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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 BRITTANY BOUNTHON, VIVIANNA
13 RIVERA and GINA ALLEN, individually and
14 on behalf of all others similarly situated,

15 Plaintiffs,

16 v.

17 THE PROCTER & GAMBLE COMPANY,

18 Defendant.

CASE NO. 3:23-CV-00765-AMO

**THIRD AMENDED CLASS ACTION
COMPLAINT**

DEMAND FOR JURY TRIAL

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1 Plaintiffs Brittany Bounthon, Vivianna Rivera and Gina Allen, individually, and on behalf
2 of all others similarly situated (“Plaintiffs”), bring this Third Amended Class Action Complaint
3 against Defendant The Procter & Gamble Company (“P&G” or “Defendant”) and allege the
4 following based on personal knowledge as to themselves, and as to all other matters, upon
5 information and belief, including investigation conducted by their attorneys.

6 **NATURE OF THE CASE**

7 1. This is a civil class action brought by Plaintiffs on behalf of consumers who
8 purchased Tampax-branded Pure Cotton tampons (the “Tampon Products” or the “Products”)
9 for personal hygiene purposes.

10 2. Approximately 5.8 billion tampons were sold in the United States in 2018.¹ In
11 2020 alone, 34.1 million women in the United States used tampons to manage their
12 menstruation.²

13 3. In recent years there has been increased concern from women about the presence of
14 chemicals and contaminants in menstrual products and how these substances might affect long-term
15 health.³ These concerns arise, in part, from the fact that the vagina and vulva absorb chemicals at a
16 higher rate than other areas of the body.⁴ Accordingly, consumers have begun to demand simpler
17 and more natural methods of managing menstruation that are free from unnecessary (and potentially
18 harmful) chemicals and contaminants.

19 4. As one of the biggest players in the very lucrative feminine hygiene market, P&G is
20 keenly aware of increased consumer demand for products which limit unnecessary chemical and
21 contaminant exposure. In order to capitalize on this demand, P&G designs, manufactures,
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23 ¹ <https://www.nationalgeographic.com/environment/article/how-tampons-pads-became-unsustainable-story-of-plastic> (last accessed Feb.13, 2024).

24 ² <https://www.statista.com/statistics/278085/us-households-usage-of-tampons/> (last accessed
25 Feb.13, 2024).

26 ³ *See* [https://www.theguardian.com/commentisfree/2015/apr/20/tampon-safety-research-](https://www.theguardian.com/commentisfree/2015/apr/20/tampon-safety-research-legislation)
27 [legislation](https://www.theguardian.com/commentisfree/2015/apr/20/tampon-safety-research-legislation) (last accessed Feb. 13, 2024).

28 ⁴ *See* <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3948026/> (last accessed Feb.13, 2024).

1 advertises, distributes and sells personal care products, including the Tampon Products that are
2 the subject of this action.

3 5. Beginning with the name “Tampax Pure Cotton,” along with the “100% ORGANIC
4 Cotton Core” representation, both of which are in large, bold font on the front and center of the
5 Tampax Products, Defendant intentionally and knowingly leads consumers to believe that the
6 Tampax Products are a product for absorbing menstrual fluid that do not contain any undisclosed
7 chemicals or contaminants.⁵



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20 6. Similarly, on the back label of the Tampon Products, P&G uniformly represents the
21 Tampax Products as being “THE BEST OF SCIENCE & NATURE” in capitalized font, and
22 reaffirms that the products contain “100% ORGANIC” cotton.”⁶

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27 ⁵ <https://tampax.com/en-us/all-products/pure-cotton/pure-cotton-regular/> (last accessed Feb.13, 2024).

28 ⁶ <https://www.safeway.com/shop/product-details.970308201.html> (last accessed Feb.13, 2024).

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7. Defendant has intentionally designed the front and back label representations on the Tampon Products, beginning with the name “Tampax Pure Cotton,” along with the “100% ORGANIC” representations, as well as the “THE BEST OF SCIENCE AND NATURE” representation (collectively, the “Pure and Organic Representations”), in order to lead reasonable consumers to believe that the Tampon Products do not contain any undisclosed chemicals or contaminants.

8. Reasonable consumers, therefore, fairly and reasonably understand that a product marketed with the Pure and Organic Representations alleged herein would, in fact, contain a 100% organic cotton outerwrap, a 100% organic cotton core and be otherwise free from undisclosed chemicals or contaminants which would contradict the promises made on the Tampon Products’ labeling.

9. P&G knows that consumers are concerned with the ingredients in their personal care products, especially products like tampons that are designed to be used internally. Thus, P&G has intentionally utilized its marketing, centering on the Pure and Organic Representations, to drive sales and increase profits, including by targeting health-conscious consumers who reasonably believe that the Products are free from undisclosed chemicals and contaminants.

1 U.S.C. § 1367.

2 18. This Court has personal jurisdiction over Defendant because Defendant has
3 intentionally availed itself of the laws of the United States and the state of California, having
4 purposefully marketed, advertised and/or sold the Products to consumers across the United States,
5 including the state of California. Such conduct has a direct, substantial, reasonably foreseeable and
6 intended effect of causing injury to persons throughout the United States, including in the state of
7 California.

8 **VENUE**

9 19. In accordance with 28 U.S.C. § 1391, venue is proper in this District because a
10 substantial part of the conduct giving rise to Plaintiffs' claims occurred in this District, Defendant
11 transacts business in this District and Defendant has intentionally availed itself of the laws and
12 markets within this District.

13 **DIVISIONAL ASSIGNMENT**

14 20. Plaintiff Brittany Bounthon purchased the Tampon Products in Dublin, California,
15 Emeryville, California and San Francisco, California. Accordingly, pursuant to Civil Local Rule 3-
16 2(d), this action can be assigned to the Oakland Division or San Francisco Division.

17 **PARTIES**

18 21. Plaintiff Brittany Bounthon is a citizen of the state of California and resides in San
19 Leandro, California.

20 22. Plaintiff Vivianna Rivera is a citizen of the state of California and resides in Fontana,
21 California.

22 23. Plaintiff Gina Allen is a citizen of the state of California and resides in Sun City,
23 California.

24 24. Defendant The Proctor & Gamble Company is a Delaware corporation with its
25 principal place of business located in Cincinnati, Ohio.

26 **FACTUAL ALLEGATIONS**

27 25. On average, women will have 450 periods over their lifetime, which equals 3,500
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1 days spent menstruating.⁷ This means women spend the equivalent of more than 9 years of their
2 lives using menstrual products.

3 26. Tampons are a method of absorbing menstrual flow that are worn internally by
4 inserting them into the vagina.⁸

5 27. Tampons are designed to be worn for up to 8 hours at a time and are typically
6 available in different levels of absorbency to be used throughout the duration of a woman’s
7 menstrual period.

8 28. In the 1930s, the first tampons were sold to consumers under the brand name
9 “Tampax.”⁹

10 29. Since introducing the first commercial tampon, the Tampax brand has continued to
11 dominate the feminine hygiene market with a 29% global market share. In fact, in 2019 alone, 4.5
12 billion boxes of Tampax tampons were sold worldwide.¹⁰

13 30. Thus, Tampax is indisputably one of the most well recognized—and highly trusted—
14 brands of feminine hygiene products currently on the market.

15 31. In 1997, P&G—a consumer goods corporation specializing in personal care
16 products—purchased Tampax.¹¹ P&G continues to design, manufacture, market and sell tampons
17 under the Tampax brand name.

18 32. Despite their widespread use, concerns about the ingredients used in feminine
19 hygiene products date back to the 1980s, when tampons were first linked to toxic shock syndrome,
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22 ⁷ <https://www.helpingwomenperiod.org/7-amazing-facts-about-periods-that-everyone-needs-to-know/> (last accessed Feb. 13, 2024).

24 ⁸ <https://www.fda.gov/consumers/consumer-updates/facts-tampons-and-how-use-them-safely> (last accessed Feb. 13, 2024).

25 ⁹ <https://www.theatlantic.com/health/archive/2015/06/history-of-the-tampon/394334/> (last
26 accessed Feb. 13, 2024).

27 ¹⁰ <https://www.theguardian.com/society/2020/feb/11/tampon-wars-the-battle-to-overthrow-the-tampax-empire> (last accessed Feb. 13, 2024).

28 ¹¹ <https://en.wikipedia.org/wiki/Tampax> (last accessed Feb. 13, 2024).

1 a potentially life-threatening condition.¹² From the time toxic shock syndrome was first linked to
2 tampons, and continuing to the present time, Tampax has continuously worked to reassure
3 consumers about the integrity of its products.

4 33. Currently, there is significant concern about the chemicals used and the contaminants
5 found in feminine hygiene products.¹³ This concern, has contributed to many women’s efforts to
6 seek out alternative menstrual hygiene products, including those that limit their exposure to
7 unnecessary chemicals and contaminants. In the past decade, in response to this consumer demand,
8 various new brands have begun to offer menstrual products which are marketed as more ethical,
9 transparent and ecologically-friendly than traditional feminine hygiene brands like Tampax.¹⁴

10 34. As an undisputed leader in the menstrual products market, Tampax is well aware that
11 consumers are looking for safe ways to deal with menstruation.¹⁵ Tampax’s ongoing strategy to
12 capture a share of the natural menstrual care market is apparent from a 2019 statement by Tampax
13 executive Amy Krajewski, who recognized: “[I]t was clear that there was still a big unmet need in
14 the natural menstrual category—an option that worked well.”¹⁶

15 35. In an effort to keep up with its new competitors and respond to changing consumer
16 preferences, Tampax introduced its first organic tampon in 2019—the Tampax Pure Cotton.¹⁷

17 36. Tampax’s pervasive marketing of the Pure Cotton Tampons as a natural, transparent
18 and chemical and contaminant-free choice for feminine hygiene is summarized in its May 21, 2019
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20 ¹² <https://my.clevelandclinic.org/health/diseases/15437-toxic-shock-syndrome> (last accessed
21 Feb. 13, 2024).

22 ¹³ [https://www.womensvoices.org/2018/06/05/new-tampon-testing-reveals-undisclosed-
23 carcinogens-and-reproductive-toxins/](https://www.womensvoices.org/2018/06/05/new-tampon-testing-reveals-undisclosed-carcinogens-and-reproductive-toxins/) (last accessed Feb. 13, 2024).

24 ¹⁴ [https://www.theguardian.com/society/2020/feb/11/tampon-wars-the-battle-to-overthrow-the-
25 tampax-empire](https://www.theguardian.com/society/2020/feb/11/tampon-wars-the-battle-to-overthrow-the-tampax-empire) (last accessed Feb. 13, 2024).

26 ¹⁵ <https://www.cnn.com/2019/05/21/business/tampon-organic-tampax-pure> (last accessed Feb.
27 13, 2024).

28 ¹⁶ [https://www.businesswire.com/news/home/20190521005496/en/Tampax-PURE---The-
Organic-Tampon-Youve-Been-Waiting-For](https://www.businesswire.com/news/home/20190521005496/en/Tampax-PURE---The-Organic-Tampon-Youve-Been-Waiting-For) (last accessed Feb. 13, 2024).

¹⁷ <https://www.cnn.com/2019/05/21/business/tampon-organic-tampax-pure> (last accessed Feb.
13, 2024).

1 press release, which introduced the Tampon Products to consumers with the following
2 representations:

- 3 a. “No Compromise—PURE offers people the ingredients they want with the
4 trusted protection they expect from Tampax...”
- 5 b. “Afraid that natural products will disappoint? Not anymore.”
- 6 c. “Users can feel good about the ingredients, and trust that our product
7 works.”
- 8 d. “PURE was created to make sure people have the choices they want when it
9 comes to period protection.”
- 10 e. “simple ingredients”¹⁸

11 37. P&G currently sells Tampax tampons, including the Pure Cotton Tampons, in retail
12 stores throughout the country, including at drug and grocery stores such as Walgreens, CVS, Target,
13 Kroger and Walmart.

14 ***Defendant’s False and Deceptive Advertising***

15 38. As discussed above, P&G uniformly represents the Tampon Products with the
16 Pure and Organic Representations that confirm for the reasonable consumer that they are free
17 from chemicals and contaminants such as organic fluorine.

18 39. The Pure and Organic representations appear prominently on the Products’ front
19 label, which is adorned with illustrations of cotton plants to underscore the Pure and Organic
20 nature of the Products¹⁹:

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26 ¹⁸ <https://www.businesswire.com/news/home/20190521005496/en/Tampax-PURE---The-Organic-Tampon-Youve-Been-Waiting-For> (last accessed Feb. 13, 2024).

27 ¹⁹ <https://tampax.com/en-us/all-products/pure-cotton/pure-cotton-regular/> (last accessed Feb.
28 13, 2024).

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40. Likewise, the Tampon Products’ back label²⁰ contains the Pure and Organic representations, which are further bolstered by the inclusion of the phrase, “The Best of Science & Nature,” along with representations that the Tampon Products are made with high-quality organic and plant-based ingredients, and contain a **100% organic cotton core** and a **100% organic cotton outerwrap**:

²⁰ <https://www.safeway.com/shop/product-details.970308201.html> (last accessed Feb. 13, 2024).

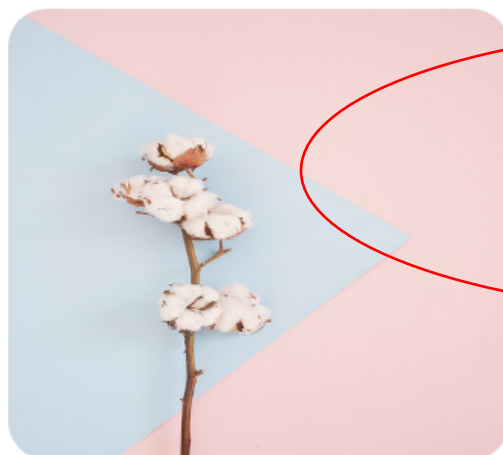
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41. The packaging's side panel contains similar representations, along with the Products' ingredients, which are listed as: cotton, polypropylene, polyester, glycerin, paraffin and titanium dioxide. *Nowhere* on the Products' packaging does P&G disclose the presence of organic fluorine.

1 42. In fact, P&G uses its official website and social media channels to uniformly reassure
2 consumers that it “relentlessly pursue[s] the best ingredients that can be used safely from both
3 science and nature”²¹:

4 **Nothing but the best ingredients**



6 At Tampax, we believe your vagina deserves
7 the best. We relentlessly pursue the best
8 ingredients that can be used safely from
9 both science and nature, and we
10 continuously assess every finished product to
11 ensure safety. For example, rayon is a
12 synthetic material derived from purified
13 wood pulp and is processed into an
14 absorbent cellulose fiber. Its unique fiber
15 shape (trilobal rayon) is specifically designed
16 for tampons. It absorbs fluid quickly and
17 expands to help stop leaks. Natural cotton is

18 an ideal absorbant fiber that provides the period protection we all need. Some tampons use
19 a combination of natural cotton and rayon fibers that help provide the ideal absorbency
20 level for your flow.

21 43. Even further, P&G promises that the Products contain “only the ingredients you
22 need.”²²

23 **Purposeful design, intentional 24 ingredients**

25 Our products are designed to give you the comfort and protection you want with only the
26 ingredients you need.

27 44. P&G further represents that “Selecting ingredients and materials is the most
28 important choice we make.”²³ In a video accompanying this representation titled “Ingredient

²¹ <https://tampax.com/en-us/about/ingredients/what-tampons-are-made-of/> (last accessed Feb. 13, 2024).

²² *Id.*

²³ <https://tampax.com/en-us/about/ingredients/ingredients-safety-process/> (last accessed Feb.

1 Safety,” P&G represents that if they cannot be sure an ingredient can be used, “we won’t use it,
2 period, full stop.” *Id.*

3 45. P&G corroborates its Pure and Organic Representations on its website, where it
4 explains how the cotton used in the Tampon Products is purified:²⁴

5 Cotton is Purified

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7 Tampax Pure Cotton is processed free from elemental chlorine and free from
8 chlorine dioxide. The cotton used in Tampax tampons is purified using a
9 Totally Chlorine Free (TCF) process.

10 The purification process also removes:

- 11 • The natural waxes & oils, so cotton is more absorbent
- 12 • Natural colorants and contaminants, so cotton is purified

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14 46. P&G specifically states that the cotton used in the Tampon Products is purified to
15 remove contaminants, leading reasonable consumers to conclude that extra care has been taken to
16 remove any undisclosed and unnecessary chemicals and contaminants, like organic fluorine.

17 47. P&G also represents to consumers that the Products are thoroughly tested and
18 evaluated before reaching consumers, including by independent certification, to ensure that the
19 Products do not contain chemicals or contaminants.²⁵

20 48. Because P&G knows that transparency regarding the ingredients in their products is
21 material to consumers—especially when using a product that is designed to be used internally in the
22 body—P&G represents on its website that:

23 Everyone wants what’s best for their body,

24 [...]

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26 13, 2024).

27 ²⁴ <https://tampax.com/en-us/all-products/pure-cotton/> (last accessed Feb. 13, 2024).

28 ²⁵ *Id.*

1 we believe your vagina deserves the best!

2 Our tampons’ absorbent fibers are cotton and rayon. Rayon is made from
3 the cellulose fiber found in trees and has been used in tampons for more
4 than 40 years.²⁶

5 49. With respect to the “PURE” tampons at issue, P&G represents that the absorbent
6 fibers are made of “just cotton:”

7 **When it comes to period protection, comfort is key**

8 ...and our materials help to enable a comfortable insertion and removal
9 experience. These substances are commonly and safely used in a range of
10 hygiene products including other brands of period protection products.

11 Our tampons’ absorbent fibers are cotton and rayon. The thin Smooth
12 Removal Layer is made of either polyethylene and polypropylene, just
13 polypropylene, or just cotton for Tampax PURE tampons.²⁷

14 50. P&G further represents that “Tampax tampons are made at our own manufacturing
15 facilities, one in the US and one in Europe, so we know exactly what ingredients go into each tampon
16 and how they are put together every step of the way.” *Id.* In a video posted on its website, P&G
17 includes a question and answer video regarding information posted on social media indicating that
18 Tampons have hidden ingredients that are toxic. In response, P&G includes a doctor responding to
19 those questions who states that “the ingredients in all Tampax tampons is listed on its website and
20 none of them worry me, especially for use in the vagina. In fact, millions of women have been using
21 billions of tampons for many years and Tampax has a great safety track record.” *Id.*

22 51. P&G has even utilized Tampax’s official YouTube channel to post videos reassuring
23 consumers about the integrity of the Products’ ingredients, including with the promise.²⁸

24 52. P&G has consistently positioned the Tampax brand as a transparent, trusted brand,
25 stating, “At Tampax, the safety of our ingredients and materials is the most important choice we

26 ²⁶ <https://tampax.com/en-us/about/ingredients/ingredients-safety-process/> (last accessed Feb.
13, 2024).

27 ²⁷ *Id.*

28 ²⁸ <https://youtu.be/52gISZb6m4g> (last accessed Feb. 13, 2024)

1 make for our products.”²⁹

2 53. Thus, there can be no doubt that the Pure and Organic Representations are
3 intentionally designed to convince reasonable consumers that the Products are, in fact, “pure” and,
4 specifically, that the Tampon Products’ cotton overwrap and core are both 100% organic.

5 54. The Pure and Organic Representations are central to P&G’s marketing and sale of
6 the Products and are strategically employed to convince health-conscious consumers that the
7 Products are a pure and natural choice with transparent ingredients—including 100% organic
8 components.

9 ***The Presence of Organic Fluorine Renders the Pure and Organic Representations False and***
10 ***Misleading***

11 55. When used in chemistry, the term “organic” refers to compounds containing
12 carbon.³⁰ This is notably different than the common usage of the word organic as it relates to
13 consumer products such as food and cosmetics.

14 56. Accordingly, organic fluorine is created by the chemical bond between carbon atoms
15 and fluorine atoms.

16 57. Organic fluorine is almost exclusively man-made and used in industrial applications.
17 It is commonly found in pharmaceuticals and agrochemicals, as well as per- and polyfluoroalkyl
18 substances (“PFAS”), a class of industrial chemicals.

19 58. The exceedingly rare examples of organic fluorine from natural sources—the most
20 famous of which is the deadly poison monofluoroacetic acid from a rare indigenous South African
21 plant—are not found or used in the industrial world and would never be the source of organic
22 fluorine in a consumer product (even as an incidental contaminant).³¹

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24 ²⁹ <https://tampax.com/en-us/about/ingredients/ingredient-safety/> (last accessed Feb. 13, 2024).

25 ³⁰ <https://www.acs.org/careers/chemical-sciences/areas/organic-chemistry.html#:~:text=Organic%20chemistry%20is%20the%20study,phosphorus%2C%20silicon%2C%20sulfur> (last accessed Feb.13, 2024).

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27 ³¹ <https://www.tcichemicals.com/US/en/support-download/chemistry-clip/2013-10-08#:~:text=The%20most%20famous%20naturally%20existing,enough%20to%20kill%20a%20cow>
28 [w](#) (last accessed Feb.13, 2024).

1 59. Accordingly, there is no use or application of organic fluorine in the Tampon
2 Products that would comport with reasonable consumers’ understanding of the word “organic” as it
3 relates to menstrual products or their individual ingredients.

4 60. Plaintiffs sought independent third-party testing from a certified laboratory to
5 confirm the presence of organic fluorine in the Tampon Products using Total Organic Fluorine
6 (“TOF”) analysis.

7 61. TOF analysis measures fluorine that originates from any substance where fluorine is
8 attached to a carbon backbone.

9 62. TOF analysis accounts for and excludes any ionic fluoride that might be present in
10 municipal water supplies for dental hygiene.

11 63. Plaintiffs tested three different samples of the Tampon Products. Plaintiffs first tested
12 two samples of the whole finished Tampon Product in March 2022. Plaintiffs then conducted a
13 second round of testing in April 2023, this time analyzing each individual component of the Tampon
14 Products—the absorbent core, the fabric overwrap, the string and the applicator.

15 64. Plaintiffs’ testing uniformly showed that the finished Tampon Products, and each of
16 their individual components, contained organic fluorine.

17 65. Crucially, the absorbent core and fabric overwrap—both of which are represented as
18 “100% organic”—contained organic fluorine.

19 66. The amount organic fluorine detected in the Tampon Product samples was above
20 trace amounts and well within the detection limits.

21 67. The presence of organic fluorine in any menstrual product is concerning, especially
22 in one labeled as “pure” and “organic.”

23 68. In cases where organic fluorine is not indicative of PFAS, it still indicates the
24 presence of other concerning compounds such as refrigerants, pharmaceuticals or pesticides.

25 69. Whether the detection of organic fluorine in the Tampon Products is the result of
26 PFAS chemicals or other organic fluorinated compounds such as pesticides, is ultimately
27 inconsequential. Regardless of its source, the presence of organic fluorine contradicts all of
28 Defendant’s uniform marketing of the Tampon Products as pure and organic.

1 ***Defendant's Unlawful Conduct***

2 70. P&G is well aware of consumers' desire to avoid undisclosed chemicals and
3 contaminants, which is exactly why it has engaged in an aggressive, uniform marketing campaign
4 intended to convince consumers that the Products are a "pure" and "organic" alternative to
5 traditional menstrual products which contain ingredients that are free from undisclosed chemicals
6 and contaminants like organic fluorine which would otherwise contradict the Products' label
7 representations.

8 71. P&G has engaged in this uniform marketing campaign in an effort to convince
9 reasonable consumers to believe that the Products are superior to other tampons or menstrual
10 products that do not have the same purported natural, pure or chemical and contaminant-free health
11 benefits.

12 72. Reasonable consumers purchasing the Products would believe, based on P&G's
13 representations, that the Products do not contain artificial, synthetic or man-made chemicals or
14 chemicals. Specifically, reasonable consumers purchasing the Products would believe that the
15 Tampon Products contain a 100% organic cotton core and 100% organic cotton overwrap as
16 represented on their packaging.

17 73. At all times relevant to this action, Defendant knew, or at minimum should have
18 known, that its Products contain organic fluorine.

19 74. Throughout the class period, Defendant has targeted ingredient-conscious consumers
20 by falsely and misleadingly representing its Tampon Products using the Pure and Organic
21 Representations, and consequently, reasonable consumers believe the Tampon Products are free
22 from undisclosed chemicals and contaminants, and that the organic cotton components of the
23 Tampon Products were, in fact, 100% organic.

24 75. Defendant is well-aware that consumers are increasingly demanding menstrual
25 products that are free from undisclosed ingredients and that otherwise support their wellness goals—
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1 specifically, chemicals and contaminants. In its own words³²:

2 Quality and safety is at the heart of everything we do, so all of our products are
3 thoroughly evaluated before they get on the shelves and into your vagina.

4 76. Over the course of nearly a century, Tampax has cultivated a trustworthy brand
5 image, including by touting its bona fide classification as the “the #1 recommended tampon by U.S.
6 Gynecologists.”³³

7 77. Therefore, current research demonstrates, and Defendant’s marketing strategy
8 supports, that the presence of chemicals and contaminants in menstrual products is material to
9 reasonable consumers.

10 78. Defendant’s strategy to stay aligned with consumer preferences in order to retain a
11 competitive advantage in the marketplace, which includes representing to sell “pure” tampons with
12 “organic” components which do not contain undisclosed chemicals and contaminants, would
13 inevitably be negatively impacted if it disclosed the presence of organic fluorine in its Products.

14 79. Further, Defendant’s claims touting its Product as transparent, pure, organic, and
15 other representations and omissions as described herein, further contribute to the reasonable
16 consumer perception and belief that the Products transparently disclose all ingredients, and that they
17 are free of man-made chemicals and contaminants.

18 80. Consumers lack the expertise to ascertain the true ingredients in the Products prior
19 to purchase. Accordingly, reasonable consumers must, and do, rely on Defendant to accurately and
20 honestly advertise its Products’ ingredients and benefits. Further, consumers rely on Defendant to
21 not contradict those representations by selling Products which contain artificial man-made
22 chemicals and contaminants. Such misrepresentations are material to reasonable consumers’
23 purchasing decisions.

24 81. Defendant’s use of the Pure and Organic Representations with the Products, as
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26 ³² tampax.com/en-us/about/ingredients/what-tampons-are-made-of/ (last accessed Feb.13,
27 2024).

28 ³³ <https://tampax.com/en-us/about/ingredients/what-tampons-are-made-of/> (last accessed
28 Feb.13, 2024).

1 described herein, are false because products containing synthetic chemicals or contaminants like
2 organic fluorine render the Products impure, contaminated and certainly not 100% organic cotton.

3 82. Defendant's representations are likely to mislead reasonable consumers, and indeed
4 did mislead Plaintiffs and Class Members, regarding the presence of organic fluorine in its Products.
5 Accordingly, these acts and practices by Defendant are deceptive.

6 83. Consumers reasonably relied on Defendant's false statements and misleading
7 representations, and reasonably expected that Defendant's Products would conform with its
8 representations and, as such, would not contain organic fluorine, which is *not* organic insofar as
9 reasonable consumers understand its meaning.

10 84. Defendant's false statements, misleading representations and material omissions are
11 intentional, or otherwise entirely careless, and render its Products worthless or less valuable.

12 85. If Defendant had disclosed to Plaintiffs and Class Members that its Products
13 contained organic fluorine, Plaintiffs and Class Members would not have purchased Defendant's
14 Products, or they would have paid less for them.

15 86. Plaintiffs and Class Members were among the intended recipients of Defendant's
16 deceptive representations and omissions described herein.

17 87. Defendant's representations and omissions, as described herein, are material in that
18 a reasonable person would attach importance to such information and would be induced to act upon
19 such information in making purchase decisions.

20 88. The materiality of the representations and omissions described herein also establishes
21 causation between Defendant's conduct and the injuries Plaintiffs and the Class Members sustained.

22 89. Defendant is aware that consumers are concerned about the use of organic fluorine
23 and other synthetic chemicals and contaminants in its Products, yet it has continued to market and
24 advertise its Products using the Pure and Organic Representations and other representations
25 described herein in order to profit off of unsuspecting consumers, including Plaintiffs and Class
26 Members.

27 90. The presence of organic fluorine in Defendant's Products, including in the
28 purportedly "100% organic" cotton core and overwrap of the tampons, is entirely inconsistent with

1 its uniform representations.

2 91. Defendant’s knowingly false and misleading representations have the intended result
3 of convincing reasonable consumers that its Products are “pure” and that its components are
4 “organic,” and therefore do not contain synthetic chemicals and contaminants. No reasonable
5 consumer would consider Defendant’s Products “pure,” or “100% organic,” if they knew that the
6 Products contained organic fluorine—a chemical found in pesticides, pharmaceuticals,
7 agrochemicals, and PFAS.

8 92. Defendant’s false, misleading and deceptive representations, as described herein, are
9 likely to continue to deceive and mislead reasonable consumers and the general public. Indeed, they
10 have already deceived and misled Plaintiffs and Class Members.

11 93. In making the false, misleading and deceptive representations, Defendant knew and
12 intended consumers would pay a premium for the Products over comparable products—including
13 Defendant’s own tampons that were not advertised with the Pure and Organic Representations—
14 that are made from, or contain, synthetic or artificial chemical ingredients and possible
15 contaminants.

16 94. This is made apparent by the difference in retail pricing for Defendant’s Pure Cotton
17 Tampon Products relative to its other tampon products. On the official Tampax store on
18 Amazon.com, the Tampon Products sell for as much as \$0.19 more *per tampon* than other Tampax
19 products without the Pure and Organic Representations.³⁴

20 95. Plaintiffs and Class Members all paid money for the Tampon Products. However,
21 they did not obtain the full value of the advertised Products due to Defendant’s misrepresentations
22 and omissions as detailed herein. Plaintiffs and Class Members purchased, purchased more of, and
23 paid more for, the Products than they would have had they known the truth about the Products’
24 ingredients. Thus, Plaintiffs and Class Members have suffered injury in-fact and lost money or
25 property as a result of Defendant’s wrongful conduct.

26

27 ³⁴ Compare the “Tampax Pearl Tampons Multipack,” which on October 25, 2024 retailed for
28 \$0.25 per tampon (<https://a.co/d/1OgYG7A>) vs. the Tampax Pure Cotton Tampons which on
October 25, 2024 retailed for \$0.44 per tampon (<https://a.co/d/99b6XR0>).

1 96. Defendant’s widespread marketing campaign portraying the Products as containing
2 pure and organic ingredients as detailed herein, is misleading and deceptive to consumers because
3 the Products contain organic fluorine, an ingredient that contradicts Defendant’s representations that
4 the Tampon Products are pure and contain a 100% organic cotton core and overwrap. Plaintiffs
5 bring this action on behalf of the proposed Classes to stop Defendant’s misleading practices.

6 **PLAINTIFFS’ FACTS**

7 ***Plaintiff Brittany Bounthon***

8 97. Plaintiff Brittany Bounthon purchased the Tampon Products at various times
9 recently, including in May 2022 from Target in Dublin, California, in June 2022 from Target in
10 Emeryville, California and in January 2023 from Target in San Francisco, California.

11 98. At the time she purchased the Tampon Products, Plaintiff Bounthon was specifically
12 seeking out chemical and contaminant-free personal care products, including chemical and
13 contaminant-free feminine hygiene products.

14 99. Prior to her purchase, Plaintiff Bounthon reviewed the Products’ labeling, packaging
15 and marketing materials, including the Pure and Organic Representations on the Tampon Products’
16 packaging.

17 100. Plaintiff Bounthon reasonably understood Defendant’s Pure and Organic
18 Representations to mean that the Tampon Products would not contain undisclosed chemicals and
19 contaminants, and specifically, that the “100% organic” components of the Tampon Products would
20 be free from synthetic chemicals, pesticides, and other non-organic ingredients and contaminants.

21 101. Plaintiff Bounthon relied on these representations when purchasing the Products, and
22 these representations were part of the basis of the bargain in that she would not have purchased the
23 Products or would not have purchased them on the same terms if the true facts had been known.

24 102. Plaintiff Bounthon continues to seek out menstrual products that are pure, organic
25 and free from chemicals and contaminants like organic fluorine, and she would like to purchase
26 Defendant’s Products in the future if they conform with Defendant’s representations about the
27 Products. However, Plaintiff Bounthon is currently unable to rely on Defendant’s representations
28 regarding its Products in deciding whether to purchase them in the future. Plaintiff Bounthon

1 understands that the composition of the Products may change over time, but as long as Defendant
2 may freely advertise the Products with the Pure and Organic Representations when they contain
3 organic fluorine, Plaintiff Bounthon will be unable to make informed decisions about whether to
4 purchase Defendant's Products and will be unable to evaluate the different prices between
5 Defendant's Products and competitors' products, which *are* in fact organic and free from
6 undisclosed chemicals and contaminants.

7 103. As a direct and proximate result of Defendant's acts, including its affirmative
8 misrepresentations, false statements and material omissions, Plaintiff Bounthon has incurred
9 economic injuries including financial damages at the point-of-sale stemming from her purchase of
10 and/or overpayment for the Products, in addition to the loss of the benefit of her bargain and the
11 Products' intended benefits.

12 ***Plaintiff Vivianna Rivera***

13 104. Plaintiff Vivianna Rivera purchased the Tampon Products most recently in
14 November of 2022, from Walmart in Fontana, California.

15 105. At the time she purchased the Tampon Products, Plaintiff Rivera was specifically
16 seeking out chemical and contaminant-free personal care products, including chemical and
17 contaminant-free feminine hygiene products.

18 106. Prior to her purchase, Plaintiff Rivera reviewed the Products' labeling, packaging
19 and marketing materials, including the Pure and Organic Representations on the Tampon Products'
20 packaging.

21 107. Plaintiff Rivera reasonably understood Defendant's Pure and Organic
22 Representations to mean that the Tampon Products would not contain chemicals and contaminants,
23 and specifically, that the "100% organic" components of the Tampon Products would be free from
24 synthetic chemicals, pesticides, or other non-organic ingredients and contaminants.

25 108. Plaintiff Rivera relied on these representations when purchasing the Products, and
26 these representations were part of the basis of the bargain in that she would not have purchased the
27 Products, or would not have purchased them on the same terms if the true facts had been known.

28 109. Plaintiff Rivera continues to seek out menstrual products that are pure, organic and

1 free from chemicals and contaminants like organic fluorine, and she would like to purchase
2 Defendant's Products in the future if they conform with Defendant's representations about the
3 Products. However, Plaintiff Rivera is currently unable to rely on Defendant's representations
4 regarding its Products in deciding whether to purchase them in the future. Plaintiff Rivera
5 understands that the composition of the Products may change over time, but as long as Defendant
6 may freely advertise the Products with the Pure and Organic Representations when they contain
7 organic fluorine, Plaintiff Rivera will be unable to make informed decisions about whether to
8 purchase Defendant's Products and will be unable to evaluate the different prices between
9 Defendant's Products and competitors' products, which *are* in fact organic and free from
10 undisclosed chemicals and contaminants.

11 110. As a direct and proximate result of Defendant's acts, including its affirmative
12 misrepresentations, false statements and material omissions, Plaintiff Rivera has incurred economic
13 injuries including financial damages at the point-of-sale stemming from her purchase of and/or
14 overpayment for the Products, in addition to the loss of the benefit of her bargain and the Products'
15 intended benefits.

16 ***Plaintiff Gina Allen***

17 111. Plaintiff Gina Allen purchased the Tampon Products from February to April, 2022
18 from Target and Walmart in Sun City, California.

19 112. At the time she purchased the Tampon Products, Plaintiff Allen was specifically
20 seeking out chemical and contaminant-free personal care products, including chemical and
21 contaminant-free feminine hygiene products.

22 113. Prior to her purchase, Plaintiff Allen reviewed the Products' labeling, packaging and
23 marketing materials, including the Pure and Organic Representations on the Tampon Products'
24 packaging.

25 114. Plaintiff Allen reasonably understood Defendant's Pure and Organic Representations
26 to mean that the Tampon Products would not contain chemicals and contaminants, and specifically,
27 that the "100% organic" components of the Tampon Products would be free from synthetic
28 chemicals, pesticides, or other non-organic ingredients and contaminants.

1 115. Plaintiff Allen relied on these representations when purchasing the Products, and
2 these representations were part of the basis of the bargain in that she would not have purchased the
3 Products, or would not have purchased them on the same terms if the true facts had been known.

4 116. Plaintiff Allen continues to seek out menstrual products that are pure, organic and
5 free from chemicals and contaminants like organic fluorine, and she would like to purchase
6 Defendant's Products in the future if they conform with Defendant's representations about the
7 Products. However, Plaintiff Allen is currently unable to rely on Defendant's representations
8 regarding its Products in deciding whether to purchase them in the future. Plaintiff Allen understands
9 that the composition of the Products may change over time, but as long as Defendant may freely
10 advertise the Products with the Pure and Organic Representations when they contain organic
11 fluorine, Plaintiff Allen will be unable to make informed decisions about whether to purchase
12 Defendant's Products and will be unable to evaluate the different prices between Defendant's
13 Products and competitors' products, which *are* in fact organic and free from undisclosed chemicals
14 and contaminants.

15 117. As a direct and proximate result of Defendant's acts, including its affirmative
16 misrepresentations, false statements and material omissions, Plaintiff Allen has incurred economic
17 injuries including financial damages at the point-of-sale stemming from her purchase of and/or
18 overpayment for the Products, in addition to the loss of the benefit of her bargain and the Products'
19 intended benefits.

20 **INJURY TO THE PUBLIC-AT-LARGE AND**
21 **POTENTIAL FOR FUTURE HARM**

22 118. Defendant's wrongful conduct harms the public-at-large.

23 119. Organic fluorine is a chemical compound that is commonly found in
24 pharmaceuticals, pesticides and agrochemicals. Organic fluorine is also present in all varieties of
25 PFAS chemicals, a category of highly persistent and toxic man-made chemicals that have been
26 associated with numerous negative health effects for humans.

27 120. Accordingly, the presence of organic fluorine in the Tampon Products potentially
28 exposes consumers to chemicals which are linked to the risks of health issues including, but not

1 limited to, decreased fertility, developmental effects or delays in children, increased risk of cancers,
2 liver damage, increased risk of asthma and thyroid disease, adverse impacts on the immune system,
3 interference with hormones and increased cholesterol levels.

4 121. Because Defendant’s deceptive advertising is ongoing and directed to the public, and
5 because Defendant continues to sell its Products containing organic fluorine, the deception poses an
6 ongoing risk to the public.

7 122. As such, a public injunction must be provided in order to enjoin Defendant’s
8 continued harm to consumers and the public-at-large.

9 **TOLLING AND ESTOPPEL OF STATUTE OF LIMITATIONS**

10 123. Defendant had actual knowledge, or should have had actual knowledge, that its
11 Products contained organic fluorine, which is not “pure” or “organic” within a reasonable
12 consumer’s understanding of the terms.

13 124. Although Defendant was aware of the deception in its advertising, marketing,
14 packaging, labeling and sale of the Products—given the inclusion and/or contamination of organic
15 fluorine—it took no steps to disclose to Plaintiffs or Class Members that its Products were not pure,
16 organic, contained synthetic chemicals and contaminants and failed to conform to the Pure and
17 Organic Representations.

18 125. Despite its knowledge, Defendant has fraudulently misrepresented the Products as
19 having qualities and characteristics they do not, while concealing the fact that its Products contain
20 chemicals and contaminants like organic fluorine.

21 126. Defendant has made, and continues to make, affirmative false statements and
22 misrepresentations to consumers, and continues to omit the fact that the Products contain organic
23 fluorine, to promote sales of its Products.

24 127. Defendant has misrepresented, concealed and otherwise omitted material facts that
25 would have been important to Plaintiffs and Class Members in deciding whether to purchase the
26 Products. Defendant’s misrepresentations and omissions were knowing, and it intended to, and did,
27 deceive reasonable consumers, including Plaintiffs and Class Members. Accordingly, Plaintiffs and
28 Class Members reasonably relied upon Defendant’s misrepresentations and concealment of these

1 material facts and suffered injury as a proximate result of that justifiable reliance.

2 128. The organic fluorine in Defendant's Products was not reasonably detectible to
3 Plaintiffs and Class Members.

4 129. At all times, Defendant actively and intentionally misrepresented the qualities and
5 characteristics of the Products, while concealing the existence of the organic fluorine and failing to
6 inform Plaintiffs or Class Members of the existence of organic fluorine in its Products. Accordingly,
7 Plaintiffs and Class Members' lack of awareness was not attributable to a lack of diligence on their
8 part.

9 130. Defendant's statements, words and acts were made for the purpose of deceiving the
10 public, and suppressing the truth that the Products contained organic fluorine.

11 131. Defendant misrepresented the Products and concealed the organic fluorine for the
12 purpose of delaying Plaintiffs and Class Members from filing a complaint on their causes of action.

13 132. As a result of Defendant's intentional misrepresentations and active concealment of
14 the organic fluorine and/or failure to inform Plaintiffs and Class Members of the organic fluorine,
15 any and all applicable statutes of limitations otherwise applicable to the allegations herein have been
16 tolled. Furthermore, Defendant is estopped from relying on any statutes of limitations in light of its
17 intentional misrepresentations and active concealment of the inclusion of artificial, man-made
18 organic fluorine in the Products.

19 133. Further, the causes of action alleged herein did not occur until Plaintiffs and Class
20 Members discovered that the Products contained organic fluorine. Plaintiffs and Class Members had
21 no realistic ability to discern that the Products contained organic fluorine until they learned of the
22 existence of the organic fluorine. In either event, Plaintiffs and Class Members were hampered in
23 their ability to discover their causes of action because of Defendant's active concealment of the
24 existence and true nature of the Products.

25 **FEDERAL RULE OF CIVIL PROCEDURE 9(b) ALLEGATIONS**

26 134. Although Defendant is in the best position to know what content it placed on its
27 packaging, labeling, website(s) and other marketing and advertising during the relevant timeframe,
28 and the knowledge that it had regarding the organic fluorine and its failure to disclose the existence

1 of organic fluorine in the Products to Plaintiffs and consumers, to the extent necessary, Plaintiffs
2 satisfy the requirements of Rule 9(b) by alleging the following facts with particularity:

3 135. **WHO:** Defendant made its Pure and Organic Representations on the Products’
4 packaging, labeling, online and in its marketing and advertising of the Products.

5 136. **WHAT:** Defendant’s conduct here was, and continues to be, deceptive and
6 fraudulent because of its Pure and Organic Representations and fraudulent omission. Thus,
7 Defendant’s conduct deceived Plaintiffs and Class Members into believing that the Products were
8 manufactured and sold with the represented qualities, including, but not limited to, a “100% organic”
9 cotton core and cotton overwrap. Defendant knew, or should have known, this information is
10 material to reasonable consumers, including Plaintiffs and Class Members in making their
11 purchasing decisions, yet it continued to pervasively market the Products as possessing qualities
12 they do not have and fraudulently omitting the presence of chemicals and contaminants like organic
13 fluorine in the Products.

14 137. **WHEN:** Defendant made material misrepresentations, false statements and/or
15 material omissions during the putative class periods and at the time Plaintiffs and Class Members
16 purchased the Products, prior to and at the time Plaintiffs and Class Members made claims after
17 realizing the Products contained man-made chemicals and contaminants, and continuously
18 throughout the applicable class periods.

19 138. **WHERE:** Defendant’s marketing message was uniform and pervasive, carried
20 through false statements, misrepresentations and/or omissions on the Products’ packaging, labeling,
21 online and in its marketing and advertising.

22 139. **HOW:** Defendant made false statements, misrepresentations and/or material
23 omissions regarding the presence of organic fluorine in the Products.

24 140. **WHY:** Defendant made the false statements, misrepresentations and/or material
25 omissions detailed herein for the express purpose of inducing Plaintiffs, Class Members and all
26 reasonable consumers to purchase and/or pay for the Products over its other tampon products and
27 other tampon brands that did not make similar Pure and Organic Representations, the effect of which
28 was that Defendant profited by selling the Products to many thousands of consumers.

1 141. **INJURY:** Plaintiffs and Class Members purchased, paid a premium or otherwise
2 paid more for the Products when they otherwise would not have, absent Defendant’s
3 misrepresentations, false and misleading statements and material omissions.

4 **CLASS ACTION ALLEGATIONS**

5 142. Plaintiffs bring this action individually and as a representative of all of those similarly
6 situated, pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and 23(b)(3), on behalf of themselves and the
7 members of the following proposed nationwide class (“Nationwide Class”):

8 **During the fullest period allowed by law, all persons who purchased the**
9 **Tampon Products in the United States within the applicable statute of**
10 **limitations for personal use and not resale, until the date notice is**
11 **disseminated.**

12 143. Plaintiffs bring this action individually and as representatives of all those similarly
13 situated, pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and 23(b)(3), on behalf of themselves and the
14 members of the following proposed multi-state class (“Multi-State Consumer Protection Class”):

15 **During the fullest period allowed by law, all persons who purchased the**
16 **Tampon Products in the States of California, Florida, Illinois, New York,**
17 **Massachusetts, Michigan, Minnesota, Missouri, New Jersey, and**
18 **Washington³⁵ within the applicable statute of limitations for personal use**
19 **and not resale, until the date notice is disseminated.**

20 144. Plaintiffs bring this action individually and as representatives of all those similarly
21 situated, pursuant to Fed. R. Civ. P. 23(a), 23(b)(2), and 23(b)(3), on behalf of themselves and the
22 members of the following class (“California Class”):

23 **During the fullest period allowed by law, all persons who purchased the**
24 **Tampon Products in the State of California within the applicable statute**
25 **of limitations for personal use and not resale, until the date notice is**
26 **disseminated.**

27 ³⁵ Plaintiffs seek to certify a Multi-State Consumer Protection Class consisting of persons in the
28 following states (and implicating the following statutes): California (Cal. Bus. & Prof. Code §§
17200, *et seq.*); Florida (Fla. Stat. §§ 501.201, *et seq.*); Illinois (815 Ill. Comp. Stat. 502/1, *et seq.*);
Massachusetts (Mass. Gen. Laws Ch. 93A, *et seq.*); Michigan (Mich. Comp. Laws §§ 445.901, *et*
seq.); Minnesota (Minn. Stat. §§ 325F.67, *et seq.*); Missouri (Mo. Rev. Stat. §§ 407.010, *et seq.*);
New Jersey (N.J. Stat. §§ 56:8-1, *et seq.*); New York (N.Y. Gen. Bus. Law §§ 349, *et seq.*); and
Washington (Wash. Rev. Code §§ 19.86.010, *et seq.*).

1 145. The Nationwide Class, Multi-State Consumer Protection Class and California Class
2 are referred to collectively as the “Class” or “Classes,” and the members of the Classes are referred
3 to as the “Class Members.” Specifically excluded from the Classes are: (1) Defendant, any entity in
4 which Defendant has a controlling interest, and its legal representatives, officers, directors,
5 employees, assigns and successors; (2) the Judge to whom this case is assigned and any member of
6 the Judge’s staff or immediate family; and (3) Class Counsel. Plaintiffs reserve the right to amend
7 the class definitions, as necessary.

8 146. Numerosity: The members of the Class are so numerous that joinder of all members
9 is impracticable. While the exact number of Class Members is presently unknown, given the wide
10 distribution of the Products, it is voluminous and nationwide. The number of Class Members can be
11 determined by sales information and other records. Moreover, joinder of all potential Class Members
12 is not practicable given their numbers and geographic diversity. The Class is readily identifiable
13 from information and records in the possession of Defendant and its authorized retailers.

14 147. Typicality: The claims of the representative Plaintiffs are typical in that Plaintiffs,
15 like all Class Members, purchased the Products containing organic fluorine that were designed,
16 manufactured, marketed, advertised, distributed and sold by Defendant. Plaintiffs, like all Class
17 Members, have been damaged by Defendant’s misconduct in that, *inter alia*, they have incurred or
18 will continue to incur damage as a result of overpaying for a Product containing chemicals and
19 contaminants, which make the Products not what reasonable consumers were intending to purchase.
20 Furthermore, the factual basis of Defendant’s misconduct is common to all Class Members because
21 Defendant has engaged in systematic fraudulent behavior that was deliberate, includes negligent
22 misconduct and results in the same injury to all Class Members.

23 148. Commonality: Common questions of law and fact exist as to all Members of the
24 Class. These questions predominate over questions that may affect only individual Class Members
25 because Defendant has acted on grounds generally applicable to the Class. Such common legal or
26 factual questions include, *inter alia*:

- 27 (a) Whether Defendant misrepresented that the Products are free from undisclosed
28 chemicals and contaminants;

- 1 (b) Whether Defendant misrepresented that the Products contain “100% organic”
2 components;
- 3 (c) Whether Defendant’s practices in marketing, advertising and packaging the
4 Products tend to mislead reasonable consumers into believing that the Products are
5 free from undisclosed synthetic chemicals and contaminants like organic fluorine;
- 6 (d) Whether Defendant engaged in false or misleading advertising;
- 7 (e) Whether Defendant fraudulently and materially omitted the presence of synthetic
8 chemicals and contaminants—like organic fluorine—in its marketing, advertising
9 and packaging the Products;
- 10 (f) Whether Defendant engaged in unfair, unconscionable or deceptive trade practices
11 by selling and/or marketing the Products with the Pure and Organic Representations
12 and other misrepresentations and omissions as described herein;
- 13 (g) Whether Defendant violated Cal. Bus. & Prof. Code §§ 17500, *et seq.* (FAL);
- 14 (h) Whether Defendant violated Civil Code §§ 1750, *et seq.* (CLRA);
- 15 (i) Whether Defendant violated Cal. Bus. & Prof. Code §§ 17200, *et seq.* (UCL);
- 16 (j) Whether Defendant engaged in deceptive trade practices by selling, packaging,
17 advertising and/or marketing the Products containing organic fluorine;
- 18 (k) Whether Defendant engaged in false or misleading advertising by selling, packaging
19 and/or marketing the Products containing organic fluorine;
- 20 (l) Whether Plaintiffs and Class Members either paid a premium for the Products that
21 they would not have paid but for its false representations and omissions or would
22 not have purchased them at all;
- 23 (m) Whether Plaintiffs and Class Members are entitled to damages, including
24 compensatory, exemplary and statutory damages, and the amount of such damages;
- 25 (n) Whether Plaintiffs and Class Members have suffered an economic injury and the
26 proper measure of their losses as a result of those injuries; and
- 27 (o) Whether Plaintiffs and Class Members are entitled to injunctive, declaratory or other
28 equitable relief.

149. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of Class Members. They have no interests antagonistic to those of the Class Members. Plaintiffs retained attorneys experienced in the prosecution of class actions, including consumer product,

1 misrepresentation, fraudulent omission and mislabeling class actions, and Plaintiffs intend to
2 prosecute this action vigorously.

3 150. Injunctive/Declaratory Relief: The elements of Rule 23(b)(2) are met. Defendants
4 will continue to commit the unlawful practices alleged herein, and Plaintiffs and Class Members
5 will continue to be deceived by Defendant’s misrepresentations and omissions and unknowingly be
6 exposed to undisclosed chemicals and contaminants like organic fluorine in the Products. Defendant
7 has acted and refused to act on grounds that apply generally to the Class, such that final injunctive
8 relief and corresponding declaratory relief is appropriate respecting the Class as a whole.

9 151. Predominance and Superiority: Plaintiffs and Class Members have all suffered and
10 will continue to suffer harm and damages as a result of Defendant’s unlawful and wrongful conduct.
11 A class action is superior to other available methods for the fair and efficient adjudication of the
12 controversy. Absent a class action, Class Members would likely find the cost of litigating their
13 claims prohibitively high and would therefore have no effective remedy at law. Because of the
14 relatively small size of Class Members’ individual claims, it is likely that few Class Members could
15 afford to seek legal redress for Defendant’s misconduct. Absent a class action, Class Members will
16 continue to incur damages, and Defendant’s misconduct will continue without remedy. Class
17 treatment of common questions of law and fact would also be a superior method to multiple
18 individual actions or piecemeal litigation in that class treatment will conserve the resources of the
19 courts and the litigants and will promote consistency and efficiency of adjudication.

20 152. Plaintiffs know of no difficulty to be encountered in the maintenance of this action
21 that would preclude its maintenance as a class action.

22 153. Defendant has acted or refused to act on grounds generally applicable to the Class,
23 thereby making appropriate final injunctive relief or corresponding declaratory relief with respect
24 to the Class appropriate.

25 **COUNT ONE**

26 **Violation of State Consumer Protection Statutes**
27 **(On Behalf of Plaintiffs and the Multi-State Consumer Protection Class)**

28 154. Plaintiffs, individually and on behalf of the Multi-State Consumer Protection Class,

1 repeat and re-allege paragraphs 1 through 153 as if fully included herein.

2 155. Plaintiffs and Multi-State Consumer Protection Class Members have been injured as
3 a result of Defendant's violations of the state consumer protection statutes listed above, which also
4 provide a basis for redress to Plaintiffs and Multi-State Consumer Protection Class Members based
5 on Defendant's fraudulent, deceptive, unfair and unconscionable acts, practices and conduct.

6 156. Defendant's conduct as alleged herein violates the consumer protection, unfair trade
7 practices and deceptive acts laws of each of the jurisdictions encompassing the Multi-State Consumer
8 Protection Class.

9 157. Defendant violated the Multi-State Consumer Protection Class states' unfair and
10 deceptive acts and practices laws by representing the Products using the Pure and Organic
11 Representations and other misrepresentations and omissions detailed herein, when, in reality, they
12 contain unnatural, human-made organic fluorine.

13 158. Defendant's misrepresentations were material to Plaintiffs' and Multi-State
14 Consumer Protection Class Members' decision to purchase the Products or pay a premium for the
15 Products.

16 159. Defendant made its untrue and/or misleading statements and representations willfully,
17 wantonly and with reckless disregard for the truth.

18 160. As a result of Defendant's violations of the aforementioned states' unfair and
19 deceptive practices laws, Plaintiffs and Multi-State Consumer Protection Class Members purchased
20 and paid for Products that did not conform to Defendant's Product promotion, marketing, advertising,
21 packaging and labeling, and they were deprived of the benefit of their bargain and spent money on
22 Products that did not have any value or had less value than warranted or Products that they would
23 not have purchased and used had they known the true facts about them.

24 161. As a result of Defendant's violations, Defendant has been unjustly enriched.

25 162. Pursuant to the aforementioned States' unfair and deceptive practices laws, Plaintiffs
26 and Multi-State Consumer Protection Class Members are entitled to recover compensatory damages,
27 restitution, punitive and special damages including, but not limited to, treble damages, reasonable
28 attorneys' fees and costs and other injunctive or declaratory relief as deemed appropriate or permitted

1 pursuant to the relevant law.

2 **COUNT TWO**

3 **Violation of the California Consumer Legal Remedies Act**
4 **(“CLRA”), Civil Code §§ 1750, *et seq.***
5 **(On Behalf of Plaintiffs and the California Class)**

6 163. Plaintiffs bring this count on behalf of themselves and the California Class and repeat
7 and re-allege paragraphs 1 through 153 as if fully included herein.

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

11 165. The CLRA applies to all claims of all California Class Members because the conduct
12 which constitutes violations of the CLRA by Defendant occurred within the State of California.

13 166. Plaintiffs and California Class Members are “consumers” as defined by Civil Code
14 § 1761(d).

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

16 168. The Tampon Products qualify as “goods” as defined by Civil Code § 1761(a).

17 169. Plaintiffs and the California Class Members’ purchases of the Tampon Products are
18 “transactions” as defined by Civil Code § 1761(e).

19 170. As set forth below, the CLRA deems the following unfair methods of competition
20 and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result
21 or which does result in the sale or lease of goods or services to any consumer as unlawful.

22 (a) “Representing that goods ... have sponsorship, approval,
23 characteristics, ingredients, uses, benefits, or quantities that they do not
24 have.” Civil Code § 1770(a)(5);

25 (b) “Representing that goods ... are of a particular standard, quality, or
26 grade, or that goods are of a particular style or model, if they are of
27 another.” Civil Code § 1770(a)(7);

28 (c) “Advertising goods or services with intent not to sell them as
advertised.” Civil Code § 1770(a)(9); and

(d) “Representing that the subject of a transaction has been supplied in
accordance with a previous representation when it has not.” Civil Code
§ 1770(a)(16).

171. Defendant engaged in unfair competition or unfair or deceptive acts or practices in

1 violation of Civil Code §§ 1770(a)(5), (a)(7), (a)(9) and (a)(16) when it represented, through its
2 advertising and other express representations, that the Tampon Products had benefits or
3 characteristics that they did not actually have.

4 172. As detailed in the body of this Third Amended Complaint, Defendant has repeatedly
5 engaged in conduct deemed a violation of the CLRA and has made representations regarding
6 Tampon Products benefits or characteristics that they did not in fact have, and represented the
7 Tampon Products to be of a quality that was not true. Indeed, Defendant concealed this information
8 from Plaintiffs and California Class Members.

9 173. The Tampon Products are not Pure and Organic and are of an inferior quality and
10 trustworthiness compared to other tampon products in the industry and within Defendant's own
11 tampon product line. As detailed above, Defendant further violated the CLRA when it falsely
12 represented that the Tampon Products meet a certain standard or quality.

13 174. As detailed above, Defendant violated the CLRA when it advertised the Tampon
14 Products with the intent not to sell Tampon Products as advertised and knew that the Tampon
15 Products were not as represented.

16 175. Specifically, Defendant marketed and represented the Tampon Products with the
17 Pure and Organic Representations, when in fact no reasonable consumer would believe the products
18 to be Pure and Organic if they knew they contained chemicals and contaminants like organic
19 fluorine.

20 176. Defendant's deceptive practices were specifically designed to induce Plaintiffs and
21 California Class Members to purchase or otherwise acquire the Tampon Products.

22 177. Defendant engaged in uniform marketing efforts to reach California Class Members,
23 their agents and/or third parties upon whom they relied, to persuade them to purchase and use the
24 Tampon Products manufactured by Defendant. Defendant's packaging, advertising, marketing,
25 website and retailer product identification and specifications, contain numerous false and misleading
26 statements regarding the quality, ingredients and reliability of the Tampon Products.

27 178. Despite these Pure and Organic Representations, Defendant also omitted and
28 concealed information and material facts from Plaintiffs and California Class Members.

1 179. In their purchase of Tampon Products, Plaintiffs and California Class Members relied
2 on Defendant’s representations and omissions of material facts, including the presence of chemicals
3 and contaminants like organic fluorine in the Products.

4 180. These business practices are misleading and/or likely to mislead consumers and
5 should be enjoined.

6 181. Pursuant to Cal. Civ. Code § 1782, Plaintiffs Bounthon and Rivera notified
7 Defendant in writing by certified mail sent on February 14, 2023, of its violations of § 1770
8 described above and demanded that it correct the problems associated with the actions detailed
9 above and give notice to all affected consumer of Defendant’s intent to do so. Defendant failed to
10 take corrective action within 30 days of the date of written notice. Accordingly, Plaintiffs seek
11 actual, punitive and statutory damages.

12 182. A declaration establishing that venue in this District is proper pursuant to Cal. Civ.
13 Code § 1780(d) was filed with the original complaint in this matter on February 21, 2023. *See* ECF
14 No. 1-001.

15 183. In accordance with Civil Code § 1780(a), Plaintiffs and the other California Class
16 Members seek actual, punitive and statutory damages, in addition to injunctive and equitable relief
17 for Defendant’s violations of the CLRA, including an injunction to enjoin Defendant from
18 continuing its deceptive advertising and sales practices.

19 **COUNT THREE**

20 **Violations of the California Unfair Competition Law**
21 **(“UCL”), Cal. Bus. & Prof. Code §§ 17200, *et seq.***
22 **(On Behalf of Plaintiffs and the California Class)**

23 184. Plaintiffs bring this count on behalf of themselves and the California Class and repeat
24 and re-allege paragraphs 1 through 153 as if fully included herein.

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

26 186. Plaintiffs and Class Members who purchased Defendant’s Tampon Products suffered
27 an injury by virtue of buying products in which Defendant misrepresented and/or omitted the
28 Tampon Products’ true quality, reliability, ingredients and use. Had Plaintiffs and Class Members

1 known that Defendant materially misrepresented the Tampon Products and/or omitted material
2 information regarding its Tampon Products, they would not have purchased the Tampon Products.

3 187. Defendant's conduct, as alleged herein, violates the laws and public policies of
4 California and the federal government, as set out in this Third Amended Complaint.

5 188. There is no benefit to consumers or competition by allowing Defendant to
6 deceptively label, market and advertise its Tampon Products.

7 189. Plaintiffs and Class Members who purchased Defendant's Products had no way of
8 reasonably knowing that the Tampon Products were deceptively packaged, marketed, advertised
9 and labeled, and were unsuitable for their intended use. Thus, Plaintiffs and California Class
10 Members could not have reasonably avoided the harm they suffered.

11 190. Specifically, Defendant marketed, labeled and represented the Tampon Products
12 with the Pure and Organic Representations, when in fact the Tampon Products contain undisclosed
13 chemicals and contaminants like organic fluorine, which no reasonable consumer would believe was
14 in products with the Pure and Organic Representations.

15 191. The gravity of the harm suffered by Plaintiffs and Class Members who purchased
16 Defendant's Tampon Products outweighs any legitimate justification, motive or reason for
17 packaging, marketing, advertising and labeling the Tampon Products in a deceptive and misleading
18 manner. Accordingly, Defendant's actions are immoral, unethical, unscrupulous and offend the
19 established public policies as set out in federal regulations and are substantially injurious to
20 Plaintiffs and California Class Members.

21 192. The above acts of Defendant in disseminating said misleading and deceptive
22 statements to consumers throughout the state of California, including to Plaintiffs and Class
23 Members, were and are likely to deceive reasonable consumers by obfuscating the true nature of
24 Defendant's Tampon Products, and thus were violations of Cal. Bus. & Prof. Code §§ 17500, *et seq.*

25 193. Further, the acts alleged herein are "unlawful" under the UCL in that they
26 concurrently, but independently, violate at least the following laws: The Federal Food, Drug, and
27 Cosmetic Act, 21 U.S.C. §§ 301, *et seq.*; and The California Sherman Food, Drug, and Cosmetic
28 Law, Cal. Health & Safety Code §§ 110111, *et seq.*

1 194. Plaintiffs and the California Class do not have an adequate remedy at law because
2 damages alone will not stop Defendant’s unlawful sale of the Products, as well as their
3 misrepresentation or omissions. Damages will only address past injuries visited on Plaintiffs and the
4 California Class. Defendant continues to market the Tampon Products in a deceptive and misleading
5 manner. Only injunctive relief can prevent any future harm.

6 195. Additionally, Plaintiffs seek restitution if monetary damages are not available.
7 Indeed, restitution under the UCL can be awarded in situations where the entitlement to damages
8 may prove difficult. *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 177 (2000)
9 (Restitution under the UCL can be awarded “even absent individualized proof that the claimant
10 lacked knowledge of the overcharge when the transaction occurred.”); *Gutierrez v. Wells Fargo*
11 *Bank, NA*, 589 F. App’x 824, 827 (9th Cir. 2014) (same); *Caro v. Procter & Gamble Co.*, 18 Cal.
12 App. 4th 644, 661 (1993) (“In a suit arising under Business and Professions Code section 17200 et
13 seq., the court ‘is empowered to grant equitable relief, including restitution in favor of absent
14 persons, without certifying a class action.’”).

15 196. But even if damages were available, such relief would not be adequate to address the
16 injury suffered by Plaintiffs and the California Subclass. Unlike damages, the Court’s discretion in
17 fashioning equitable relief is very broad. *Cortez*, 23 Cal.4th at 180. Thus, restitution would allow
18 recovery even when normal consideration associated with damages would not. *See, e.g., Fladeboe*
19 *v. Am. Isuzu Motors Inc.*, 150 Cal. App. 4th 42, 68 (2007), *as modified* (Apr. 24, 2007) (noting that
20 restitution is available even in situations where damages may not be available).

21 197. Plaintiffs and California Class Members seek all monetary and nonmonetary relief
22 allowed by law, including restitution stemming from Defendant’s unfair, unlawful and fraudulent
23 business practices; declaratory relief; reasonable attorneys’ fees and costs under California Code of
24 Civil Procedure § 1021.5; injunctive relief and other appropriate equitable relief.

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COUNT FOUR
Violation of the California False Advertising Law (“FAL”)
California Business and Professions Code §§ 17500, *et seq.*
(On Behalf of Plaintiffs and the California Class)

198. Plaintiffs bring this count on behalf of themselves and the California Class and repeat and re-allege paragraphs 1 through 153 as if fully included herein.

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

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

201. Specifically, Defendant marketed, labeled and represented the Tampon Products with the Pure and Organic Representations, when in fact the Tampon Products contain chemicals and contaminants like organic fluorine, which no reasonable consumer would believe was in products with the Pure and Organic Representations.

202. At the time of its misrepresentations, Defendant was either aware that Tampon Products contained chemicals and contaminants like organic fluorine, which no reasonable consumer would expect would be in products with the Pure and Organic Representations, or was aware that it lacked the information and/or knowledge required to make such Representations truthfully. Defendant concealed, omitted and failed to disclose this information to Plaintiffs and California Class Members.

203. Defendant’s Pure and Organic Representations of the Tampon Products were false, misleading and likely to deceive Plaintiffs and other reasonable consumers.

204. Defendant’s conduct therefore constitutes deceptive or misleading advertising.

205. Plaintiffs have standing to pursue claims under the FAL as they reviewed and relied on Defendant’s packaging, labeling, advertising, representations and marketing materials regarding the Tampon Products when selecting and purchasing the Tampon Products.

1 206. In reliance on the statements made in Defendant’s packaging, labeling, advertising,
2 representations and marketing materials and Defendant’s omissions and concealment of material
3 facts regarding the quality, ingredients and use of the Tampon Products, Plaintiffs and California
4 Class Members purchased the Tampon Products.

5 207. Had Defendant disclosed the true nature of the Tampon Products (that they contain
6 chemicals and contaminants like organic fluorine), Plaintiffs and California Class Members would
7 not have purchased Tampon Products or would have paid substantially less for them.

8 208. As a direct and proximate result of Defendant’s actions, as set forth herein, Defendant
9 has received ill-gotten gains and/or profits, including, but not limited to, money from Plaintiffs and
10 California Class Members who paid for the Tampon Products, which contained chemicals and
11 contaminants like organic fluorine and were not pure nor organic.

12 209. Plaintiffs and the California Class do not have an adequate remedy at law because
13 damages alone will not stop Defendant’s unlawful sale of the Products, as well as their
14 misrepresentation or omissions. Damages will only address past injuries visited on Plaintiffs and the
15 California Class. Defendant continues to market the Tampon Products in a deceptive and misleading
16 manner. Only injunctive relief can prevent any future harm.

17 210. Additionally, Plaintiffs seek restitution if monetary damages are not available.
18 Indeed, restitution under the FAL can be awarded in situations where the entitlement to damages
19 may prove difficult. *Cortez*, 23 Cal.4th at 177 (Restitution under the UCL can be awarded “even
20 absent individualized proof that the claimant lacked knowledge of the overcharge when the
21 transaction occurred.”); *Gutierrez*, 589 F. App’x at 827 (same); *Caro*, 18 Cal. App. 4th at 661 (“In
22 a suit arising under Business and Professions Code section 17200 *et seq.*, the court ‘is empowered
23 to grant equitable relief, including restitution in favor of absent persons, without certifying a class
24 action.’”).

25 211. But even if damages were available, such relief would not be adequate to address the
26 injury suffered by Plaintiffs and the California Class. Unlike damages, the Court’s discretion in
27 fashioning equitable relief is very broad. *Cortez*, 23 Cal.4th at 180. Thus, restitution would allow
28 recovery even when normal consideration associated with damages would not. *See, e.g., Fladeboe*,

1 150 Cal. App. 4th at 68 (2007) (noting that restitution is available even in situations where damages
2 may not be available).

3 212. Plaintiffs and California Class Members seek all monetary and nonmonetary relief
4 allowed by law, including restitution stemming from Defendant’s fraudulent business practices;
5 declaratory relief; reasonable attorneys’ fees and costs under California Code of Civil Procedure §
6 1021.5; injunctive relief and other appropriate equitable relief.

7 **COUNT FIVE**

8 **Unjust Enrichment/Quasi-Contract**
9 **(On Behalf of Plaintiffs and the Nationwide Class, or, in the Alternative, the California Class)**

10 213. Plaintiffs bring this count on behalf of themselves and on behalf of the Nationwide
11 Class, or, in the alternative, the California Class (in this count referred to as the “Class” Members),
12 and hereby repeat and re-allege paragraphs 1 through 153 as if fully included herein.

13 214. Defendant’s unfair and unlawful contract includes, among other things, making false
14 and misleading representations and omissions of material fact, as set forth in this Third Amended
15 Complaint. Defendant’s acts and business practices offend the established public policy of the states,
16 including California, as there is no societal benefit from false advertising, only harm. While Plaintiffs
17 and Class Members were harmed at the time of purchase, Defendant was unjustly enriched by its
18 misrepresentations and omissions.

19 215. Plaintiffs and Class Members were harmed when purchasing Defendant’s Products as
20 a result of Defendant’s material representations and omissions, as described in this Third Amended
21 Complaint. Plaintiffs and each Class Member purchased Defendant’s Products. Plaintiffs and Class
22 Members have suffered injury in fact and lost money as a result of paying the price they paid for the
23 Products as a result of Defendant’s unlawful, unfair and fraudulent business practices.

24 216. Defendant’s conduct allows Defendant to knowingly realize substantial revenues
25 from selling its Products at the expense of, and to the detriment of, Plaintiffs and Class Members,
26 and to Defendant’s benefit and enrichment. Defendant’s retention of these benefits violates
27 fundamental principles of justice, equity and good conscience.

28 217. Plaintiffs and Class Members confer significant financial benefits and pay substantial

1 compensation to Defendant for its Products, which are not as Defendant represents them to be.

2 218. Under common law principles of unjust enrichment and quasi-contract, it is
3 inequitable for Defendant to retain the benefits conferred by Plaintiffs' and Class Members'
4 overpayments.

5 219. Plaintiffs and Class Members seek disgorgement of all profits resulting from such
6 overpayments and establishment of a constructive trust from which Plaintiffs and Class Members
7 may seek restitution.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated,
10 respectfully requests that this Court:

- 11 a. Certify the Classes pursuant to Rule 23 of the Federal Rules of Civil Procedure;
12 b. Name Plaintiffs as Class Representatives and Plaintiffs' attorneys as Class
13 Counsel;
14 c. Award damages, including compensatory, exemplary and statutory damages to
15 Plaintiffs and the Classes in an amount to be determined at trial;
16 d. Grant restitution to Plaintiffs and the Classes and require Defendant to disgorge
17 its ill-gotten gains;
18 e. Permanently enjoin Defendant from engaging in the wrongful and unlawful
19 conduct alleged herein;
20 f. Award Plaintiffs and the Classes their expenses and costs of suit, including
21 reasonable attorneys' fees to the extent provided by law;
22 g. Award Plaintiffs and the Classes pre-judgment and post-judgment interest at the
23 highest legal rate to the extent provided by law; and
24 h. Award such further relief as the Court deems appropriate.

24 **JURY DEMAND**

25 Plaintiffs demand a trial by jury of all claims in this Third Amended Complaint so triable.

26 DATED: November 5, 2024

Respectfully submitted,

27 /s/ Rachel Soffin

28 Rachel Soffin*

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