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Case #26CV499270

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

BUTTERFLI RAIN and CRYSTAL PEREZ, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

PEACH AND LILY, INC., New York corporation, and DOES 1-20, inclusive,

Defendants.

Case No. 26CV499270

CLASS ACTION COMPLAINT

1. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, BUSINESS AND PROFESSIONS CODE § 17200, *et seq*.
2. FALSE AND MISLEADING ADVERTISING IN VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17500, *et seq*.
3. VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT, CIVIL CODE § 1750, *et. Seq.*
4. BREACH OF EXPRESS WARRANTY
5. RESTITUTION BASED ON QUASI-CONTRACT/UNJUST ENRICHMENT
6. INTENTIONAL MISREPRESENTATION
7. NEGLIGENT MISREPRESENTATION

DEMAND FOR JURY TRIAL

Plaintiffs Butterfli Rain and Crystal Perez ("**Plaintiffs**"), individually and on behalf of all others similarly situated, bring this class action complaint against Peach and Lily, Inc., and Does 1 through 20, inclusive (collectively "**Defendants**") and allege as follows:

SUMMARY OF THE ACTION

1. This is a class action lawsuit brought on behalf of all purchasers of Defendants' Peach Slices branded "oil-free" skincare products (the **"Products"**), sold online and at retail locations throughout California and the United States.

2. Defendants falsely and deceptively advertise the Products as being "oil-free" ("**Oil Free Representation**"). However, contrary to the Oil Free Representation, as explained in detail below, the Products contain numerous ingredients that are in fact oils.

3. Through falsely, misleadingly, and deceptively labeling the Products, Defendants seek to take advantage of consumers' desire for truly premium oil free products. Yet, Defendants do so at the expense of unwitting consumers, as well as Defendants' lawfully acting competitors, over whom Defendants maintain an unfair competitive advantage.

4. Plaintiffs bring this action individually and in a representative capacity on behalf of similarly situated consumers who purchased the Products during the relevant Class Period (Class and/or Subclass defined infra), for dual primary objectives: ***First,*** Plaintiffs seek, individually and on behalf of the Class/Subclass, recovery of the price premium they and other consumers paid for Products that were represented as "Oil Free" but failed to conform to that representation (which may include, for example, damages, restitution, disgorgement, and/or any applicable penalties, fines, or punitive/exemplary damages) solely to the extent that the causes of action pled herein permit such recovery. ***Two***, Plaintiffs seek, individually and on behalf of the Class/Subclass, injunctive relief to stop Defendants' unlawful manufacture, marketing, and sale of the Products with the Oil Free Representation to avoid or mitigate the risk of deceiving the public into believing that the Products conform to the Oil Free Representation, by requiring Defendants to change their business practices, which may include one or more of the following: removal or modification of the Oil Free Representation from the Products' labels, removal or modification of the Oil Free Representation from the Products' advertising, modification of the Products' formulation be it a change in

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ingredients or its sourcing and manufacturing processes, and/or discontinuance of the Products' manufacture, marketing, and/or sale.

5. True and correct copies of the Product labels are pictured below.

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Peach Slices Snail Rescue All-In-One "Oil Free" Moisturizer



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Peach Slices Acne "Oil-Free" Moisturizer



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6. Consumers are deceived by Defendants' labeling and advertising of the Products as being "oil free" believing that they are purchasing skincare products without ingredients that are defined as oils. Consumers rely on Defendants' labeling and advertising of the Products to be truthful and would not know that the Products actually contain well-documented oil ingredients.

7. Reasonable consumers such as Plaintiffs do not have specialized knowledge necessary to identify ingredients in the Products as being inconsistent with Defendants' Oil Free Representation.

8. Defendants know that consumers are willing to pay more for products without any oils, and advertise the Products with the intention that consumers rely on the representation made on the front of the Products' packaging that the Products are "oil free."

9. By falsely labeling the Products as being "oil free," Defendants have profited from consumers' preference for supplement products that are made with exclusively oil-free ingredients.

PARTIES

10. **Plaintiff Butterfli Rain:** Plaintiff Butterfli Rain is, and at all times relevant hereto was, a citizen of California. Plaintiff purchased the Peach Slices Snail Rescue All-In-One Oil Free Moisturizer from an Ulta location in Santa Clara, CA in or around January of 2026. In making her purchase, Plaintiff relied upon Defendants' labeling and advertising claims, namely, the Oil Free Representation clearly printed on the front label of the Products. These claims were prepared and approved by Defendants and their agents and disseminated statewide and nationwide, to encourage consumers to purchase the Products. If Plaintiff had known that the Products contained oil ingredients, then Plaintiffs would not have purchased the Products, or she would have purchased it at a substantially lower price.

11. **Plaintiff Crystal Perez:** Plaintiff Crystal Perez is, and at all times relevant hereto was, a citizen of California. Plaintiffs have purchased various types of the Products and most recently purchased the Peach Slices Acne Oil Free Moisturizer from an Ulta location in Solano, CA in March of 2026. In making her purchase, Plaintiff relied upon Defendants' labeling and advertising claims, namely, the Oil Free Representation clearly printed on the front label of the Products. These claims were prepared and approved by Defendants and their agents and

disseminated statewide and nationwide, to encourage consumers to purchase the Products. If Plaintiff had known that the Products contained oil ingredients, then Plaintiffs would not have purchased the Products, or she would have purchased it at a substantially lower price.

12. **Plaintiffs' Future Harm:** Plaintiffs would like to purchase the Products again only if they can be sure that Defendants are compliant with the state consumer protection laws. Plaintiffs continue to see Defendants' Products in stores available for purchase, and desire to purchase them again if the representation regarding the Oil Free Representation was in fact true. Since Plaintiffs would like to purchase the Products again to obtain a skincare product that, as advertised, is truly free from oil ingredients, Plaintiffs would purchase it again in the future—despite the fact that it was once marred by false advertising or labeling—as Plaintiffs would reasonably, but incorrectly, assume the Products were improved (contain only oil free ingredients). In that regard, Plaintiffs are average consumers who are not sophisticated in the chemistry, manufacturing, and formulation of supplement products, such as the Products. Neither Plaintiffs, nor reasonable consumers, have the requisite knowledge to accurately differentiate between ingredients that are "oils" or not. Accordingly, Plaintiffs are at risk of reasonably, but incorrectly, assuming that Defendants fixed the formulation of the Products such that Plaintiffs may buy it again, believing it to no longer be falsely advertised. Plaintiffs are therefore, currently and in the future deprived of the ability to rely on the Oil Free Representation. Based on information and belief, the labeling of the Products purchased by Plaintiffs are typical of the labeling of the Products purchased by members of the class.

13. **Defendant**. Defendant Peach and Lily, Inc. is a New York corporation that maintains its principal place of business at 80 W 40th Street, 7th Floor New York, NY 10018. At all times during the class period, Defendant was the manufacturer, distributor, marketer, and seller of the Products. Defendant directly and through its agents, has substantial contacts with and receives substantial benefits and income from and through the State of California.

14. The true names and capacities, whether individual, corporate, associate, or otherwise of certain manufacturers, distributors, and/or their alter egos sued herein as DOES 1 through 20 inclusive are presently unknown to Plaintiffs who therefore sue these individuals and/or entities by fictitious names. Plaintiffs will seek leave of this Court to amend the Complaint to show their true

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names and capacities when the same have been ascertained. Plaintiffs are informed and believes and based thereon alleges that DOES 1 through 20 were authorized to do and did business in Santa Clara County. Plaintiffs are further informed and believe and based thereon allege that DOES 1 through 20 were and/or are, in some manner or way, responsible for and liable to Plaintiffs for the events, happenings, and consequences hereinafter set forth below.

JURISDICTION AND VENUE

15. This Court has jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, § 10, because this case is a cause not given by statute to other trial courts.

16. Plaintiffs have standing to bring this action pursuant to Business & Professions Code § 17200, *et seq*.

17. Venue is proper in this Court because the Plaintiffs purchased the Products in Santa Clara County. Defendants receive substantial compensation from sales in Santa Clara County, and Defendants made numerous misrepresentations which had a substantial effect in Santa Clara County, including, but not limited to, label, point of purchase displays, and internet advertisements.

18. Upon information and belief, said misrepresentations originated and/or emanated from the State of California.

19. Defendants and other out-of-state participants can be brought before this Court pursuant to the provisions of Code of Civil Procedure § 395.5.

20. Defendants are subject to personal jurisdiction in California based upon sufficient minimum contacts which exist between Defendants and California. Defendants are authorized to do and are doing business in Santa Clara, California.

FACTUAL ALLEGATIONS

A. Falsity of the "Oil Free" Representation

21. Despite these Oil Free Representations, the Products contain both oil ingredients and oil-derived ingredients, including cetyl ethylhexanoate, cetearyl alcohol, sorbitan olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate. These ingredients fall within recognized

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oil-related chemical groups, including esters, triglycerides, oil-derived emulsifiers, and fatty alcohols. For example:

a. **Caprylic/capric Triglyceride** is a triglyceride derived from coconut oil or palm kernel oil;[1]

b. **Glyceryl Stearate** is a fatty acid ester obtained from coconut, palm kernel, or olive sources;[2]

c. **Sorbitan Olivate** and **Cetearyl Olivate** are olive oil-derived ingredients;[3]

d. **Cetyl Ethylhexanoate** is an ester that functions as an emollient with a smooth, oily feel;[4] It is engineered to be "very similar to natural purcellin oil"—the preen gland oil of waterfowl that keeps feathers water-resistant.[5]

e. **Cetearyl Alcohol** is a mixture of fatty alcohols.[6] It is found naturally in coconut and palm oil.[7]

22. Oil is a term used to describe substances that are hydrophobic and lipophilic. Oils can be non-polar or polar and include recognized chemical groups such as hydrocarbons, triglycerides, esters, fatty acids, silicones, and fatty alcohols. These substances commonly share the physical characteristics lay consumers associate with oils, including being slick or slippery to the touch, not mixing readily with water, and leaving a residue or oily feel. The ingredients identified above fall within those same oil-related categories and are not ingredients reasonable consumers expect to find in products expressly labeled "Oil Free."

[1] Caprylic/Capric Triglyceride, Olive Tree People Ingredient Library, https://us.olivetreepeople.com/pages/caprylic-capric-triglyceride (last visited Mar. 31, 2026)
[2] Glyceryl Stearate, SpecialChem Cosmetics Ingredient Database, https://www.specialchem.com/cosmetics/inci-ingredients/glyceryl-stearate
[3] Cetearyl Olivate, FormuNova Ingredient Database, https://formunova.com/our-ingredients/cetearyl-olivate/ (last visited Mar. 31, 2026)
[4] Cetyl Ethylhexanoate, SpecialChem, https://www.specialchem.com/cosmetics/inci-ingredients/cetyl-ethylhexanoate (last visited Mar. 31, 2026)
[5] MakingCosmetics Inc. (n.d.). *Emollients* [White paper]. MakingCosmetics. Retrieved June 18, 2026, from https://www.makingcosmetics.com/on/demandware.static/-/Library-Sites-makingSharedLibrary/default/dwac28f4e0/whitepapers/05-whitepaper-emollients.pdf
[6] Cetearyl Alcohol (CB6296155), ChemicalBook Database, https://www.chemicalbook.com/ChemicalProductProperty_EN_CB6296155.htm (last visited Mar. 31, 2026)
[7] Healthline. (2024, Month Day). *Cetearyl alcohol: Benefits, uses, and side effects*. Healthline. https://www.healthline.com/health/cetearyl-alcohol

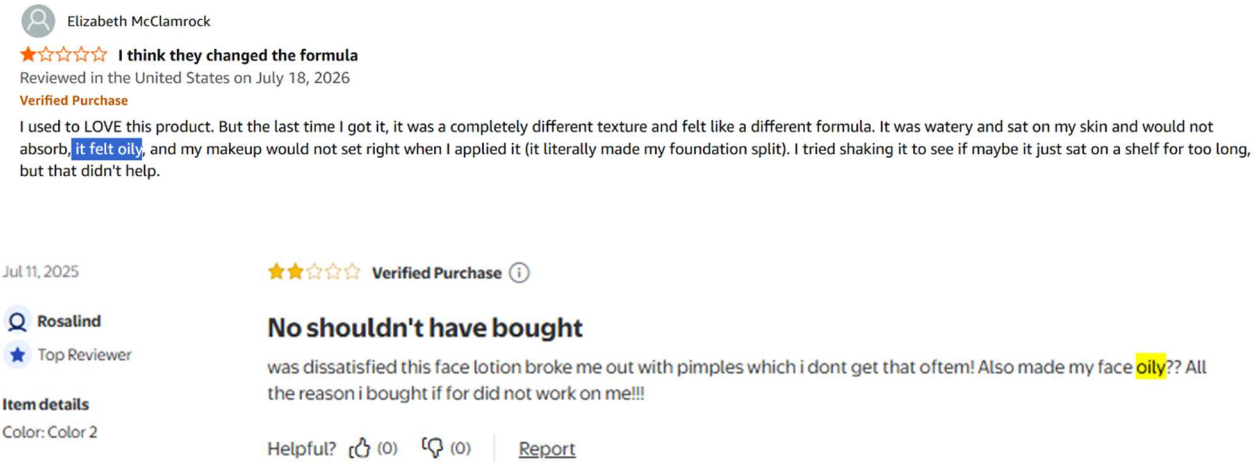
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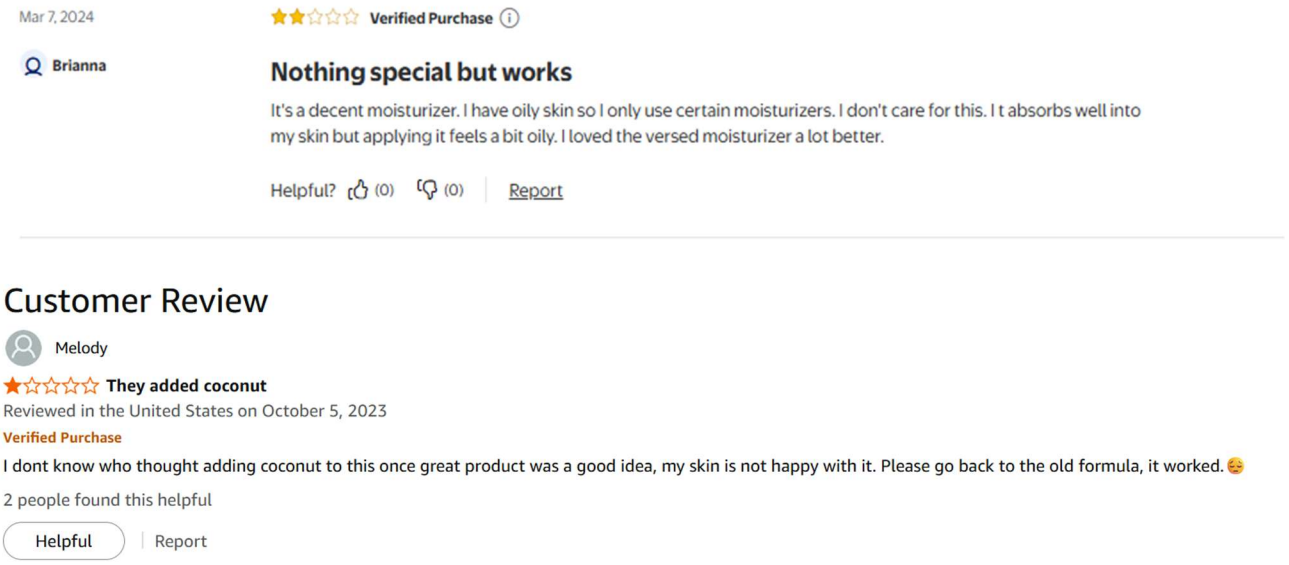
23. Reasonable consumers purchase "Oil Free" products for specific and practical reasons. Consumers seek such products because they do not want oils on their skin, or they want to avoid greasy or shiny residue, want to reduce the risk of clogged pores or breakouts, and want products that feel lighter and less oily in actual use. That is precisely why "Oil Free" is featured prominently on the front label: Defendant knows that the absence of oils is material to purchasing decisions.

24. Reasonable consumers cannot determine from the label, absent advanced chemistry knowledge, that the Products in fact contain oil ingredients or oil-derived ingredients. Consumers are not expected to know from the ingredient list alone that ingredients such as cetyl ethylhexanoate, caprylic/capric triglyceride, glyceryl stearate, sorbitan olivate, cetearyl olivate, and cetearyl alcohol are oils, oil-derived ingredients, or ingredients with oil-like properties inconsistent with an "Oil Free" claim. That information is uniquely within Defendant's knowledge, particularly because Defendant employs formulators and has complete knowledge of the Products' composition and functional characteristics.

25. Indeed, verified consumers have complained about the Products "oily" composition and its effects on their skin. A few samples of the Products online reviews are as follows:[8]

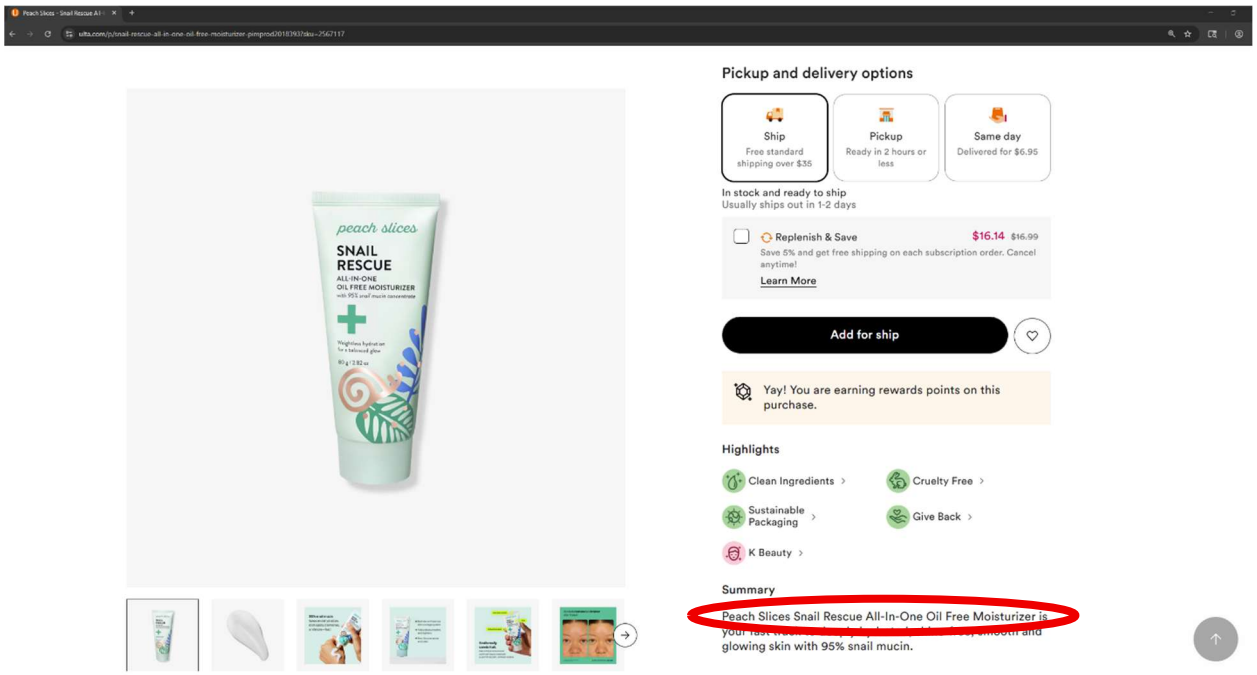


[8] Screenshots were taken from Defendant's e-commerce listings: https://www.walmart.com/reviews/product/871751379, https://www.walmart.com/reviews/product/355399899, and Amazon.com



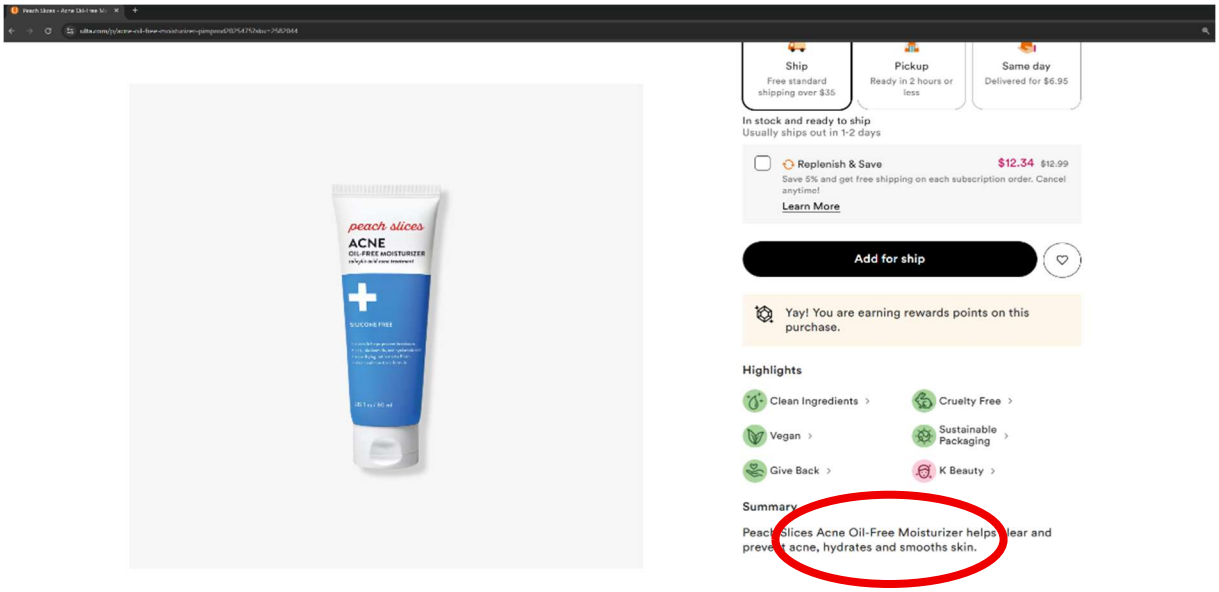
B. Defendant's Product Marketing Further Misleads Reasonable Consumers

26. Despite formulating its Products with oil-based ingredients, Defendant methodically markets these Products as "**oil-free**" both on its own and other third-party retailer websites, which further mislead consumers into believing the Products contain only oil-free ingredients. See pictures from official websites below.



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C. Defendants Mislead Plaintiffs and Reasonable Consumers, Who Relied on the Material and False Advertising Claims to their Detriment

27. **Materiality.** The Oil Free Representation is material to reasonable consumers, including Plaintiffs, in deciding to buy the Products. Specifically, the composition of the Products being "oil free"—is important to consumers and motivates them to buy the Products.

28. **Reliance**. The Class, including Plaintiffs, reasonably relied on the Oil Free Representation in deciding to purchase the Products.

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29. **Consumers Lack Knowledge of Falsity**. Consumers, including Plaintiffs, do not know, and have no reason to know, at the time of purchase, that the Products' Oil Free Representation is false, misleading, deceptive, and unlawful. That is because consumers, including Plaintiffs, do not work for Defendants and therefore have no personal knowledge of the actual ingredients used to make the Products or how those ingredients are made, including whether oil-derived ingredients are included. Additionally, average consumers do not have the specialized knowledge of a chemist or product-developer. Thus, reasonable consumers, like Plaintiffs, cannot discern from the Products' ingredient disclosures whether certain ingredients, are oils. Furthermore, reasonable consumers, like Plaintiffs, do not ordinarily review information on the back or side panels of a consumer product's packaging, like the Products' packaging, particularly dense, fine-print ingredient disclosures, or review such information on websites. Indeed, studies show that only approximately 7.7% to 11.6% of people even look at the side or back labels of consumer goods, such as ingredient lists, before they buy it.[9]

[9] Grunert, Klaus, et. al, *Nutrition knowledge, and use and understanding of nutrition information on food labels among consumers in the UK*, 55 Appetite 177, at 179-181 (2010) available at https://reader.elsevier.com/reader/sd/pii/S0195666310003661?token=95E4146C1BB7D7A7C9A487F22F0B445BD44499550086E04870765EBE116ED32DBFE3795E60B69C75831563CD1BC6655A&originRegion=us-east-1&originCreation=20220720162546 (consumer purchasing behavior study using in-store observation and interview data collection methodology to realistically estimate the degree consumers use nutritional information (found on side/back panels of food product labels and packaging), finding: (1) only **11.6% of respondents**, who looked at a product and placed it in their shopping cart, **were actually observed looking at the side/back panels of its packaging or labels** (panels other than the front panel) before placing it in the cart; (2) of those who looked at the side/back panels, only 31.8% looked at it the product "in detail" (i.e., 3.7% of respondents who looked at the product, looked at side/back panels in detail)); and (3) the **respondents self-reported frequency of reviewing side/back panels** (for nutritional information) **is overreported by 50%** when the in-store interview data and observational data are compared); Grunert, Klaus, et. al, *Use and understanding of nutrition information on food labels in six European countries*, 18(3) Journal of Public Health 261, 261, 263, 266 (2010), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2967247/ (last accessed July 20, 2022) (consumer purchasing behavior study using in-store observation and interview data collection methodology to evaluate whether people look at food labels before buying them, where they looked, and how long they looked, finding: (1) respondents spent, on average, approximately 35 seconds, per product, on products they bought; and (2) 62.6% of respondents looked at the front packaging, and **only 7.7% looked elsewhere (side/back panels) on the packaging**, for products they bought); Benn, Yael, et al., *What information do consumers consider and how do they look for it, when shopping for groceries online*, 89 Appetite 265, 265, 270 (2015), available at https://www.sciencedirect.com/science/article/pii/S0195666315000422#bib0060 (last accessed December 31, 2025) (consumer purchasing behavior study using online eye-movement tracking and recordation, finding: (1) once on the product webpages, respondents tend to look at the pictures of products, rather than examine detailed product information; and (2) by comparison to pictures of products where 13.83-19.07% of respondents fixated, far less fixated on subsidiary information:

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30. The average consumer spends generally not more than 13 seconds to make an in-store purchasing decision.[10] That decision is heavily based upon the product's front labeling because consumers do not have time to review and read every portion of the label and inspect in detail the rear label which depicts in small print the ingredients.

31. **Defendants' Knowledge**. Defendants knew, or should have known, that the Oil Free Representation is false, misleading, deceptive, and unlawful, at the time that Defendants manufactured, marketed, advertised, labeled, and sold the Products using the Oil Free Representation to Plaintiffs and the Class. Defendants intentionally and deliberately used Oil Free Representation, alongside its massive marketing campaign and brand strategy, to cause Plaintiffs and similarly situated consumers to buy the Products believing that the Oil Free Representation is true.

a. **Knowledge of Falsity.** Defendants marketed the Products with the Oil Free Representation, but Defendants opted to formulate and manufacture them in a manner that does not conform to this representation. Specifically, Defendants advertised and labeled the Products with the Oil Free Representation, but, instead of using only oil free ingredients, Defendants chose to make the Products with multiple oil-derived ingredients.

b. **Knowledge of Reasonable Consumers' Perception.** Defendants knew, or should have known, that the Oil Free Representation would lead reasonable consumers into believing that the Products' ingredient profile was oil free—i.e., the Products do not contain oil-derived ingredients. Not only have Defendants labeled the Products with the Oil Free Representation and executed a long-standing brand strategy and advertising campaign to identify the Products with the Oil Free Representation, but Defendants also have an obligation under section 5 of the Federal Trade Commission Act, codified at 15 U.S.C. §§ 45, to evaluate its marketing claims from the perspective of the reasonable consumer. That means Defendants were statutorily obligated to consider whether the Oil Free Representation, be it in isolation or conjunction with its marketing campaign, would mislead reasonable consumers into believing that the Products were made of only oil free ingredients. Thus, Defendants either knew the Oil Free Representation was misleading before they marketed the Products to the Class, including Plaintiffs, or Defendants would have known that it was deceptive had Defendants complied with its statutory obligations.

4.17% of respondents looked at nutrition information, 3.30% ingredients, 2.97% allergy information, and 0.09% recycling information for example).

[10] Randall Beard, *Make the Most of Your Brand's 20-Second Window*, NIELSEN (Jan. 13, 2015), https://www.nielsen.com/us/en/insights/article/2015/make-the-most-of-your-brands-20-second-windown/ (citing *Shopping Takes Only Seconds… In-Store and Online*, EHRENBERG-BASS INSTITUTE OF MARKETING SCIENCE (2015)) (last visited 12/09/2025).

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c. **Knowledge of Materiality.** Defendants knew or should have known that the Oil Free Representation is material to consumers. ***First***, manufacturers and marketers, like Defendants, generally reserve the front primary display panel of labels on consumer products for the most important and persuasive information, which they believe will motivate consumers to buy the products. Here, the conspicuousness of the Oil Free Representation on the Products' labels demonstrate Defendants' awareness of its importance to consumers and Defendants' understanding that consumers prefer and are motivated to buy products that conform to the Oil Free Representation. ***Second***, manufacturers and marketers repeat marketing claims to emphasize and characterize a brand or product line, shaping the consumers' expectations, because they believe those repeated messages will drive consumers to buy the Products. Here, the constant, unwavering use of the Oil Free Representation on the Products, advertisements, and throughout Defendants' marketing campaign, evidence Defendants' awareness that the falsely advertised Product-attribute is important to consumers. It also evidences Defendants' intent to convince consumers that the Products conform to the Oil Free Representation and, ultimately, drive sales.

d. **Defendants Continued Deception, Despite Their Knowledge.** Defendants, as the manufacturers and marketers of the Products, had exclusive control over the Oil Free Representation's inclusion on the Products' labels, and advertisements—i.e., Defendants readily and easily could have stopped using the Oil Free Representation to sell the Products. However, despite Defendants' knowledge of the Oil Free Representation's falsity, and Defendants' knowledge that consumers reasonably rely on the Oil Free Representation in deciding to buy the Products, Defendants deliberately chose to market the Products with the Oil Free Representation thereby misleading consumers into buying or otherwise overpaying for the Products. Thus, Defendants knew, or should have known, at all relevant times, that the Oil Free Representation misleads reasonable consumers, such as Plaintiff, into buying the Products to attain the product-attributes that Defendants falsely advertised and warranted. Indeed, notwithstanding Plaintiffs' demand to Defendants to stop misleading consumers with the Oil Free Representation, Defendants have continued to market the Products using the Oil Free Representation.

32. By letter dated April 8, 2026, Plaintiffs advised Defendants of their false and misleading claims pursuant to California Civil Code Section 1782, subdivision (a). As such, Plaintiffs have provided Defendants with notice of their violations of the CLRA pursuant to Civil Code § 1782(a).

D. <u>The Products Are Substantially Similar</u>

33. As described *supra*, Plaintiff Butterfli Rain purchased the Peach Slices Snail Rescue All-In-One "Oil Free" Moisturizer and Plaintiff Crystal Perez purchased the Peach Slices Acne "Oil Free" Moisturizer (the "Purchased Products"). The additional unpurchased products are substantially similar to the Purchased Products.

a. **Defendants.** All Products are manufactured, sold, marketed, advertised, labeled, and packaged by the Defendants.

b. **Brand.** All Products are sold under the Peach Slices brand name.

c. **Marketing Demographics.** All Products are marketed directly to consumers for personal use.

d. **Purpose**. All Products are intended for the primary purpose of skincare.

e. **False Advertising Claims.** All Products contain the same Oil Free Representation on the Products' labeling and packaging. In addition, all Products prominently display the Oil Free Representation on the front label in order to focus the consumer's attention on the Oil Free Representation.

f. **Key Ingredients.** All Products contain a combination of the same oil ingredients.

g. **Misleading Effect.** The misleading effect of the Oil Free Representation on consumers are the same for all Products—consumers are tricked into buying or otherwise over-paying a premium for Products that are composed of no exclusively oil-free ingredients, but they receive Products that, contrary to the Products' labels, contain many oil-derived ingredients.

E. No Adequate Remedy at Law

34. **No Adequate Remedy at Law.** Plaintiffs and members of the Class are entitled to equitable relief as no adequate remedy at law exists.

a. **Broader Statutes of Limitations.** The statutes of limitations for the causes of action pled herein vary. The limitations period is four years for claims brought under the UCL, which is one year longer than the statutes of limitations under the FAL and CLRA. In addition, the statutes of limitations vary for certain states' laws for breach of warranty and unjust enrichment/restitution, between approximately 2 and 6 years. Thus, California Subclass members who purchased the Products more than 3 years prior to the filing of the complaint will be barred from recovery if equitable relief were not permitted under the UCL. Similarly, Nationwide Class members who purchased the Products prior to the furthest reach-back under the statute of limitations for breach of warranty, will be barred from recovery if equitable relief were not permitted for restitution/unjust enrichment.

b. **Broader Scope of Conduct.** In addition, the scope of actionable misconduct under the unfair prong of the UCL is broader than the other causes of action asserted herein. It includes, for example, Defendants' overall unfair marketing scheme to promote and

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brand the Products with the Oil Free Representation, across a multitude of media platforms, including the Products' labels, over a long period of time, in order to gain an unfair advantage over competitor products and to take advantage of consumers' desire for products that comport with the Oil Free Representation. The UCL also creates a cause of action for violations of law (such as statutory or regulatory requirements and court orders related to similar representation and omission made on the type of products at issue). Thus, Plaintiffs and Class members may be entitled to restitution under the UCL, while not entitled to damages under other causes of action asserted herein (e.g., the FAL requires actual or constructive knowledge of the falsity; the CLRA is limited to certain types of plaintiff (an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes) and other statutorily enumerated conduct). Similarly, unjust enrichment/restitution is broader than breach of warranty. For example, in some states, breach of warranty may require privity of contract or pre-lawsuit notice, which are not typically required to establish unjust enrichment/restitution. Thus, Plaintiffs and Class members may be entitled to recover under unjust enrichment/restitution, while not entitled to damages under breach of warranty, because they purchased the products from third-party retailers or did not provide adequate notice of a breach prior to the commencement of this action.

c. **Injunctive Relief to Cease Misconduct and Dispel Misperception.** Injunctive relief is appropriate on behalf of Plaintiffs and members of the Class because Defendants continue to misrepresent the Products with the Oil Free Representation. Injunctive relief is necessary to prevent Defendants from continuing to engage in the unfair, fraudulent, and/or unlawful conduct described herein and to prevent future harm—none of which can be achieved through available legal remedies (such as monetary damages to compensate past harm). Further, injunctive relief, in the form of affirmative disclosures is necessary to dispel the public misperception about the Products that has resulted from years of Defendants' unfair, fraudulent, and unlawful marketing efforts. Such disclosures would include, but are not limited to, publicly disseminated statements that the Products' Oil Free Representation is not true and providing accurate information about the Products' true nature; and/or requiring prominent qualifications and/or disclaimers on the Products' front label concerning the Products' true nature. An injunction requiring affirmative disclosures to dispel the public's misperception and prevent the ongoing deception and repeat purchases based thereon, is also not available through a legal remedy (such as monetary damages). In addition, Plaintiffs are *currently* unable to accurately quantify the damages caused by Defendants' future harm, because discovery and Plaintiffs' investigation have not yet completed, rendering injunctive relief all the more necessary. For example, because the court has not yet certified any class, the following remains unknown: the scope of the class, the identities of its members, their respective purchasing practices, prices of past/future Products' sales, and quantities of past/future Products' sales.

d. **Public Injunction.** Further, because a "public injunction" is available under the UCL, damages will not adequately "benefit the general public" in a manner equivalent to an injunction.

e. **California vs. Nationwide Class Claims**. Violation of the UCL, FAL, and CLRA are claims asserted on behalf of Plaintiffs and the California Subclass against Defendant,

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while breach of warranty and unjust enrichment/restitution are asserted on behalf of Plaintiffs and the Nationwide Class. Dismissal of farther-reaching claims, such as restitution, would bar recovery for non-California members of the Class. In other words, legal remedies available or adequate under the California-specific causes of action (such as the UCL, FAL, and CLRA) have no impact on this Court's jurisdiction to award equitable relief under the remaining causes of action asserted on behalf of non-California putative class members.

CLASS ALLEGATIONS

35. **Class Definition**. Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of himself and all others similarly situated, and as members of the Classes defined as follows:

> All persons or entities that, within four years prior to the filing of this Complaint through present, purchased the Products in the United States, displaying the Oil Free Representation on the Products' labels, for purposes other than resale ("**Nationwide Class**"); and
>
> All persons or entities that, within four years prior to the filing of this Complaint through present, purchased the Products in California, displaying the Oil Free Representation on the Products' labels, for purposes other than resale ("**California Subclass**")

("Nationwide Class" and "California Subclass," collectively, "**Class**").

36. **Class Definition Exclusions.** Excluded from the Class are: (i) Defendants, their assigns, successors, and legal representatives; (ii) any entities in which Defendants have controlling interests; (iii) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; and (iv) any judicial officer presiding over this matter and person within the third degree of consanguinity to such judicial officer.

37. **Reservation of Rights to Amend the Class Definition.** Plaintiffs reserve the right to amend or otherwise alter the class definitions presented to the Court at the appropriate time in response to facts learned through discovery, legal arguments advanced by Defendants, or otherwise.

38. **Numerosity:** Members of the Class are so numerous that joinder of all members is impracticable. Upon information and belief, the Nationwide Class consists of tens of thousands of purchasers (if not more) dispersed throughout the United States, and the California Subclass

likewise consists of thousands of purchasers (if not more) dispersed throughout the State of California. Accordingly, it would be impracticable to join all members of the Class before the Court.

39. **Common Questions Predominate:** There are numerous and substantial questions of law or fact common to all members of the Class that predominate over any individual issues. Included within the common questions of law or fact are:

a. Whether Defendants engaged in unlawful, unfair or deceptive business practices by advertising and selling the Products;

b. Whether Defendants' conduct of advertising and selling the Products as being oil-free, creating the reasonable assumption that the Products do not contain any oil-derived ingredients, when the Products contain multiple ingredients classified as oils, constitutes an unfair method of competition, or unfair or deceptive act or practice, in violation of Civil Code section 1750, *et seq*.

c. Whether Defendants used deceptive representation in connection with the sale of the Products in violation of Civil Code section 1750, *et seq*.;

d. Whether Defendants represented that the Products have characteristics or quantities that they do not have in violation of Civil Code section 1750, *et seq*.;

e. Whether Defendants advertised the Products with intent not to sell it as advertised in violation of Civil Code section 1750, *et seq*.;

f. Whether Defendants' labeling and advertising of the Products are untrue or misleading in violation of Business and Professions Code section 17500, *et seq*.;

g. Whether Defendants knew or by the exercise of reasonable care should have known its labeling and advertising was and is untrue or misleading in violation of Business and Professions Code section 17500, *et seq*.;

h. Whether Defendants' conduct is an unfair business practice within the meaning of Business and Professions Code section 17200, *et seq*.

i. Whether Defendants' conduct is a fraudulent business practice within the meaning of Business and Professions Code section 17200, *et seq*.

j. Whether Defendants' conduct is an unlawful business practice within the meaning of Business and Professions Code section 17200, *et seq*.;

k. Whether Plaintiffs and the Class paid more money for the Products than they actually received;

l. How much more money Plaintiffs and the Class paid for the Products than they actually received;

m. Whether Defendants' conduct constitutes breach of warranty;

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n. Whether Plaintiffs and the Class are entitled to injunctive relief; and

o. Whether Defendants were unjustly enriched by its unlawful conduct.

40. **Typicality**: Plaintiffs' claims are typical of the claims of the Class Members she seeks to represent because Plaintiff, like the Class Members, purchased Defendants' misleading and deceptive Products. Defendants' unlawful, unfair and/or fraudulent actions concern the same business practices described herein irrespective of where they occurred or were experienced. Plaintiffs and the Class sustained similar injuries arising out of Defendants' conduct. Plaintiffs' and Class Members' claims arise from the same practices and course of conduct and are based on the same legal theories.

41. **Adequacy**: Plaintiffs are an adequate representative of the Class she seeks to represent because her interests do not conflict with the interests of the Class Members Plaintiffs seek to represent. Plaintiffs will fairly and adequately protect Class Members' interests and has retained counsel experienced and competent in the prosecution of complex class actions, including complex questions that arise in consumer protection litigation.

42. **Superiority and Substantial Benefit:** A class action is superior to other methods for the fair and efficient adjudication of this controversy, since individual joinder of all members of the Class is impracticable and no other group method of adjudication of all claims asserted herein is more efficient and manageable for at least the following reasons:

a. The claims presented in this case predominate over any questions of law or fact, if any exist at all, affecting any individual member of the Class;

b. Absent a Class, the members of the Class will continue to suffer damage and Defendants' unlawful conduct will continue without remedy while Defendants profit from and enjoy its ill-gotten gains;

c. Given the size of individual Class Members' claims, few, if any, Class Members could afford to or would seek legal redress individually for the wrongs Defendants committed against them, and absent Class Members have no substantial interest in individually controlling the prosecution of individual actions;

d. When the liability of Defendants has been adjudicated, claims of all members of the Class can be administered efficiently and/or determined uniformly by the Court; and

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e. This action presents no difficulty that would impede its management by the Court as a class action, which is the best available means by which Plaintiffs and Class Members can seek redress for the harm caused to them by Defendant.

43. **Inconsistent Rulings.** Because Plaintiffs seek relief for all members of the Class, the prosecution of separate actions by individual members would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants.

44. **Injunctive/Equitable Relief.** The prerequisites to maintaining a class action for injunctive or equitable relief pursuant to Fed. R. Civ. P. 23(b)(2) are met as Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

45. **Manageability.** Plaintiffs and Plaintiffs' counsel are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

COUNT ONE

Violation of California Unfair Competition Law

Cal. Bus. & Prof. Code §§ 17200, *et seq*.

(*On Behalf of the California Subclass*)

46. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

47. **California Subclass.** This cause of action is brought pursuant to Business and Professions Code Section 17200, *et seq*., on behalf of Plaintiffs and a California Subclass who purchased the Products within the applicable statute of limitations.

48. **The UCL.** California Business & Professions Code, sections 17200, *et seq.* (the **"UCL"**) prohibits unfair competition and provides, in pertinent part, that "unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising."

49. **False Advertising Claims.** Defendants, in their labeling and advertising of the Products, made false and misleading statements and fraudulent omissions regarding the quality and

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characteristics of the Products—specifically, the Oil Free Representation (i.e., that the Products contain no oils) — despite the fact the Products contain a combination of numerous oil-based ingredients. Such claim and omission appear on the front labels of the Products, which are sold at retail stores, point-of-purchase displays, and online.

50. **Defendants' Deliberately False and Fraudulent Marketing Scheme.** Defendants do not have any reasonable basis for the claims about the Products made in Defendants' advertising and on Defendants' labeling because the Products contain cetyl ethylhexanoate, cetearyl alcohol, sorbitan olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate – ingredients classified as oils. Defendants knew and know that the Products contain multiple oil-derived ingredients, yet Defendants intentionally advertise and market the Products to cause reasonable consumers to believe that the Products are oil free.

51. **False Advertising Claims Cause Purchase of Products.** Defendants' labeling and advertising of the Products led to, and continue to lead to, reasonable consumers, including Plaintiffs, believing that the Products are free from oils, to the exclusion of oil-based ingredients.

52. **Injury In Fact.** Plaintiffs and the California Subclass have suffered injury in fact and have lost money or property as a result of and in reliance upon Defendants' Oil Free Representation—namely Plaintiffs and the California Subclass lost the purchase price for the Products they bought from Defendants.

53. **Conduct Violates the UCL.** Defendants' conduct, as alleged herein, constitutes unfair, unlawful, and fraudulent business practices pursuant to the UCL. The UCL prohibits unfair competition and provides, in pertinent part, that "unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising." Cal. Bus & Prof. Code § 17200. In addition, Defendants' use of various forms of advertising media to advertise, call attention to, or give publicity to the sale of goods or merchandise that are not as represented in any manner constitutes unfair competition, unfair, deceptive, untrue or misleading advertising, and an unlawful business practice within the meaning of Business and Professions Code Sections 17200 and 17531, which advertisements have deceived and are likely to deceive the consuming public, in violation of Business and Professions Code Section 17200.

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54. **No Reasonably Available Alternatives/Legitimate Business Interests.** Defendants failed to avail themselves of reasonably available, lawful alternatives to further its legitimate business interests.

55. **Business Practice.** All of the conduct alleged herein occurred and continues to occur in Defendants' business. Defendants' wrongful conduct is part of a pattern, practice and/or generalized course of conduct, which will continue on a daily basis until Defendants voluntarily alter its conduct or Defendants are otherwise ordered to do so.

56. **Injunction.** Pursuant to Business and Professions Code Sections 17203 and 17535, Plaintiffs and the members of the California Subclass seek an order of this Court enjoining Defendants from continuing to engage, use, or employ their practice of labeling and advertising the sale and use of the Products. Likewise, Plaintiffs and the members of the California Subclass seek an order requiring Defendants to disclose such misrepresentation, and to preclude Defendants' failure to disclose the existence and significance of said misrepresentation.

57. **Causation/Damages.** As a direct and proximate result of Defendants' misconduct in violation of the UCL, Plaintiffs and members of the California Subclass were harmed in the amount of the purchase price they paid for the Products. Further, Plaintiffs and members of the California Subclass have suffered and continue to suffer economic losses and other damages including, but not limited to, the amounts paid for the Products, and any interest that would have accrued on those monies, in an amount to be proven at trial. Accordingly, Plaintiffs seek a monetary award for violation of the UCL in damages, restitution, and/or disgorgement of ill-gotten gains to compensate Plaintiffs and the California Subclass for said monies, as well as injunctive relief to enjoin Defendants' misconduct to prevent ongoing and future harm that will result.

58. **Punitive Damages.** Plaintiffs seek punitive damages pursuant to this cause of action for violation of the UCL on behalf of Plaintiffs and the California Subclass. Defendants' unfair, fraudulent, and unlawful conduct described herein constitutes malicious, oppressive, and/or fraudulent conduct warranting an award of punitive damages as permitted by law. Defendants' misconduct is malicious as Defendants acted with the intent to cause Plaintiffs and consumers to pay for Products that they were not, in fact, receiving. Defendants willfully and knowingly

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disregarded the rights of Plaintiffs and consumers as Defendants were, at all times, aware of the probable dangerous consequences of their conduct and deliberately failed to avoid misleading consumers, including Plaintiffs. Defendants' misconduct is oppressive as, at all relevant times, said conduct was so vile, base, and/or contemptible that reasonable people would look down upon it and/or otherwise would despise such corporate misconduct. Said misconduct subjected Plaintiffs and consumers to cruel and unjust hardship in knowing disregard of their rights. Defendants' misconduct is fraudulent as Defendants intentionally misrepresented and/or concealed material facts with the intent to deceive Plaintiffs and consumers. The wrongful conduct constituting malice, oppression, and/or fraud was committed, authorized, adopted, approved, and/or ratified by officers, directors, and/or managing agents of Defendants.

"Unfair" Prong

59. **Unfair Standard.** Under the UCL, a challenged activity is "unfair" when "any injury it causes outweighs any benefits provided to consumers and the injury is one that the consumers themselves could not reasonably avoid." *Camacho v. Auto Club of Southern California,* 142 Cal. App. 4th 1394, 1403 (2006).

60. **Injury.** Defendants' actions of mislabeling the Products with the Oil Free Representation do not confer any benefit to consumers; rather, doing so causes injuries to consumers, who do not receive products commensurate with their reasonable expectations, overpay for the Products, and receive products of lesser standards than what they reasonably expected to receive. Consumers cannot avoid any of the injuries caused by Defendants' deceptive labeling and/or advertising of the Products. Accordingly, the injuries caused by Defendants' deceptive labeling and advertising outweigh any benefits.

61. **Balancing Test.** Some courts conduct a balancing test to decide if a challenged activity amounts to unfair conduct under California Business and Professions Code Section 17200. They "weigh the utility of the Defendants' conduct against the gravity of the harm to the alleged victim." *Davis v. HSBC Bank Nevada, N.A.,* 691 F.3d 1152, 1169 (9th Cir. 2012).

62. **No Utility.** Here, Defendants' conduct of labeling the Products as being "oil free"—when the Products contain cetyl ethylhexanoate, cetearyl alcohol, sorbitan olivate, cetearyl olivate,

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caprylic/capric triglyceride, and glyceryl stearate, has no utility and financially harms purchasers. Thus, the utility of Defendants' conduct is vastly outweighed by the gravity of harm.

63. **Legislative Declared Policy.** Some courts require that "unfairness must be tethered to some legislative declared policy or proof of some actual or threatened impact on competition." *Lozano v. AT&T Wireless Servs. Inc.,* 504 F. 3d 718, 735 (9th Cir. 2007).

64. **Unfair Conduct.** Defendants' labeling and advertising of the Products, as alleged herein, is false, deceptive, misleading, and unreasonable, and constitutes unfair conduct. Defendants knew or should have known of their unfair conduct. Defendants' misrepresentation constitutes an unfair business practice within the meaning of California Business and Professions Code Section 17200.

65. **Reasonably Available Alternatives.** There existed reasonably available alternatives to further Defendants' legitimate business interests, other than the conduct described herein. Defendants could have refrained from labeling the Products with the Oil Free Representation.

66. **Defendants' Wrongful Conduct.** All of the conduct alleged herein occurs and continues to occur in Defendants' business. Defendants' wrongful conduct is part of a pattern or generalized course of conduct repeated on thousands of occasions daily.

67. **Injunction.** Pursuant to Business and Professions Code Sections 17203, Plaintiffs and the California Subclass seek an order of this Court enjoining Defendants from continuing to engage, use, or employ their practices of labeling the Products with the Oil Free Representation.

68. **Causation/Damages.** Plaintiffs and the California Subclass have suffered injury in fact and have lost money as a result of Defendants' unfair conduct. Plaintiffs and the California Subclass paid an unwarranted premium for the Products. Specifically, Plaintiffs and the California Subclass paid for Products that are supposedly free from oils, but instead purchased Products that contain cetyl ethylhexanoate, cetearyl alcohol, sorbitan olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate, well-documented oil-derived ingredients. Plaintiffs and the California Subclass would not have purchased the Products, or would have paid substantially less for the Products, if they had known that the Products' advertising and labeling were deceptive.

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Accordingly, Plaintiffs seek damages, restitution and/or disgorgement of ill-gotten gains pursuant to the UCL.

"Fraudulent" Prong

69. **Fraud Standard.** The UCL considers conduct fraudulent (and prohibits said conduct) if it is likely to deceive members of the public. *Bank of the West v. Superior Court*, 2 Cal. 4th 1254, 1267 (1992).

70. **Fraudulent & Material Oil Free Representation.** Defendants used the Oil Free Representation with the intent to sell the Products to consumers, including Plaintiffs and the California Subclass. The Oil Free Representation is false, and Defendants knew or should have known of its falsity. The Oil Free Representation is likely to deceive consumers into purchasing the Products because it is material to the average, ordinary, and reasonable consumer.

71. **Fraudulent Business Practice.** As alleged herein, the misrepresentation by Defendants constitutes a fraudulent business practice in violation of California Business & Professions Code Section 17200.

72. **Reasonable and Detrimental Reliance.** Plaintiffs and the California Subclass reasonably and detrimentally relied on the material and false Oil Free Representation to their detriment in that they purchased the Products.

73. **Reasonably Available Alternatives.** Defendants had reasonably available alternatives to further their legitimate business interests, other than the conduct described herein. Defendants could have refrained from labeling the Products with the Oil Free Representation. Alternatively, they could have refrained from including oils as ingredients within the Products.

74. **Business Practice.** All of the conduct alleged herein occurs and continues to occur in Defendants' business. Defendants' wrongful conduct is part of a pattern or generalized course of conduct.

75. **Injunction.** Pursuant to Business and Professions Code Sections 17203, Plaintiffs and the California Subclass seek an order of this Court enjoining Defendants from continuing to engage, use, or employ their practice of labeling the Products with the Oil Free Representation.

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76. **Causation/Damages.** Plaintiffs and the California Subclass have suffered injury in fact and have lost money as a result of Defendants' unfair conduct. Plaintiffs and the California Subclass paid an unwarranted premium for the Products. Specifically, Plaintiffs and the California Subclass paid for Products that supposedly contained no oils, but instead purchased Products that contain olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate, well-documented oil-derived ingredients. Plaintiffs and the California Subclass would not have purchased the Products, or would have paid substantially less for the Products, if they had known that the Products' advertising and labeling were deceptive. Accordingly, Plaintiffs seek damages, restitution and/or disgorgement of ill-gotten gains pursuant to the UCL.

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"Unlawful" Prong

77. **Unlawful Standard.** The UCL identifies violations of other laws as "unlawful practices that the unfair competition law makes independently actionable." *Velazquez v. GMAC Mortg. Corp.,* 605 F. Supp. 2d 1049, 1068 (C.D. Cal. 2008).

78. **Violations of CLRA and FAL.** Defendants' labeling of the Products, as alleged herein, violates California Civil Code sections 1750, *et seq.* (the "**CLRA**") and California Business and Professions Code sections 17500, *et seq.* (the "**FAL**") as set forth below in the sections regarding those causes of action.

79. **Additional Violations.** Defendants' conduct in making the false representation described herein constitutes a knowing failure to adopt policies in accordance with and/or adherence to applicable laws, as set forth herein, all of which are binding upon and burdensome to its competitors. This conduct engenders an unfair competitive advantage for Defendants, thereby constituting an unfair, fraudulent and/or unlawful business practice under California Business & Professions Code sections 17200-17208. Additionally, Defendants' misrepresentation of material facts, as set forth herein, violates California Civil Code sections 1572, 1573, 1709, 1710, 1711, and 1770, as well as the common law.

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80. **Unlawful Conduct.** Defendants' labeling and advertising of the Products, as alleged herein, are false, deceptive, misleading, and unreasonable, and constitute unlawful conduct. Defendants knew or should have known of its unlawful conduct.

81. **Reasonably Available Alternatives.** Defendants had reasonably available alternatives to further their legitimate business interests, other than the conduct described herein. Defendants could have refrained from labeling the Products with the Oil Free Representation and/or omitting the use of oil-derived ingredients within the Products.

82. **Business Practice.** All of the conduct alleged herein occurs and continues to occur in Defendants' business. Defendants' wrongful conduct is part of a pattern or generalized course of conduct.

83. **Injunction.** Pursuant to Business and Professions Code Section 17203, Plaintiffs and the California Subclass seek an order of this Court enjoining Defendants from continuing to engage, use, or employ their practice of false and deceptive advertising of the Products.

84. **Causation/Damages.** Plaintiffs and the California Subclass have suffered injury in fact and have lost money as a result of Defendants' unfair conduct. Plaintiffs and the California Subclass paid an unwarranted premium for the Products. Specifically, Plaintiffs and the California Subclass paid for Products that were supposedly free from oils, but instead purchased Products that contain olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate – oil-derived ingredients. Plaintiffs and the California Subclass would not have purchased the Products, or would have paid substantially less for the Products, if they had known that the Products' advertising and labeling were deceptive. Accordingly, Plaintiffs seek damages, restitution and/or disgorgement of ill-gotten gains pursuant to the UCL.

COUNT TWO

Violation of California False Advertising Law

Cal. Bus. & Prof. Code §§ 17500, *et seq*.

(*On Behalf of the California Subclass*)

85. **Incorporation by reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

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86. **California Subclass.** Plaintiffs bring this claim individually and on behalf of the California Subclass who purchased the Products within the applicable statute of limitations.

87. **FAL Standard.** The False Advertising Law, codified at Cal. Bus. & Prof. Code section 17500, *et seq.*, prohibits "unfair, deceptive, untrue or misleading advertising[.]"

88. **False & Material Oil Free Representation Disseminated to Public.** Defendants violated section 17500 when they advertised and marketed the Products through the unfair, deceptive, untrue, and misleading Oil Free Representation disseminated to the public through the Products' labeling, marketing, and advertising. This representation was false because the Products do not conform to it. The representation was material because it is likely to mislead a reasonable consumer into purchasing the Products.

89. **Knowledge.** In making and disseminating the representation alleged herein, Defendants knew or should have known that the representation was untrue or misleading, and acted in violation of § 17500.

90. **Intent to Sell.** Defendants' Oil Free Representation was specifically designed to induce reasonable consumers, like Plaintiffs and the California Subclass, to purchase the Products.

91. **Causation/Damages.** As a direct and proximate result of Defendants' misconduct in violation of the FAL, Plaintiffs and members of the California Subclass were harmed in the amount of the purchase price they paid for the Products. Further, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other damages including, but not limited to, the amounts paid for the Products, and any interest that would have accrued on those monies, in an amount to be proven at trial. Accordingly, Plaintiffs seek a monetary award for violation of the FAL in damages, restitution, and/or disgorgement of ill-gotten gains to compensate Plaintiffs and the California Subclass for said monies, as well as injunctive relief to enjoin Defendants' misconduct prevent ongoing and future harm that will result.

92. **Punitive Damages.** Defendants' unfair, fraudulent, and unlawful conduct described herein constitutes malicious, oppressive, and/or fraudulent conduct warranting an award of punitive damages as permitted by law. Defendants' misconduct is malicious as Defendants acted with the intent to cause Plaintiffs and consumers to pay for Products that they were not, in fact, receiving.

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Defendants willfully and knowingly disregarded the rights of Plaintiffs and consumers as Defendants were aware of the probable dangerous consequences of its conduct and deliberately failed to avoid misleading consumers, including Plaintiffs. Defendants' misconduct is oppressive as, at all relevant times, said conduct was so vile, base, and/or contemptible that reasonable people would look down upon it and/or otherwise would despise such corporate misconduct. Said misconduct subjected Plaintiffs and consumers to cruel and unjust hardship in knowing disregard of their rights. Defendants' misconduct is fraudulent as Defendants, at all relevant times, intentionally misrepresented and/or concealed material facts with the intent to deceive Plaintiffs and consumers. The wrongful conduct constituting malice, oppression, and/or fraud was committed, authorized, adopted, approved, and/or ratified by officers, directors, and/or managing agents of Defendants.

COUNT THREE

Violation of California Consumers Legal Remedies Act

Cal. Civ. Code §§ 1750, *et seq*.

(*On Behalf of the California Subclass*)

93. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

94. **California Subclass.** Plaintiffs bring this claim individually and on behalf of the California Subclass who purchased the Products within the applicable statute of limitations.

95. **CLRA Standard.** The CLRA provides that "unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful.

96. **Goods/Services.** The Products are each a "good," as defined by the CLRA in California Civil Code §1761(a).

97. **Defendants.** Defendants are each a "person," as defined by the CLRA in California Civil Code §1761(c).

98. **Consumers.** Plaintiffs and members of the California Subclass are "consumers," as defined by the CLRA in California Civil Code §1761(d).

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99. **Transactions.** The purchase of the Products by Plaintiffs and members of the California Subclass are "transactions" as defined by the CLRA under California Civil Code § 1761(e).

100. **Violations of the CLRA.** Defendants violated the following sections of the CLRA by selling the Products to Plaintiffs and the California Subclass through the false, misleading, deceptive, and fraudulent Oil Free Representation.

a. Section 1770(a)(5) by representing that the Products have "characteristics, . . . uses [or] benefits . . . which [they] do not have."

b. Section 1770(a)(7) by representing that the Products "[are] of a particular standard, quality, or grade . . . [when] [they are] of another."

c. Section 1770(a)(9) by advertising the Products "with [the] intent not to sell [them] as advertised."

101. **Knowledge.** Defendants' uniform and material representation regarding the Products were likely to deceive, and Defendants knew or should have known that their representation was untrue and misleading.

102. **Malicious.** Defendants' conduct is malicious, fraudulent, and wanton in that Defendants intentionally misled and withheld material information from consumers, including Plaintiffs, to increase the sale of the Products.

103. **Plaintiffs Could Not Have Avoided Injury.** Plaintiffs and members of the California Subclass could not have reasonably avoided such injury. Plaintiffs and members of the California Subclass were unaware of the existence of the facts that Defendants suppressed and failed to disclose, and Plaintiffs and members of the California Subclass would not have purchased the Products and/or would have purchased them on different terms had they known the truth.

104. **Causation/Reliance/Materiality.** Plaintiffs and the California Subclass suffered harm as a result of Defendants' violations of the CLRA because they relied on the Oil Free Representation in deciding to purchase the Products. The Oil Free Representation was a substantial factor. The Oil Free Representation was material because a reasonable consumer would consider it important in deciding whether to purchase the Products.

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105. **Section 1782(d)—Prelitigation Demand/Notice.** Pursuant to California Civil Code, section 1782, more than thirty days prior to the filing of this complaint, on or around April 8, 2026, Plaintiffs' counsel, acting on behalf all members of the Class, mailed a Demand Letter, via U.S. certified mail, return receipt requested, addressed to Peach and Lily, Inc. at the following addresses:

a. 80 W 40th Street, 7th Floor New York, NY 10018

b. 8 The Green, STE A Dover, DE 19901

c. 147 W 35th St, #1605, New York, NY 10001

106. **Causation/Damages.** As a direct and proximate result of Defendants' misconduct in violation of the CLRA, Plaintiffs and members of the California Subclass were harmed in the amount of the purchase price they paid for the Products. Further, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other damages including, but not limited to, the amounts paid for the Products, and any interest that would have accrued on those monies, in an amount to be proven at trial. Accordingly, Plaintiffs seek a monetary award for violation of this Act in the form of damages, restitution, disgorgement of ill-gotten gains to compensate Plaintiffs and the California Subclass for said monies.

107. **Injunction.** Given that Defendants' conduct violated California Civil Code section 1780, Plaintiffs and members of the California Subclass are entitled to seek, and do hereby seek, injunctive relief to put an end to Defendants' violations of the CLRA and to dispel the public misperception generated, facilitated, and fostered by Defendants' false advertising campaign. Plaintiffs have no adequate remedy at law. Without equitable relief, Defendants' unfair and deceptive practices will continue to harm Plaintiffs and the California Subclass. Accordingly, Plaintiffs seek an injunction to enjoin Defendants from continuing to employ the unlawful methods, acts, and practices alleged herein pursuant to section 1780(a)(2), and otherwise requires Defendants to take corrective action necessary to dispel the public misperception engendered, fostered, and facilitated through Defendants' deceptive labeling of the Products with the Oil Free Representation.

108. **Punitive Damages.** Defendants' unfair, fraudulent, and unlawful conduct described herein constitutes malicious, oppressive, and/or fraudulent conduct warranting an award of punitive damages as permitted by law. Defendants' misconduct is malicious as Defendants acted with the

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intent to cause Plaintiffs and consumers to pay for Products that they were not, in fact, receiving. Defendants willfully and knowingly disregarded the rights of Plaintiffs and consumers as Defendants were, at all times, aware of the probable dangerous consequences of its conduct and deliberately failed to avoid misleading consumers, including Plaintiffs. Defendants' misconduct is oppressive as, at all relevant times, said conduct was so vile, base, and/or contemptible that reasonable people would look down upon it and/or otherwise would despise such corporate misconduct. Said misconduct subjected Plaintiffs and consumers to cruel and unjust hardship in knowing disregard of their rights. Defendants' misconduct is fraudulent as Defendants, at all relevant times, intentionally misrepresented and/or concealed material facts with the intent to deceive Plaintiffs and consumers. The wrongful conduct constituting malice, oppression, and/or fraud was committed, authorized, adopted, approved, and/or ratified by officers, directors, and/or managing agents of Defendants. Accordingly, Plaintiffs seek an award of punitive damages against Defendants.

COUNT FOUR

Breach of Express Warranty

(Individually and On Behalf of the California Subclass)

109. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

110. **Express Warranty**. Defendants expressly warrant that the Products do not contain oil ingredients, as set forth above. Defendants' claims constitute an affirmation of fact, promise, and/or description of the goods that became part of the basis of the bargain and created an express warranty that the goods would conform to the stated promise. Plaintiffs placed importance on Defendants' claims.

111. All conditions precedent to Defendants' liability under this contract have been performed by Plaintiffs and the Class.

112. Defendants breached the terms of the contract, including the express warranties, with Plaintiffs and the Class by not providing Products that conform to the advertising and label claims.

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113. As a result of Defendants' breach of contract, Plaintiffs and the Class have been damaged in the amount to be determined at trial.

COUNT FIVE

Unjust Enrichment/Restitution

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

114. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

115. **Nationwide Class & California Subclass.** Plaintiffs bring this claim individually and on behalf of the Class who purchased the Products within the applicable statute of limitations.

116. **Plaintiff/Class Conferred a Benefit.** By purchasing the Products, Plaintiffs and members of the Class conferred a benefit on Defendants in the form of the purchase price of the Products.

117. **Defendants' Knowledge of Conferred Benefit.** Defendants had knowledge of such benefit and Defendants appreciated the benefit because, were consumers not to purchase the Products, Defendants would not generate revenue from the sales of the Products.

118. **Defendants' Unjust Receipt Through Deception.** Defendants' owing acceptance and retention of the benefit is inequitable and unjust because the benefit was obtained by Defendants' fraudulent, misleading, and deceptive representation and omission.

119. **Causation/Damages.** As a direct and proximate result of Defendants' unjust enrichment, Plaintiffs and members of the Class were harmed in the amount of the purchase price they paid for the Products. Further, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other damages including, but not limited to, the amounts paid for the Products, and any interest that would have accrued on those monies, in an amount to be proven at trial. Accordingly, Plaintiffs seek a monetary award for unjust enrichment in damages, restitution, and/or disgorgement of ill-gotten gains to compensate Plaintiffs and the Class for said monies, as well as injunctive relief to enjoin Defendants' conduct to prevent ongoing and future harm that will result.

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120. **Punitive Damages.** Plaintiffs seek punitive damages pursuant to this cause of action for unjust enrichment on behalf of Plaintiffs and the Class. Defendants' unfair, fraudulent, and unlawful conduct described herein constitutes malicious, oppressive, and/or fraudulent conduct warranting an award of punitive damages as permitted by law. Defendants' misconduct is malicious as Defendants acted with the intent to cause Plaintiffs and consumers to pay for Products that they were not, in fact, receiving. Defendants willfully and knowingly disregarded the rights of Plaintiffs and consumers as Defendants were aware of the probable dangerous consequences of its conduct and deliberately failed to avoid misleading consumers, including Plaintiffs. Defendants misconduct is oppressive as, at all relevant times, said conduct was so vile, base, and/or contemptible that reasonable people would look down upon it and/or otherwise would despise such corporate misconduct. Said misconduct subjected Plaintiffs and consumers to cruel and unjust hardship in knowing disregard of their rights. Defendants' misconduct is fraudulent as Defendants, at all relevant times, intentionally misrepresented and/or concealed material facts with the intent to deceive Plaintiffs and consumers. The wrongful conduct constituting malice, oppression, and/or fraud was committed, authorized, adopted, approved, and/or ratified by officers, directors, and/or managing agents of Defendants.

COUNT SIX

Intentional Misrepresentation

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

121. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

122. **Nationwide Class & California Subclass.** Plaintiffs bring this claim individually and on behalf of the Class who purchased the Products within the applicable statute of limitations.

123. Defendants have intentionally labeled and marketed the Products with the Oil Free Representation. However, the Products contain cetyl ethylhexanoate, cetearyl alcohol, sorbitan olivate, cetearyl olivate, caprylic/capric triglyceride, and glyceryl stearate. Defendants have misrepresented the quality of ingredients contained in the Products.

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124. Defendants' misrepresentations regarding the Products are material to a reasonable consumer, as they relate to the quality of product received by consumers. A reasonable consumer would attach importance to such representations and would be induced to act thereon in making his or her purchase decision.

125. At all relevant times when such misrepresentations were made, Defendants knew or should have known that the representations were misleading.

126. Defendants intended for Plaintiffs and the Class to rely on the front labeling and marketing of the Products', as evidenced by Defendants' intentional manufacturing, marketing, labeling, and selling of Products with oil-based ingredients.

127. Plaintiffs and members of the Class reasonably and justifiably relied on Defendants' intentional misrepresentations when purchasing the Products, and had they known the truth, they would not have purchased the Products or would have purchased them at significantly lower prices.

128. As a direct and proximate result of Defendants' intentional misrepresentations, Plaintiffs and members of the Class have suffered injury in fact.

COUNT SEVEN

Negligent Misrepresentation

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

129. **Incorporation by Reference.** Plaintiffs re-allege and incorporate by reference all allegations contained in this complaint, as though fully set forth herein.

130. **Nationwide Class & California Subclass.** Plaintiffs bring this claim individually and on behalf of the Class who purchased the Products within the applicable statute of limitations.

131. Defendants have negligently labeled and marketed the Products with the Oil Free Representation. However, the Products contain numerous oil-based ingredients. Defendants have misrepresented the quality of ingredients contained in the Products.

132. Defendants' misrepresentations regarding the Products are material to a reasonable consumer, as they relate to the quality of product received by consumers. A reasonable consumer would attach importance to such representations and would be induced to act thereon in making his or her purchase decision.

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133. At all relevant times when such misrepresentations were made, Defendants knew or should have known that the representations were misleading.

134. Defendants intended for Plaintiffs and the Class to rely on the front labeling and marketing of the Products', as evidenced by Defendants' intentional manufacturing, marketing, labeling, and selling of Products with oil-based ingredients.

135. Plaintiffs and members of the Class reasonably and justifiably relied on Defendants' intentional misrepresentations when purchasing the Products, and had they known the truth, they would not have purchased the Products or would have purchased them at significantly lower prices.

136. As a direct and proximate result of Defendants' negligent misrepresentations, Plaintiffs and members of the Class have suffered injury in fact.

PRAYER FOR RELIEF

137. WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, prays for judgment against Defendants as follows:

a. **Certification:** For an order certifying this action as a class action, appointing Plaintiffs as the Class Representative, and appointing Plaintiffs' Counsel as Class Counsel, consistent with applicable law;

b. **Declaratory Relief:** For an order declaring that Defendants' conduct violates the statutes and laws referenced herein, consistent with applicable law and pursuant to only those causes of action so permitted;

c. **Injunction:** For an order requiring Defendants to change its business practices to prevent or mitigate the risk of the consumer deception and violations of law outlined herein. This includes, for example, orders that Defendants immediately cease and desists from selling the unlawful Products in violation of law; that enjoin Defendants from continuing to market, advertise, distribute, and sell the Products in the unlawful manner described herein; that require Defendants to engage in an affirmative advertising campaign to dispel the public misperception of the Products resulting from Defendants' unlawful conduct; and/or that require Defendants to take all further and just corrective action, consistent with applicable law and pursuant to only those causes of action so permitted;

d. **Damages/Restitution/Disgorgement:** For an order awarding monetary compensation in the form of damages, restitution, and/or disgorgement to Plaintiffs and the Class, consistent with applicable law and pursuant to only those causes of action so permitted;

e. **Punitive Damages/Penalties:** For an order awarding punitive damages, statutory

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penalties, and/or monetary fines, consistent with applicable law and pursuant to only those causes of action so permitted;

f. **Attorneys' Fees & Costs:** For an order awarding attorneys' fees and costs, consistent with applicable law and pursuant to only those causes of action so permitted;

g. **Pre/Post-Judgment Interest:** For an order awarding pre-judgment and post-judgment interest, consistent with applicable law and pursuant to only those causes of action so permitted; and

h. **All Just & Proper Relief:** For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues and causes of action so triable.

DATED: July 29, 2026

MALK & POGO LAW GROUP, LLP

/s/ Valter Malkhasyan
Valter Malkhasyan, Esq.
Erik Pogosyan, Esq.

Counsel for Plaintiffs and the Proposed Class

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