23 115. For this reason and others set forth in this Complaint, the circumstances
24 are such that it would be inequitable and unfair for Defendant to retain the full amount
25 of the benefit conferred upon it by Plaintiff and the Class, and fairness demands that
26 Defendant pay for the benefit.

27 116. Defendant has wrongfully retained a benefit conferred upon it by Plaintiff
28 and the Class in an amount not less than an amount commensurate with the difference

1 between the reasonable or fair market value of the Class Products for which Plaintiff
2 and the Class paid, and the actual value of the Class Products that Defendant
3 delivered.

4 117. Plaintiff accordingly seeks on behalf of himself and the Class restitution
5 from Defendant and an order of this Court that proportionally disgorges all profits,
6 benefits, and other compensation unjustly obtained by Defendant from its wrongful
7 conduct and that establishes a constructive trust from which Plaintiff and Class
8 Members may seek restitution.

9 **COUNT TWO**
10 **Violation of the California Consumer Legal Remedies Act**
11 **(“CLRA”), Civil Code §§ 1750, *et seq.***
12 **(On Behalf of the California Subclass)**

13 118. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
14 included herein.

15 119. Plaintiff brings this count on behalf of himself and the California
16 Subclass (referred to in this Count as “the Subclass”).

17 120. The conduct described herein took place in the State of California and
18 constitutes unfair methods of competition or deceptive acts or practices in violation of
19 the Consumers Legal Remedies Act (“CLRA”), Civil Code §§ 1750, *et seq.*

20 121. The CLRA applies to all claims of the Subclass because Defendant’s
21 conduct that violates the CLRA occurred within the State of California.

22 122. Plaintiff and the Subclass are “consumers” as defined by Civil Code §
23 1761(d).

24 123. Defendant is a “person” as defined by Civil Code § 1761(c).

25 124. The Class Products are “goods” as defined by Civil Code § 1761(a).

26 125. Plaintiff’s and the Subclass’s purchases of the Class Products are
27 “transactions” as defined by Civil Code 25 § 1761(e).

1 126. Defendant's representations and omissions concerning the quality,
2 benefits, and character of the Class Products (PFOA-free) were false and/or
3 misleading, as alleged herein.

4 127. As set forth below, the CLRA deems the following unfair methods of
5 competition and unfair or deceptive acts or practices undertaken by any person in a
6 transaction intended to result or which does result in the sale or lease of goods or
7 services to any consumer as unlawful:

- 8 a. representing that goods have characteristics, ingredients, or benefits that
9 they do not have, § 1770(a)(5);
- 10 b. representing that goods are of a particular standard, quality, or grade, or that
11 goods are of a particular style or model, if they are of another, § 1770(a)(7);
- 12 c. advertising goods with intent not to sell them as advertised; § 1770(a)(9);
13 and
- 14 d. representing the subject of a transaction has been supplied in accordance
15 with a previous representation when it was not. § 1770(a)(16).

16 128. Defendant engaged in unfair competition or unfair or deceptive acts or
17 practices in violation of these provisions when it represented through Class Product
18 labeling and marketing, and through other express representations including those
19 identified above, that the Class Products were PFOA-free when, in fact, the products
20 contain PFOA and other PFAS.

21 129. Defendant's false and misleading representations and omissions were
22 made to the entire Subclass and were such that a reasonable consumer would attach
23 importance to them in making his or her purchasing decision.

24 130. Defendant knew or should have known its representations and omissions
25 were material and were likely to mislead consumers, including Plaintiff and the
26 Subclass and that they were likely to mislead any reasonable consumer acting
27 reasonably under the circumstances, to his or her detriment.
28

1 131. Defendant engaged in uniform marketing efforts to reach Subclass
2 members, their agents, and/or third parties upon whom they relied, to persuade them
3 to purchase and use the Class Products. Defendant’s packaging, labeling, marketing,
4 website, and retailer product identification and specifications, contain numerous false
5 and misleading statements regarding the quality, benefits, and character of the Class
6 Products, including the specific misrepresentations alleged above.

7 132. In making these misrepresentations, Defendant simultaneously omitted
8 and concealed information and material facts from Plaintiff and the Subclass—
9 namely, that the Class Products contain PFOA and other PFAS.

10 133. In their purchase of the Class Products, Plaintiff and the Subclass relied
11 on Defendant’s representations and omissions. Had Defendant disclosed the true
12 nature of Class Products (that in fact they contain PFOA and other PFAS), Plaintiff
13 and the Subclass would not have purchased the products or would have paid
14 substantially less for them.

15 134. Pursuant to Civil Code § 1782(a), on November 7, 2022, Plaintiff
16 Howard Clark provided written notice to Defendant via certified mail through the
17 United States Postal Service demanding corrective actions pursuant to the CLRA. The
18 30-day response period has not elapsed; thus Plaintiff seeks no damages pursuant to
19 this Count, but may amend this Complaint at the appropriate time to claim damages.

20 135. In accordance with Civil Code § 1780, Plaintiff seeks a declaration that
21 Defendant’s conduct violates the CLRA and Plaintiff seek injunctive relief requiring
22 Defendant to cease and desist from further misrepresenting the Class Products are
23 PFOA-free as well as reasonable attorney’s fees and costs, and any further injunctive
24 or equitable relief the Court deems proper equitable relief for Defendant’s violations
25 of the CLRA.

26 136. If Defendant fails to respond to Plaintiff’s notice letter, fails to agree to
27 rectify the problems associated with the acts and omissions detailed above, or fails to
28 give timely notice to all affected consumers, Plaintiff reserves the right to amend the

1 Complaint to pursue claims for actual, punitive, and statutory damages, as appropriate.
2 As to this cause of action, at this time, Plaintiff seeks only equitable relief as described
3 above.

4 137. Attached as Exhibit A is the affidavit of Plaintiff pursuant to Cal. Civ.
5 Code § 1780(d).

6 **COUNT THREE**
7 **Violation of the California False Advertising Law (“FAL”)**
8 **California Business and Professions Code §§ 17500, *et seq.***
9 (On Behalf of the California Subclass)

10 138. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
11 included herein.

12 139. Plaintiff brings this count on behalf of himself and the California
13 Subclass (referred to in this Count as “the Subclass”).

14 140. The conduct described herein took place within the State of California
15 and constitutes deceptive or false advertising in violation of California Business and
16 Professions Code § 17500.

17 141. The FAL provides that “[i]t is unlawful for any person, firm, corporation
18 or association, or any employee thereof with intent directly or indirectly to dispose of
19 real or personal property or to perform services” to disseminate any statement “which
20 is untrue or misleading, and which is known, or which by the exercise of reasonable
21 care should be known, to be untrue or misleading.” Cal. Bus. & Prof. Code § 17500.

22 142. It also is unlawful under the FAL to make or disseminate any
23 advertisement that is “untrue or misleading, and which is known, or which by the
24 exercise of reasonable care should be known, to be untrue or misleading.” *Id.*

25 143. Defendant’s representations and omissions in its labeling, packaging, and
26 marketing/advertising concerning the quality, benefits, and character of the Class
27 Products (PFOA-free) were false and/or misleading, as alleged throughout this
28 Complaint.

1 144. In packaging, labeling, marketing, advertising and selling the Class
2 Products, Defendant represented to Plaintiff and the Subclass that the Class Products
3 are free of PFOA when in fact, and as Defendant knew or should have known, the
4 Class Products contained PFOA and other PFAS. In so doing, Defendant omitted and
5 concealed the presence of PFOA and PFAS in the Class Products.

6 145. At the time of its misrepresentations, Defendant was either aware the
7 Class Products contained PFOA and harmful PFAS, or was aware that it lacked the
8 information and/or knowledge required to make PFOA-free representations truthfully.
9 Defendant concealed this information from Plaintiff and the Subclass.

10 146. Defendant's label and marketing descriptions of the Class Products were
11 false, misleading, and likely to deceive Plaintiff and other reasonable consumers
12 acting reasonably in the circumstances.

13 147. Defendant's conduct therefore constitutes deceptive or misleading
14 advertising.

15 148. Plaintiff has standing to pursue claims under the FAL because they saw
16 and relied on Defendant's misrepresentations (and relied upon the concomitant
17 omissions) when selecting and purchasing the Class Products.

18 149. Plaintiff and the Subclass purchased the Class Products in reliance on the
19 statements made in Defendant's labeling and marketing materials and Defendant's
20 omissions and concealment of material facts regarding the quality and character of the
21 Class Products.

22 150. Had Defendant disclosed the true nature of Class Products (that in fact
23 they contain PFOA and other PFAS), Plaintiff and the Subclass would not have
24 purchased the products or would have paid substantially less for them.

25 151. As a direct and proximate result of Defendant's acts and omissions, it has
26 received ill-gotten gains and/or profits, including but not limited to money from
27 Plaintiff and the Subclass who purchased the Class Products.

28

1 152. Plaintiff and the Subclass seek restitution and disgorgement of any
2 monies acquired or retained by Defendant by means of its deceptive or misleading
3 representations, including monies already obtained from Plaintiff and Subclass as
4 provided for by the California Business and Professions Code § 17500.

5 **COUNT FOUR**
6 **Violations of the California Unfair Competition Law**
7 **(“UCL”), Cal. Bus. & Prof. Code §§ 17200, et seq.**
8 **(On Behalf of the California Subclass)**

9 153. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
10 included herein.

11 154. Plaintiff brings this count on behalf of himself and the California
12 Subclass (referred to in this Count as “the Subclass”).

13 155. Defendant is a “person” as defined by Cal. Bus. & Prof. Code § 17201.

14 156. Plaintiff and Class Members who purchased the Class Products suffered
15 economic injury because Defendant made misrepresentations (and concomitant
16 omissions) regarding the products’ true quality, benefits and character. Had Plaintiff
17 and the Subclass known that Defendant misrepresented and omitted material
18 information regarding the Class Products, they would not have purchased the Class
19 Products or they would have paid substantially less for them.

20 157. In packaging, labeling, marketing, advertising and selling the Class
21 Products, Defendant represented to Plaintiff and the Subclass that the Class Products
22 are free of PFOA when in fact, and as Defendant knew or should have known, the
23 Class Products contain PFOA and other PFAS. In so doing, Defendant omitted and
24 concealed the presence of PFOA and PFAS in the Class Products.

25 158. At the time of its misrepresentations, Defendant was either aware the
26 Class Products contained PFOA and harmful PFAS, or was aware that it lacked the
27 information and/or knowledge required to make PFOA-free representations truthfully.
28 Defendant concealed this information from Plaintiff and the Subclass.

1 159. Defendant's label and marketing descriptions of the Class Products were
2 false, misleading, and likely to deceive Plaintiff and other reasonable consumers
3 acting reasonably in the circumstances.

4 160. Defendant's conduct, as alleged herein, violates the laws and public
5 policies of California, as set out in the preceding paragraphs of this complaint.

6 161. There is no benefit to consumers or to competition by allowing
7 Defendant to deceptively package, label, and market/advertise the Class Products. In
8 fact, Defendant's conduct is anti-competitive because it either disadvantages
9 competitors who play by the rules or incentivizes them to deceive consumers as
10 Defendant has.

11 162. Plaintiff and the Subclass had no way to know that the Class Products
12 deceptively packaged, labeled, and marketed/advertised, *i.e.*, that the products are not
13 in fact PFOA-free. Plaintiff and the Subclass were not aware that the products contain
14 PFOA and other PFAS and could not practicably have determined that was so before
15 purchasing the products. Thus, Plaintiff and the Subclass could not have reasonably
16 avoided the harm they suffered.

17 163. The gravity of the harm suffered by Plaintiff and the Subclass outweighs
18 any legitimate justification, motive or reason for labeling, packaging and marketing/
19 advertising the Class Products in a deceptive and misleading manner. Accordingly,
20 Defendant's actions are immoral, unethical, and unscrupulous and offend the
21 established public policies and they are substantially injurious to Plaintiff and the
22 Subclass.

23 164. Defendant's misconduct, as alleged above and throughout this Complaint,
24 was and is likely to deceive reasonable consumers by obfuscating the true nature of
25 the Class Products, and thus the misconduct violated and continues to violate Cal.
26 Bus. & Prof. Code §§ 17500, *et seq.*

27 165. As a result of Defendant's above unlawful, unfair, and fraudulent acts and
28 practices, Plaintiff, on behalf of himself and the Subclass—and as appropriate, on

1 behalf of the general public—seeks equitable relief, including full restitution of all
2 improper revenues and ill-gotten profits derived from Defendant’s wrongful conduct
3 to the fullest extent permitted by law or in equity.

4 **COUNT FIVE**
5 **Breach of Express Warranty**
6 **Cal. Com. Code §§ 2313, *et seq.***
(On Behalf of the California Subclass)

7 166. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
8 included herein.

9 167. Plaintiff brings this cause of action on behalf of himself and the
10 California Subclass (referred to in this Count as “the Subclass”).

11 168. Defendant designed, designs, manufactured, labeled, marketed,
12 distributed, and sold the Class Products as part of its regular course of business.

13 169. Defendant made affirmations of fact and promises on the Class Products
14 labels and packages and through other external, public communications, including
15 marketing communications.

16 170. As set forth herein, Defendant made express representations to Plaintiff
17 and the Class that the Class Products were “PFOA FREE.”

18 171. Defendant made the foregoing express representations and warranties to
19 all consumers, which became the basis of the bargain between Plaintiff, the Subclass,
20 and Defendant.

21 172. Plaintiff and the Subclass purchased the Class Products through
22 authorized retailers including Macy’s and Amazon, as alleged in detail above with
23 respect to named Plaintiff.

24 173. Defendant breached the foregoing express warranties by placing the
25 Class Products into the stream of commerce and selling them to consumers, when—
26 contrary to the express warranties—the Class Products contain PFOA and more than
27
28

1 dozen other PFAS, and otherwise fail to conform to the properties they were
2 represented to possess.

3 174. The presence of PFOA and other PFAS rendered the Class Products unfit
4 for their intended use and purpose and substantially impaired the use and value of the
5 Class Products.

6 175. Defendant had superior knowledge regarding the presence of PFOA and
7 other PFAS in the Class Products. Plaintiff and the Subclass were not aware that the
8 products contain PFOA and other PFAS and could not practicably have determined
9 that was so before purchasing the products.

10 176. Privity exists because the representations were made pursuant to a sale of
11 goods.

12 177. Plaintiff and the Class members reasonably relied on the express
13 warranties by Defendant because the warranties were material to Plaintiff's and the
14 Class' purchasing decisions and were, in fact, the primary motivating factor behind
15 those decisions, as a reasonable consumer's primary concern when purchasing PFOA-
16 free nonstick cookware is that the cookware not contain PFOA.

17 178. As a result of Defendant's breaches of its express warranties, Plaintiff
18 and the Class sustained damages as the product they received was not worth the price
19 they paid for it. Plaintiff alleges that the product was worthless because no reasonable
20 consumer would pay for cookware that contained PFOA and, alternatively, that they
21 paid a price premium for the allegedly PFOA-free cookware, in which they did not
22 receive the promised consideration. In reality, a reasonable consumer would pay
23 significant money simply to avoid or limit exposure to forever chemicals like PFOA;
24 accordingly, exposing unsuspecting consumers to PFOA caused them significant
25 damages.

26 179. As a result of Defendant's breach of these warranties, Plaintiff and the
27 Subclass are entitled to legal and equitable relief including damages, costs, attorney's
28 fees, rescission, and all such other relief available in law or in equity.

COUNT SIX
Breach of Implied Warranty
Cal. Com. Code § 2314, et. seq.
(On Behalf of the California Subclass)

1
2
3
4 180. Plaintiff repeats and re-alleges all previous paragraphs, as if fully
5 included herein.

6 181. Defendant is a merchant who sold nonstick cookware, a good, to Plaintiff
7 and the Class members.

8 182. As such, the sale of these goods was subject to the implied warranty of
9 merchantability, under which Defendant warranted that the goods met the following
10 requirements: (1) passed without objection in the trade under the contract description,
11 (2) were of fair average quality within the description, (3) were fit for the ordinary
12 purposes for which such goods are used, (4) were adequately contained, packed, and
13 labeled as the agreement may require, and (5) conformed to the promises or
14 affirmations of fact made on the container or label if any, among other requirements.

15 183. Defendant breached the implied warranty of merchantability, violating
16 each of the promises set forth above, because it sold Plaintiff and the Class Members
17 nonstick cookware, marketed as being “PFOA FREE” on their labeling and elsewhere,
18 which in fact contained PFOA. Accordingly, the goods (1) did not pass without
19 objection under the contract description, (2) were not of fair average quality within the
20 description, (3) were not fit for the ordinary purposes for which such goods are used,
21 (4) were not adequately labeled, and (5) did not conform the representations contained
22 on the label.

23 184. As a result of Defendant’s breach of the implied warranty of
24 merchantability, Plaintiff and the Class sustained damages because they paid the
25 purchase price for goods which were contained materially misleading representations
26 and omissions and/or paid more for the Products than they would have had they
27 known the Products contained PFOA.
28

VII. RELIEF DEMANDED

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, including the respective Class and Subclasses proposed herein, seek the following relief against Defendant:

- a. an order certifying the Class, naming Plaintiff as representative of the Class and their respective Subclasses, and appointing Plaintiff’s attorneys as Class Counsel;
- b. an order declaring that Defendant’s conduct violates the statutes referenced herein;
- c. an order and judgment in favor of Plaintiff and the proposed Class and Subclasses on all respective counts asserted herein;
- d. compensatory, statutory, and punitive damages and applicable penalties in amounts to be determined by the Court and/or jury;
- e. injunctive relief, restitution, disgorgement, penalties, and other monetary and non-monetary equitable relief as pled herein;
- f. prejudgment and post-judgment interest where available on all amounts awarded;
- g. reasonable attorneys’ fees, expenses, and costs of suit; and
- h. all other relief available at law or in equity.

VIII. JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all claims so triable.

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s/ Michael H. Pearson
 Daniel L. Warshaw (CA Bar No. 185365)
 Michael H. Pearson (CA Bar No. 277857)
PEARSON, SIMON & WARSHAW, LLP
 15165 Ventura Boulevard, Suite 400
 Sherman Oaks, California 91403
 Telephone: (818) 788-8300
dwarshaw@pswlaw.com
mpearson@pswlaw.com

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Melissa S. Weiner (MN BN 0387900)*
PEARSON, SIMON & WARSHAW, LLP
328 Barry Avenue S., Suite 200
Wayzata, Minnesota 55391
Telephone: (612) 389-0600
mweiner@pswlaw.com

Matthew D. Schultz (FL BN 640328)*
Rebecca K. Timmons (FL BN 121701)*
LEVIN PAPANTONIO RAFFERTY
316 S. Baylen Street, Suite 600
Pensacola, Florida 32502
Telephone: (850) 435-7140
mschultz@levinlaw.com
btimmons@levinlaw.com

Alex Straus (CA Bar No. 321366)
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, LLP**
16748 McCormick Street
Los Angeles, California 91436
Telephone: (917) 471-1894
Facsimile: (310) 496-3176
astraus@milberg.com

Rachel L. Soffin* (FL BN 18054)
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN LLP**
800 S. Gay St., Suite 1100
Knoxville, Tennessee 37929
Telephone: (865) 247-0080
rsoffin@milberg.com

Erin J. Ruben* (VA BN 73073, NC BN 39184)
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, LLP**
900 W. Morgan Street
Raleigh, NC 27603
P.O. Box 12638
Raleigh, NC 27605
eruben@milberg.com

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Harper T. Segui* (GA BN 096540, SC BN 77730)
**MILBERG COLEMAN BRYSON PHILLIPS
GROSSMAN, LLP**
825 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
hsegui@milberg.com

Attorneys for Plaintiff and the Putative Class

**Pro Hac Vice application forthcoming*