

1 Scott Edward Cole, Esq. (CA S.B. #160744)*
 Laura Grace Van Note, Esq. (CA S.B. #310160)*
 2 Mark T. Freeman, Esq. (CA S.B. #293721)*
COLE & VAN NOTE
 3 555 12th Street, Suite 2100
 Oakland, California 94607
 4 Telephone: (510) 891-9800
 Email: sec@colevannote.com
 5 Email: lvn@colevannote.com
 Email: mtf@colevannote.com
 6 Email: LegalDept@colevannote.com

7 *Attorneys for Representative Plaintiffs*
and the Plaintiff Class

8
 9 **UNITED STATES DISTRICT COURT**
 10 **SOUTHERN DISTRICT OF CALIFORNIA**

11
 12 HOLLY FRALEY and NANCY COPLEY,
 individually, and on behalf of all others
 13 similarly situated,

14 Plaintiffs,

15 v.

16 LOEWS CORPORATION and LOEWS
 HOTELS HOLDING CORPORATION,

17 Defendants.
 18

Case No. '26CV3513 BAS DEB

CLASS ACTION

**COMPLAINT FOR DAMAGES,
 INJUNCTIVE AND EQUITABLE RELIEF
 PURSUANT TO THE AMERICANS WITH
 DISABILITIES ACT (42 U.S.C. §§ 12101, ET
 SEQ.)**

[JURY TRIAL DEMANDED]

COLE & VAN NOTE
 ATTORNEYS AT LAW
 555 12TH STREET, SUITE 2100
 OAKLAND, CA 94607
 TEL: (510) 891-9800

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

INTRODUCTION

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2 1. Even beyond that of the 26.8% of adults who already suffer from asthma/asthma-
3 like conditions, or the 27.5% (and growing) of adult Americans who suffer from Chemical
4 Sensitivity, there is rapidly growing concern of the harmful and disabling effects of exposure to
5 Synthetic fragranced consumer products. For particularly susceptible segments of the population
6 (e.g., persons with autism/ autism spectrum disorders), the disabling effects have been found in
7 at least 85.4% of that population. Regardless of their individual susceptibilities, 53.1% of
8 Americans support and fragrance-free policies in their workplaces, 55.6% of Americans would
9 (even without knowing the full range of adverse health effects detailed in this pleading) choose a
10 hotel without fragranced air, and nearly everyone is aware of, at least, some of the health problems
11 and annoyances associated with unwelcome fragrance in eating establishments, on airplanes, in
12 hotel rooms, in doctors’ offices, and in countless other places of public accommodation.¹ On
13 information and belief, Representative Plaintiffs assert that these percentages would be far greater
14 if those surveyed knew the full panoply of unregulated and toxic synthetic compounds normally
15 found within Synthetic fragranced consumer products and their effect on daily life.

16 2. A “Synthetic fragranced consumer product” is a base product to which synthetic
17 fragrance compounds are then added and/or is a product that is largely comprised of fragrance.
18 Synthetic fragranced consumer products, as defined further below, are often used by hotels, banks,
19 restaurants, wineries, medical and dental facilities, brick and mortar retail stores, and a multitude
20 of other businesses across a host of industries to impart what they purport to be a pleasant or, at
21 least, unique aroma and/or to mask allegedly unpleasant odors, mold, etc. Among other insidious
22 realities of fragrance use by businesses, the employment of these fragranced compounds leaves
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25 ¹ A reported 53.1% of Americans are supportive of fragrance-free policies for workplaces—a
26 number which rises to well over 70% for persons with chemical sensitivity. Among the general
27 population (groups studied in the United States, Australia, United Kingdom and Sweden), if
28 given a choice between staying in a hotel with or without fragranced air, 60.7% of those
surveyed reported they would prefer a hotel without fragranced air. (See,
<https://www.sciencedirect.com/science/article/pii/S0360132319302148?via%3Dihub#sec7>).

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 visitors unsuspecting of other dangerous conditions (e.g., stachybotrys, chaetomium and other
2 forms of deadly mold).

3 3. For many businesses using Synthetic fragranced consumer products, the use
4 thereof is aimed at increasing profits, enhancing the businesses’ reputation; frankly, it is
5 oftentimes cheaper to introduce Synthetic fragranced consumer products than to fix (e.g.,
6 shampoo and/or replace old carpets, improve water drainage, repair leaks) the source of the initial
7 health concern. Ironically, by introducing Synthetic fragranced consumer products in this manner,
8 these businesses are, in fact, *increasing* the health risks for visitors. These business are also
9 creating environments unfit for all human beings, but especially for those with chemical
10 sensitivity disabilities.

11 4. Terms such as “scent” or “smell” are not synonymous with “fragrance.” Persons
12 with chemical sensitivities, for example, do not generally experience shallow breath, panic, skin
13 irritation and/or other adverse conditions from exposure to a garden flower. Fragrance is synthetic
14 and, as a synthetic product, it is laboratory designed with compounds (or built to create those
15 compounds when it interacts with the oxygen, argon, nitrogen and carbon dioxide in the ambient
16 air) not normally found in nature and which are routinely hostile to human health. For persons
17 already suffering from respiratory disabilities, for example, the adverse health reactions to
18 fragrance can be acute and extreme.

19 5. As synthetic products, Synthetic fragranced consumer products consist of complex
20 mixtures of solvents with extracts, synthetic compounds, resins or some combination thereof.
21 These mixtures contain volatile organic chemicals which, when exposed to the public, even at low
22 concentrations, can trigger various acute reactions and lead to chronic pathological conditions.²
23 These effects are especially concerning when fragrance is foist upon the public (e.g., in foyers of
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26 ² Though the exact chemical composition of fragrances varies by application and producer, use
27 of these products presents an intrinsic risk to indoor air quality. *See*, Rádis-Baptista, Gandhi.
28 2023. “Do Synthetic Fragrances in Personal Care and Household Products Impact Indoor Air
Quality and Pose Health Risks?” *Journal of Xenobiotics* 13, no. 1: 121-131. *See*,
<https://doi.org/10.3390/jox13010010>.

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 hotels, restaurants and other public accommodations) without the visitors’ consent and without
2 warning.

3 6. For most businesses wishing to introduce Synthetic fragranced consumer products
4 into their common areas’ ambient air, a multitude of vendors offer scent dispersion machines
5 (“SDMs”) and air supply tubes—either as portable/standalone SDMs and/or ones which can be
6 integrated with the businesses’ HVAC system(s),³ so as to atomize and deliver a steady stream of
7 toxic compounds across the entire or pre-selected zone(s) within those businesses’ facilities.

8 7. Since these SDM units/systems emit aerosols, often in sub-micron particle sizes,
9 these airborne compounds are capable of breaching and almost always do immediately breach the
10 human respiratory tract’s ordinary filtering methods, and are then deposited in the lungs⁴ and
11 quickly enter the bloodstream, causing an immediate physiological response. The introduction of
12 these complex chemical mixtures, which routinely contain volatile organic compounds (VOCs),
13 highly toxic aldehydes and phthalates, and other compounds that react with the ambient air to
14 generate secondary pollutants⁵ such as formaldehyde and acetaldehyde, presents a high risk to
15 safety and health for all members of the public, regardless of any particular person’s pre-existing
16 sensitivities. Indeed, many of the compounds found in fragrance are considered hazardous under
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20 ³ In addition to SDMs of various outputs and configurations, a variety of simpler scent
21 dispersion designs are available and are in wide use—such as ultrasonic, nebulizing, evaporative
22 (e.g., reed diffusers using essential oils), heat and/or fan diffusers and/or fragrance wall plug-ins.
23 All of these items use similarly dangerous compounds and, to the extent these methods are being
24 employed by Defendant to distribute fragrance, their use equally violates the statutes identified
25 herein and is sought to be enjoined by this action.

24 ⁴ Clinical studies suggest that particle adsorption to lungs is entirely dependent on particle size,
25 with small particles (less than three microns) being capable of making it past the body’s natural
26 protections. (*See*, [https://www.sciencedirect.com/science/chapter/edited-
27 volume/abs/pii/B9780080341859500115?via%3Dihub](https://www.sciencedirect.com/science/chapter/edited-volume/abs/pii/B9780080341859500115?via%3Dihub)).

26 ⁵ Air pollutants are categorized based on their origin. **Primary pollutants** are directly released
27 into the atmosphere from an identifiable source. **Secondary pollutants**, in contrast, are not
28 emitted directly into the air. Instead, they form in the atmosphere as a result of chemical
reactions involving primary pollutants and other atmospheric components. These reactions can
be triggered by various environmental conditions.

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 federal law, by the United States Environmental Protection Agency, and pursuant to, *inter alia*,
2 state laws such as California’s Proposition 65.⁶

3 8. Plaintiff Holly Fraley and Nancy Copley (“Representative Plaintiffs”) bring this
4 class action against Loews Corporation and Loews Hotels Holding Corporation (Collectively
5 “Defendant”), seeking remedies for Defendant’s practice of employing fragrance in it facilities—
6 despite Defendant’s knowledge of the realities set forth above and the discriminatory effect of
7 these practices.

8 9. Defendant claims to offer lodging facilities to the general public, including
9 Representative Plaintiffs, and markets its facilities as being available equally to all members of
10 that public, and yet, engages in practices that prohibit a substantial segment of that public (i.e.,
11 chemically sensitive disabled individuals) from the same benefits and opportunities of those
12 facilities afforded to other individuals.

13 10. Despite actual or constructive knowledge of the toxic properties of Synthetic
14 fragranced consumer products, Defendant flooded its common and private areas with said
15 products, thereby showering unsuspecting customers, employees, guests, vendors and/or patrons
16 with substances known to cause respiratory problems, headaches, skin irritation, and adverse
17 gastrointestinal, cardiovascular and cognitive reactions.

18 11. For purposes of branding, manufacturing an [illusory] association between said
19 fragranced products and the quality of Defendant’s Facilities—purposes calculated singularly to
20 maximize revenue and profitability and not to promote a healthy and safe consumer experience—
21 Defendant exposed tens of thousands [even at a conservative estimate] of individuals to these
22 pollutants, without warning, and without regard to the short term, long term and/or discriminatory
23 impact upon disabled persons of Defendant’s reckless conduct. Indeed, since all Synthetic
24 fragranced consumer products contain some level of hazardous air pollutants, irritants or otherwise

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27 ⁶ Formaldehyde and acetaldehyde are considered hazardous under federal law, by United
28 States Environmental Protection Agency, and under, *inter alia*, California’s “Proposition 65”
(the Safe Drinking Water and Toxic Enforcement Act of 1986; California Health & Safety Code
§§ 25249.5, *et seq.*).

1 toxic materials,⁷ as an employer and as a provider of products and services, and the various other
 2 amenities typical of businesses in its industry, Defendant was/is required to warn these unwitting
 3 victims of the unsafe conditions at its Facilities, maintain and provide Safety Data Sheets for all
 4 such hazardous materials and/or clean up its Facilities by stopping the use of Synthetic fragranced
 5 consumer products altogether.⁸

6 12. Representative Plaintiff asserts Defendant had, and continues to have, a policy of
 7 releasing Synthetic fragranced consumer products upon individuals as they enter Defendant's
 8 Facilities and throughout its facilities. Indeed, some Class members already know of this from
 9 their past visits to Defendant's Facilities and unwitting exposure to its fragrance. For them, they
 10 should not and are not legally required to put themselves in harm's way all over again so as to
 11 enjoy membership in the Class; indeed, they are already prohibited every day from safe and healthy
 12 access the public accommodations at issue here—the accommodations that non-disabled persons
 13 are able to freely enjoy. For those Class members visiting Defendant's Facilities for the first time,
 14 however, by the time these unsuspecting visitors are aware of the pervasive scents/toxins, it is
 15 simply too late: the toxins have already been ingested, have landed upon the skin, have entered the
 16 lungs and, thus, entered these victims' bloodstreams (by design) and targeted various
 17 organs/systems.

18
 19 ⁷ "Ten questions concerning air fresheners and indoor built environments," by Anne
 20 Steinemann; *See*, <https://www.sciencedirect.com/science/article/pii/S0360132316304334>; U.C.
 21 Riverside "Air Pollution in California" ("4.3 million people a year die from the exposure to
 household air pollution." Formaldehyde is a major contributor.
 (*See*, <https://pollution.ucr.edu/indoor-air-quality>).

22 ⁸ *See, e.g.*, 29 CFR 1910.1200(g); [https://www.osha.gov/laws-](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200)
 23 [regs/regulations/standardnumber/1910/1910.1200](https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1200); accord, foreign OSHA regulations and agency
 24 mandates/conventions, generally, at, *inter alia*, (Ontario) Occupational Health and Safety Act,
 25 R.S.O. 1990, c. O.1; ss. 25(1), 28 and 29; European Agency for Safety & Health at Work
 26 (<https://osha.europa.eu/en>); The Occupational Safety and Health Convention, 1981 (No. 155) and
 27 the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187),
 implemented by the International Labour Organization (Latin America) into its Declaration on
 28 Fundamental Principles and Rights at Work (1998); (South Africa) Occupational Health and
 Safety Act 85 of 1993
 (<https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Flabourguide.co.za%2F~d%2Fdocuments%2Froute%253A%2Fdownload%2F1660&wdOrigin=BROWSELINK>).

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 13. Representative Plaintiffs assert that the effects of these Synthetic fragranced
2 consumer products *adversely affect all human beings* but, for those with recognized disabilities
3 such as fragrance/chemical and/or multiple chemical sensitivities, autism, and so on, the fear,
4 apprehension and emotional distress alone of coming into contact with fragrance can be intense,
5 as are the physiological manifestations predictably attendant to the exposure. Even for those
6 persons lucky enough to not possess/share chemical/fragrance susceptibility at such heightened
7 levels, their exposure to fragrance remains, at best, an annoyance, an unwanted touching (i.e., a
8 battery) by atomized fragrance particulates and/or a disruption to their shopping, dining, lodging
9 and/or other services offered at the fragrance location. Indeed, the toxins with which Defendant
10 pollutes its Facilities can be detected in all common areas thereof.

11 14. This action is brought to redress and end this prolonged pattern of unlawful conduct
12 once and for all. Representative Plaintiffs, therefore, bring this action, individually, and on behalf
13 of the Class of all persons harmed by the toxic doses of Synthetic fragranced consumer products
14 at Defendant’s Facilities. In doing so, Representative Plaintiffs, individually, and on behalf of
15 members of the Class, seek injunctive and other equitable relief, and reasonable attorneys’ fees
16 and costs as a result of Defendant’s numerous unfair, unlawful and deceptive business practices,
17 as detailed herein, which run afoul of a multitude of state and federal laws.

18
19 **JURISDICTION AND VENUE**

20 15. Jurisdiction is proper in this Court under 28 U.S.C. § 1332 (diversity jurisdiction).
21 Specifically, this Court has subject matter and diversity jurisdiction over this action under 28
22 U.S.C. § 1332(d) because this is a class action where the amount in controversy exceeds the sum
23 or value of \$5 million, exclusive of interest and costs, there are more than 100 members in the
24 proposed Class and, at least, one other Class Member is a citizen of a state different from
25 Defendant.

26 16. Defendant is located and routinely conducts business in the State where this District
27 is located, has sufficient minimum contacts in this State and has intentionally availed itself of this
28

1 jurisdiction by marketing and selling products and services, and by accepting and processing
2 payments for those products and services within this State.

3 17. Venue is proper in this Court under 28 U.S.C. § 1391 because a substantial part of
4 the events that gave rise to Representative Plaintiffs’ claims took place within this District, and
5 Defendant does business within this District.

6
7 **PLAINTIFFS**

8 ***Representative Plaintiff Holly Fraley***

9 18. Representative Plaintiff Holly Fraley is a natural person with a physical condition
10 which renders this individual unable to patronize, visit and/or enjoy the full and equal access to
11 Defendant’s Facilities—so long as this facility continues to expose patrons to fragranced substances
12 (including carcinogenic and/or other hazardous air pollutants, and particulate matter).

13 ***Representative Plaintiff Nancy Copley***

14 19. Representative Plaintiff Nancy Copley is a natural person with a physical condition
15 which renders this individual unable to patronize, visit and/or enjoy the full and equal access to
16 Defendant’s Facilities—so long as this facility continues to expose patrons to fragranced substances
17 (including carcinogenic and/or other hazardous air pollutants, and particulate matter).

18 **Allegations By All Representative Plaintiffs**

19 20. At all relevant times, Representative Plaintiffs suffer and continue to suffer from
20 chemical sensitivities and, when exposed to fragrance, are substantially limited in their ability to
21 concentrate and/or breathe—which unquestionably constitute major life functions. Consequently,
22 Representative Plaintiffs are “physically disabled,” as defined by all applicable California and
23 United States laws, and a member of the public whose rights are supposed to be protected by these
24 laws. Like all Class members, when Representative Plaintiff are exposed to fragrance, they
25 experience symptoms such as respiratory problems, headaches, skin irritation, and
26 gastrointestinal, cardiovascular and cognitive problems. Representative Plaintiffs must, therefore,
27 avoid Synthetic fragranced consumer products at all costs so as to avoid experiencing adverse
28 reactions.

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 21. Moreover, identical to the *physical and emotional* impact fragrance use in various
2 businesses (including Defendant’s Facilities) has on Representative Plaintiffs and Class members,
3 use of fragrance has a significant *economic* impact on each of them, in that:

- 4 a. Representative Plaintiffs (like all Class members) will avoid, in most
5 instances, business establishments where Synthetic fragranced consumer
6 products are used and/or will seek to avoid certain public areas where
7 fragrance is used;
- 8 b. Representative Plaintiffs (like all Class members) spend a considerable
9 amount of time researching which business facilities Representative
10 Plaintiffs might safely and fully visit and enjoy, so as to avoid coming into
11 contact with fragrance;
- 12 c. Representative Plaintiffs (like all Class Members) spend a considerable
13 amount of time pleading with representatives of fragranced businesses not
14 to apply fragrance in, at least portions of, those business’ facilities, such that
15 Representative Plaintiffs might enjoy the same benefits as non-disabled
16 persons;
- 17 d. Representative Plaintiffs (like all Class members) inadvertently travel to
18 businesses using fragrance just to be, effectively, turned away and unable
19 to patronize them, oftentimes at considerable expense, embarrassment and
20 inconvenience;
- 21 e. Representative Plaintiffs (like all Class members) are limited in
22 Representative Plaintiffs’ advantages, freedoms and opportunities to
23 interact with family, friends, business associates, etc. who may wish to meet
24 the Representative Plaintiffs at fragranced businesses (e.g., restaurants,
25 offices, movie theaters, and other social establishments).

18 22. As such, one can quickly see that use of fragrance is not merely physiologically
19 debilitating, but also socially, reputationally and economically limiting, and not just to those
20 persons who possess the specific disability.

21 23. As used throughout this Complaint, the terms “Class members” refers to the
22 named/representative Plaintiffs as well as each and every person eligible for membership in the
23 Class, as described and defined below.

24 24. The Plaintiff Class consists of all chemically sensitive/disabled persons who have
25 attempted to visit and/or patronize Defendant’s Facilities and been exposed, in some way, to
26 chemical substances (including carcinogenic and/or other hazardous air pollutants, and particulate
27 matter) and/or who have avoided such interactions with Defendant’s Facilities as a result of the
28 release/use of fragranced substances by Defendant.

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 25. At all times herein relevant, the Representative Plaintiffs, and each of them, were
2 and now are persons within the Class of persons described and defined herein.

3 26. Representative Plaintiffs bring this action on behalf of Representative Plaintiffs,
4 individually, and as a class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure, on
5 behalf of all persons similarly situated and proximately harmed by the unlawful conduct described
6 herein.

7
8 **DEFENDANT**

9 27. Defendant Loews Corporation is a business that maintains hotel facilities, open to
10 the public, and its operations significantly affect interstate commerce. Defendant’s Facilities are,
11 therefore, a public accommodation, as defined by applicable state and federal laws.⁹

12 28. Defendant Loews Hotels Holding Corporation is a wholly-owned subsidiary of
13 Defendant Loews Corporation.¹⁰

14 29. The true names and capacities of persons or entities, whether individual, corporate,
15 other business enterprise, or otherwise, who may be responsible for some of the claims alleged
16 here are currently unknown to Representative Plaintiffs. Representative Plaintiffs will seek leave
17 of court to amend this Complaint to reflect the true names and capacities of such responsible parties
18 when their identities become known.

19 30. Notwithstanding any specific attention toward and/or allegations against the
20 particular location(s) of Defendant, whether identified herein and/or in subsequent iterations of
21 this pleading, this class action seeks remedies, as set forth below, against all of Defendant’s
22 locations in the United States. Representative Plaintiffs reserve the right to amend this pleading to
23 add all parties that exercise control over the environmental conditions (e.g., including the
24 introduction and use of fragrance in those Facilities) of Defendant’s locations in the United States.

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⁹ See, e.g., 42 U.S. Code § 12182.
¹⁰ <https://www.loewshotels.com/faqs> (last accessed June 9, 2026).

CLASS ACTION ALLEGATIONS

31. Representative Plaintiffs bring this action pursuant to the provisions of Rule 23(a) and Rule 23(b)(1), Rule 23(b)(2) and/or Rule 23(b)(3) of the Federal Rules of Civil Procedure, individually, and on behalf of the following Class:

All chemically sensitive (disabled) persons residing within the United States of America who, as a result of their disabled status, and due to Defendant’s use of Synthetic fragranced consumer products, were denied safe, full and equal access and enjoyment to/of Defendant’s Facilities, and hereby seek to enjoin Defendant (as set forth the Prayer for Relief herein) from using Synthetic fragranced consumer products at Defendant’s Facilities.

32. Excluded from the Class are the following individuals and/or entities: Defendant and Defendant’s parents, subsidiaries, affiliates, officers and directors and any entity in which Defendant has a controlling interest, all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out, any and all federal, state or local governments, including, but not limited to, its departments, agencies, divisions, bureaus, boards, sections, groups, counsel and/or subdivisions, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

33. Representative Plaintiffs reserve the right to amend the above definitions and/or to propose subclasses in subsequent pleadings and the anticipated motion for class certification. The “Plaintiff Class,” the “Class members” or, simply, the “Class,” where such collective terms are used in this pleading, shall refer to the proposed Class and/or Class members in the aggregate, without limitation beyond the exclusions identified in the preceding paragraph.

34. This action has been brought and may properly be maintained as a class action under Federal Rules of Civil Procedure Rule 23 because there is a well-defined community of interest in the litigation and membership in the proposed Class is easily ascertainable.

a. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy. The members of the Plaintiff Class are so numerous that joinder of all members is impractical, if not impossible. Membership in the Class will be determined by analysis of Defendant’s records.

b. Commonality: Representative Plaintiffs and Class members share a community of interest in that there are numerous common questions of fact and law, including, but not necessarily limited to:

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

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- 1) The duties of care and requirements imposed by law upon Defendant and whether Defendant breached those duties;
 - 2) Whether Defendant’s Facilities constitute place(s) of public accommodation, pursuant, e.g., to the Americans with Disabilities Act (e.g., 42 U.S.C. § 12182(a));
 - 3) Whether Defendant, by its use of fragranced compounds, impairs Representative Plaintiffs and Class members, either regularly or episodically, thereby substantially limiting one or more major life activities;
 - 4) Whether Defendant’s use of fragranced compounds in commercial quantities has discriminated against and/or denied disabled segments of the population the safe, full and equal access to and/or enjoyment of Defendant’s Facilities;
 - 5) The toxicological properties of the various chemical substances described herein and/or their breakdown products;
 - 6) Whether Defendant is liable for payment of Representative Plaintiffs’ counsel’s attorneys’ fees and costs under the Americans with Disabilities Act; and
 - 7) Whether injunctive, corrective and/or declaratory relief and/or an accounting is/are appropriate.
- c. Typicality: Representative Plaintiffs’ claims are typical of the claims of the Class. Representative Plaintiffs and all members of the Class suffered harms arising out of and caused by Defendant’s common course of conduct in violation of law, as alleged herein.
- d. Adequacy of Representation: Representative Plaintiffs in this class action are adequate representatives of the Class in that the Representative Plaintiffs have the same interest in the litigation of this case as the remaining Class members, are committed to vigorous prosecution of this case and have retained competent counsel experienced in conducting litigation of this nature. Representative Plaintiffs are not subject to any individual defenses unique from those conceivably applicable to other Class members. Representative Plaintiffs anticipate no management difficulties in this litigation.
- e. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member makes or may make it impractical for members of the Plaintiff Class to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought by each individual member of the Plaintiff Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants. The prosecution of separate actions would also create a risk of inconsistent rulings which might be dispositive of the interests of the Class Members who are not parties to the adjudications and/or may substantially impede their ability to adequately protect their interests

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 35. Class certification is proper because the questions raised in this Complaint are of
2 common or general interest affecting numerous persons, such that it is impracticable to bring all
3 Class members before the Court.

4 36. The Class is also appropriate for certification because Defendant has acted or
5 refused to act on grounds generally applicable to all Class members, thereby requiring the Court’s
6 imposition of uniform relief to ensure compatible standards of conduct toward Class members and
7 making final injunctive relief appropriate with respect to the Class. Defendant’s policies and
8 practices challenged herein apply to and affect those Class members uniformly and Representative
9 Plaintiffs’ challenge of these policies and practices hinges on Defendant’s conduct with respect to
10 the Class, not on facts or law applicable only to Representative Plaintiffs.

11 37. Unless a Class-wide injunction is issued, Defendant may continue to improperly
12 put in jeopardy and/or harm Class members’ health, safety and rights, and Defendant may continue
13 to act unlawfully, as set forth in this Complaint.

14 38. Further, Defendant has acted or refused to act on grounds generally applicable to
15 all Class members and, accordingly, final injunctive or corresponding declaratory relief with
16 regard to the Class members of the Class is appropriate under Rule 23(b)(1), Rule 23(b)(2) and/or
17 Rule 23(b)(3) of the Federal Rules of Civil Procedure.

18

19 **FRAUDULENT CONCEALMENT/TOLLING**

20 39. To the extent Defendant affirmatively concealed from Representative Plaintiffs and
21 Class members that Defendant was releasing toxic chemicals and particulates and/or concealed the
22 effects of these toxic chemicals and particulates, the time within which such legal action must be
23 brought was tolled. Representative Plaintiffs aver that Defendant, at all times, had full knowledge
24 of the dangerous nature of said compounds and permitted same to continue unabated for years.

25 40. Defendant had, at all times, a duty to inform Representative Plaintiffs and Class
26 members of the dangers posed by these toxic chemicals and particulates. Specifically, Defendant
27 knew and/or should have known (either by questioning its fragranced product suppliers, its own
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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 review of the available literature/studies¹¹ about fragrance, indeed even attention to the
2 proliferation of anti-fragrance activism groups and media ads promoting “fragrance free” products)
3 that Synthetic fragranced consumer products contain as many as dozens of volatile compounds
4 derived from petrochemicals—which are dangerous to all persons, and are especially dangerous
5 to persons possessing particular disabilities.

6 41. Despite the ability of Synthetic fragranced consumer products to, in many
7 occasions, mask mold and other unpleasant smells which Defendant may not want its visitors to
8 notice, Defendant maintained an obligation to research, discover and disclose to everyone the
9 toxic properties of Synthetic fragranced consumer products used in Defendant’s Facilities.

10 42. In many situations, Class members could not have reasonably discovered the toxic
11 nature of these chemicals and particulates or Defendant’s attempts to avoid disclosure of it. Thus,
12 the running of any applicable statutes of limitation, in those situations, has been tolled with respect
13 to any claims that Class members could have brought as a result of the unlawful or fraudulent
14 course of conduct described herein.

15 43. In addition, Defendant is estopped to plead any statute of limitations to the extent
16 it failed to disclose facts that it was obligated to disclose concerning its Facilities. Had Class
17 members been aware of the facts which Defendant misrepresented and concealed (i.e., the toxic
18 nature of those compounds it introduced into its facilities), Class members likely would have

19 _____
20 ¹¹ See, collecting footnotes throughout this pleading (e.g., fn. 19, *infra*); see also,
21 <https://link.springer.com/article/10.1007/s00420-007-0282-0>);
22 [https://www.govinfo.gov/content/pkg/GOVPUB-L41-PURL-gpo9380/pdf/GOVPUB-L41-](https://www.govinfo.gov/content/pkg/GOVPUB-L41-PURL-gpo9380/pdf/GOVPUB-L41-PURL-gpo9380.pdf)
23 [PURL-gpo9380.pdf](https://www.govinfo.gov/content/pkg/GOVPUB-L41-PURL-gpo9380/pdf/GOVPUB-L41-PURL-gpo9380.pdf); Duties of employers and employees (29 U.S.C. § 654); Fragrance
24 Sensitivities Raise Bouquet of Legal Issues ([https://www.shrm.org/topics-tools/employment-law-](https://www.shrm.org/topics-tools/employment-law-compliance/fragrance-sensitivities-raise-bouquet-legal-issues)
25 [compliance/fragrance-sensitivities-raise-bouquet-legal-issues](https://www.shrm.org/topics-tools/employment-law-compliance/fragrance-sensitivities-raise-bouquet-legal-issues)); “Fragrance Disclosure”;
26 Campaign for Safe Cosmetics (a program of Breast Cancer Prevention Partners) (*see*,
27 <https://www.safecosmetics.org/resources/health-science/fragrance-disclosure/>); see also;
28 Steinemann AC, et al. (2010). *Fragranced consumer products: Chemicals emitted, ingredients unlisted*. *Environ. Impact Asses. Rev.*, doi:10.1016/j.eiar.2010.08.002; Ayuk-Takem L, Amissah F, Aguilar B, Lamango N. (2014). *Inhibition of polyisoprenylated methylated protein methyl esterase by synthetic musks induces cell degeneration*. *Environmental Toxicology*, 29(4), pp. 466-477; Congress, U. S. (1990). *Office of Technology Assessment, Neurotoxicity: Identifying and controlling poisons of the nervous system*. OTA-BA-436. Washington, DC: US Government Printing Office.

1 commenced suit against Defendant before the running of any statute of limitations alleged to be
2 applicable to this case.

3

4

COMMON FACTUAL ALLEGATIONS

5

The Nature and Harm of Synthetic Fragrance

6

44. Contrary to popular belief, most exposure to hazardous pollutants which affect
7 human health and well-being occurs indoors. A primary source of these indoor pollutants and
8 exposures is Synthetic fragranced consumer products.

9

45. As detailed above, Synthetic fragranced consumer products are complex mixtures
10 of dozens of volatile compounds, most of which being derived from petrochemicals. Synthetic
11 fragranced consumer products are oft-used in, e.g., hotels, older retail establishments, business in
12 high humidity areas to mask odors including dangerous mold (such as where mold has
13 accumulated in the HVAC ductwork or in carpeted areas) and to promote a signature smell.

14

46. However, despite any popularity it might possess, Synthetic fragranced consumer
15 products can and often do emit hundreds of volatile organic compounds (VOCs) including
16 asthmagens and hazardous air pollutants. Indeed, in gas chromatography/mass spectrometry
17 analyses of Synthetic fragranced consumer products, the most commonly emitted compounds
18 were toxic chiral terpenes (e.g., limonene, alpha-pinene, and beta-pinene). Comparing emissions
19 from fragranced and fragrance-free versions of the same products proves this: chiral terpenes are
20 detected in fragranced versions but not in fragrance-free versions. In addition to being primary
21 pollutants, these terpenes react with ozone in the ambient air to generate secondary pollutants such
22 as formaldehyde.

23

47. Fragrance itself is a known respiratory irritant and neurological toxin, and roughly
24 one-third of people in the United States experience noticeable adverse health effects from
25 Synthetic fragranced consumer product exposure, whether these individuals' make the exposure-
26 harm association or not. The problem with Synthetic fragranced consumer products is not the
27 particular *scent* itself (which, to some people, may seem pleasing) but the *properties of synthetic*
28 *chemicals* from which that scent is derived, such as petroleum or coal tar. Fragranced consumer

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 products emit volatile organic compounds (VOCs) that can react with oxidants in indoor air, such
2 as ozone, to form secondary pollutants, including formaldehyde, acetaldehyde, ultrafine particles,
3 and secondary organic aerosols. Indeed, almost one-third of the chemical additives used in perfume
4 are known to be toxic—not a surprise since, over the last half century, 80-90% of fragrances have
5 been synthesized from petroleum, a percentage which some scientists estimate as being as high
6 today as 95%.¹²

7 **Everyone is Susceptible to Harm from Fragrance**

8 48. 34.7% of Americans report immediately noticeable adverse health effects when
9 exposed to Synthetic fragranced consumer products¹³ such as those piped in through Defendant’s
10 HVAC system through its use of SDMs, portable versions thereof, ultrasonic, nebulizing,
11 evaporative (e.g., reed diffusers using essential oils), heat and/or fan diffusers and/or fragrance
12 wall plug-ins (or a combination thereof), and it should come as no surprise: again, studies show
13 that over 95% of chemicals found in Synthetic fragranced consumer products derive from
14 petrochemicals including benzene derivatives, aldehydes and phthalates—all of which are highly

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20 ¹² “See, Chapter 13 - Nanomaterials in fragrance products (“According to the report of National
21 Academy of Sciences 95% of chemicals used in synthetic fragrances are derived from petroleum
22 and include benzene derivatives, aldehydes, toluene, and many carcinogenic compounds.”)
([https://www.sciencedirect.com/topics/materials-
23 science/fragrance?_cf_chl_tk=fX6nPaYRMXvXRtj9iYIQf6mfMqOus8wCu2AFq188FzQ-
1772471618-1.0.1.1-6H15dxsE777RmJsZJcmE32kSCwRccejN1Pzh.pY3_GA](https://www.sciencedirect.com/topics/materials-science/fragrance?_cf_chl_tk=fX6nPaYRMXvXRtj9iYIQf6mfMqOus8wCu2AFq188FzQ-1772471618-1.0.1.1-6H15dxsE777RmJsZJcmE32kSCwRccejN1Pzh.pY3_GA)).

24 ¹³ Endocrine-disrupting chemicals (EDCs) are natural or human-made chemicals that may
25 mimic, block, or interfere with the body’s hormones, which are part of the endocrine system.
26 These chemicals are associated with a wide array of health issues. According to the Endocrine
27 Society, 1,000 or more human-made chemicals could be endocrine disruptors (e.g., Atrazine,
28 Bisphenol A (BPA), Phthalates and Triclosan). Also, while unnecessary to show that injunctive
relief and/or the statutory damages available pursuant to the Unruh Civil Rights Act are
warranted here, it is worthy to note that numerous sources link fragrance to the onset of asthma
symptoms (See, [https://www.ewg.org/news-and-analysis/2017/12/avoiding-common-household-
asthma-triggers](https://www.ewg.org/news-and-analysis/2017/12/avoiding-common-household-asthma-triggers)).

1 toxic—the latter being a known endocrine disruptor¹⁴ and, the others, potential carcinogens (e.g.,
2 leading to breast cancer)¹⁵ and/or being linked to birth defects.¹⁶

3 49. A depiction of ordinary fragrance composition appears in Figure 1, below:

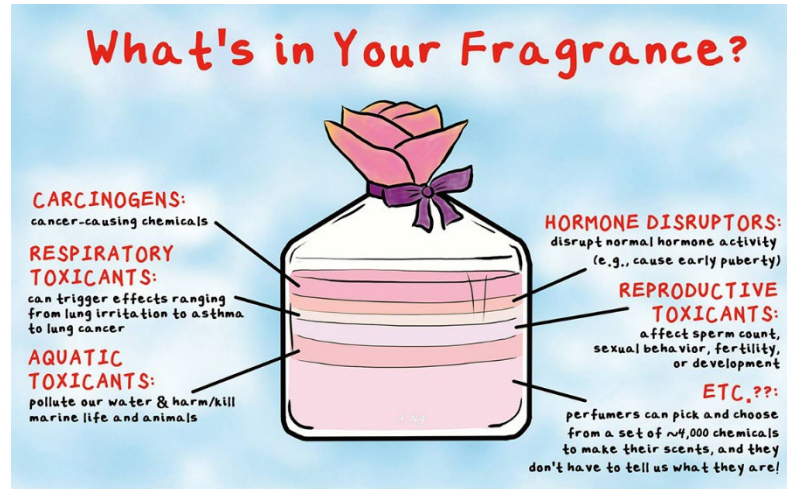


Figure 1: c/o Breast Cancer Prevention Partners

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

14 According to one environmental organization, about 75% of all products containing ‘fragrance’ contain **phthalates**, which are particularly dangerous for women of childbearing age, with endocrine disruption leading to birth defects or developmental disorders. *See, e.g.,* Zarean, M., Davoodi, S., Keikha, M., *et al.* Maternal exposure to specific endocrine-disrupting chemicals and gestational diabetes mellitus: systematic review and meta-analysis. *Sci Rep* 15, 23487 (2025). (<https://doi.org/10.1038/s41598-025-05049-2>); Synthetic Endocrine Disruptors in Fragranced Products | MDPI (<https://www.mdpi.com/2673-396X/5/3/27>); Right to Know: Exposing toxic fragrance chemicals in beauty, personal care and cleaning products (https://bcpp.org/wp-content/uploads/2018/09/BCPP-Right-to-Know-Secret-Toxic-Fragrance-Chemicals-Report_Executive-Summary_26-Sep-2018.pdf).

15 *See*, <https://www.bcpp.org/resource/fragrance/> (“IFRA’s 2011 published list of 4,000 possible fragrance ingredients used to formulate fine fragrances, fragranced cosmetics and personal care products includes chemicals listed as carcinogens by California’s Prop. 65 Program and the National Toxicology Program (NTP) such as benzophenone, methyleugenol and styrene [...] BCPP’s Right to Know report test of 100 personal care products and 40 cleaning products revealed the possible carcinogens beta-myrcene, benzophenone, and DEHP and endocrine disrupting compounds including DEP, oxybenzone, octinoxate and galaxolide).

16 *See*, <https://oehha.ca.gov/proposition-65/proposition-65-list>; *See also*, Breast Cancer Prevention Partners “Fragrance Disclosure” at <https://www.safecosmetics.org/resources/health-science/fragrance-disclosure/> (“...the scientific literature and previous product testing indicated that fragranced products contained chemicals linked to cancer, birth defects, hormone disruption and other adverse health effects.”).

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 50. Studies also reveal that Synthetic fragranced consumer products can emit hundreds
2 of different volatile organic compounds (VOCs), some as “primary pollutants,” and others that
3 react with the ambient air to generate “secondary pollutants” such as formaldehyde and
4 acetaldehyde¹⁷ (both compounds considered potentially toxic or hazardous under federal law as
5 well as California’s “Proposition 65” (i.e., the Safe Drinking Water and Toxic Enforcement Act
6 of 1986; California Health & Safety Code §§ 25249.5, *et seq.*).

7 51. According to one survey, roughly a dozen compounds commonly found in
8 fragrances appear on The Office of Environmental Health Hazard Assessment’s Proposition 65
9 Carcinogens and Reproductive Toxicants list.¹⁸ Another survey revealed that 54 compounds
10 commonly found in fragrances appeared on the California Department of Toxic Substances
11 Control Candidate Chemical List.¹⁹ The United States Environmental Protection Agency has
12 further concluded that some compounds commonly found in fragrances (e.g., synthetic musk) were
13 “toxicologically significant.” Synthetic fragranced consumer products, in particular, are extremely
14 pervasive, lodging themselves not only in the bloodstream but also in breast milk and fat-storing
15 tissue. When fragrances hit the air, they break down, mix with other pollutants and form new
16 compounds—ones often more irritating and allergenic than the original fragrance.

17 52. Various national and multi-nation studies have examined the prevalence of
18 fragrance sensitivity and the results are staggering:

- 19 • 26.8% of adults suffer from asthma/asthma-like conditions and, according to
20 one study, 57.8% of them reported adverse health effects from exposure to Synthetic fragranced
21 consumer products, and 62.8% reported being further disabled (e.g., lost work time and/or a job)
22 thereby.²⁰ 39.7% of this sub-population report that they want to leave a business as quickly as
23 possible after entering it if they smell air fresheners or Synthetic fragranced consumer products,

24 _____
25 ¹⁷ Acetaldehyde, which can be both a primary and secondary product of air fresheners and air
26 dispersion units, is associated with both acute and chronic hazards to the respiratory tract and is
27 classified as a carcinogenic hazardous air pollutant in the United States.

28 ¹⁸ See, <https://oehha.ca.gov/proposition-65/proposition-65-list>.

¹⁹ See, <http://www.womensvoices.org/2015/12/10/toxic-chemicals-found-in-fragrance/>.

²⁰ See, <https://www.law.cornell.edu/uscode/text/42/12102>; <https://doi.org/10.1007/s11869-019-00693-w>.

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 and 43.9% of them have been prevented from going someplace simply because they predict they
2 would be exposed to Synthetic fragranced consumer products that would make them sick;²¹

3 • 27.5% of American adults suffer from Chemical Sensitivity²² and/or Multiple
4 Chemical Sensitivity (“MSC”). According to one study, 78.9% of this vulnerable sub-population
5 reported adverse health effects from exposure to Synthetic fragranced consumer products. Results
6 also found that 28.6% of individuals with Chemical Sensitivity have lost workdays or a job, in
7 the past year, due to exposure to Synthetic fragranced consumer products in the workplace;²³

8 • 34.7% of adult Americans suffer from Fragrance Sensitivity²⁴ with or without
9 an asthma diagnosis;

10 • 4.3% of the American population suffers from Autism/ASDs, of which 79.6%
11 also report suffering from Chemical Sensitivity and 83.7% from Fragrance Sensitivity;

12 • Asthma, Chemical Sensitivity, and Multiple Chemical Sensitivity are
13 considered “disabilities”²⁵ for purposes of the Americans with Disabilities Act, as well as pursuant
14 to various states’ laws, such as California Government Code Section 12926(m)(1).

15 _____
16
17 ²¹ International prevalence of chemical sensitivity, co-prevalences with asthma and autism, and
18 effects from fragranced consumer products (<https://link.springer.com/article/10.1007/s11869-019-00672-1>); Hundreds of millions of people globally suffering from fragrance allergies. *See*,
19 Schnuch, A., Lessmann, H., Geier, J., Frosch, P. J. and Uter, W. (2004) Contact allergy to
20 fragrances: Frequencies of sensitization from 1996 to 2002. Results of the IVDK. Contact
21 Dermatitis. Vol. 50. pp. 65-76. 2004. Schafer, T., Bohler, E., Ruhdorfer, S., Weigl, L., Wessner,
22 D. Filipiak, B., Wichmann, H.E. and Ring, J. (2001) Epidemiology of contact allergy in adults.
Allergy. Vol. 56. pp: 1999- 1996. 2001; *see also*, Simonsen, A.B., Deleuran, M. Johansen, J. D.
and Sommerlund, M. (2011) Contact allergy and allergic contact dermatitis in children — a
review of current data. Contact Dermatitis. Vol. 65. Pp: 254-265. 2011.

23 ²² Chemical Sensitivity and/or Multiple Chemical Sensitivity are medical conditions
24 characterized by adverse health effects from exposure to common chemical pollutants and
products. Multiple Chemical Sensitivity: A 1999 Consensus
(<https://www.tandfonline.com/doi/abs/10.1080/00039899909602251>).

25 ²³ Weinberg J.L., Flattery J, Harrison R (2017) Fragrances and work-related asthma—California
26 surveillance data, 1993–2012. J Asthma:1–10.

27 ²⁴ “Fragrance sensitivity” is a health condition characterized by adverse effects from exposure
to fragranced consumer products. *See, e.g.*, <https://askjan.org/disabilities/Fragrance-Sensitivity.cfm>.

28 ²⁵ 42 U.S. Code §§ 12102 (<https://www.law.cornell.edu/uscode/text/42/12102>).

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 53. Exposure to fragrance can cause such symptoms as (a) migraine headaches, (b)
2 asthma attacks, (c) neurological problems (e.g., dizziness, seizures, head pain, fainting, loss of
3 coordination), (d) respiratory problems (e.g., difficulty breathing, coughing, shortness of breath),
4 (e) skin problems (e.g., rashes, hives, red skin, tingling skin, dermatitis),²⁶ (f) cognitive problems
5 (e.g., difficulties thinking, concentrating, confusion or memory recall), (g) mucosal symptoms
6 (e.g., watery or red eyes, nasal congestion, sneezing), (h) immune system problems (e.g., swollen
7 lymph glands, fever, fatigue), (i) gastrointestinal problems (e.g., nausea, bloating, cramping,
8 diarrhea), (j) cardiovascular problems (e.g., fast or irregular heartbeat, jitteriness, chest
9 discomfort) and (k) musculoskeletal problems (e.g., muscle or joint pain, cramps, weakness).²⁷

10 54. Even for persons not experiencing immediately noticeable physical reactions to
11 fragrance inhalation/contact, visitors of various business facilities experience an annoyance and
12 an unwanted touching (which also constitutes a battery) from fragranced compounds/particulates,
13 emotional distress, long lasting migraines, a loss of smell and taste (these latter effects being
14 particularly frustrating for persons visiting, e.g., restaurants, wineries, etc. Indeed, the longer a
15 person is in the presence of fragrance, the duller that individual’s olfactory sense of it becomes.

16 **Organizational Reactions to Fragrance**

17 55. While still prevalent in some workplaces, restaurants, hotels and other public
18 accommodations, many organizations and governmental agencies have taken and continue to take
19 bold steps toward eradicating toxic fragrances in their own workplaces, are adopting fragrance-
20 free policies, and some are even offering guidance to other entities regarding how to follow suit.

21 56. For example, the United States Department of Health & Human Services issued an
22 Indoor Environmental Quality Policy prohibiting Synthetic fragranced consumer products and
23

24 _____
25 ²⁶ According to the American Academy of Dermatology (AAD), fragrances are considered the
26 leading cause of cosmetic contact dermatitis
27 (<https://www.webmd.com/allergies/features/fragrance-allergies-a-sensory-assault#1>). As a health
28 problem, fragrance sensitivity affects millions of people, and studies suggest that sensitivity is on
the rise. Moreover, fragrances were named “allergen of the year” for 2007 by the American
Contact Dermatitis Society.

²⁷ See, <https://link.springer.com/article/10.1007%2Fs11869-017-0536-2>.

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 | fragrance-emitting devices in all interior space owned, rented, or leased by the Centers for Disease
2 | Control and Prevention nationwide. As that policy explains,

3 | “[v]olatile organic compounds (VOCs) are certain organic chemicals that are
4 | emitted as gases, often having short- and long-term adverse health effects (see
5 | definition in 40 C.F.R. 51.100 (s)). To the fullest **extent** feasible, products (such as
6 | fragrances) emitting VOCs are prohibited at all times in all interior space owned,
7 | rented, or leased by CDC. Moreover, fragranced products and fragrance-emitting
8 | devices of any kind are prohibited at all times in all interior space owned, rented,
9 | or leased by CDC. Fragrance is not appropriate for a professional work
10 | environment, and the use of some products with fragrance may be detrimental to
11 | the health of workers with chemical sensitivities, allergies, asthma, and chronic
12 | headaches/migraines.”²⁸

13 | 57. Similarly, other governmental²⁹ and private entities,³⁰ both within the United States
14 | and abroad, with high subject matter expertise on the topic have increasingly condemned fragrance
15 | use in the workplace, recognizing, instead, the need to adopt clean, fragrance-free environments
16 | for citizens and workers.³¹ Indeed, the simple act of watching television these days—and noting
17 | the uptick in “fragrance fee” advertisements—makes obvious the growing awareness of Synthetic

18 | _____
19 | ²⁸ See, [https://www.chemicalsensitivityfoundation.org/pdf/CDC-2009-Indoor-Environmental-
20 | Quality-internal-policy542.pdf](https://www.chemicalsensitivityfoundation.org/pdf/CDC-2009-Indoor-Environmental-Quality-internal-policy542.pdf).

21 | ²⁹ Representative Plaintiff reserves the right to amend this Complaint to allege a violation of
22 | California Health & Safety Code §§ 10895, *et seq.* (a.k.a., the Cleaning Product Right to Know
23 | Act of 2017), to the extent that further discovery reveals the fragranced products released by
24 | Defendant constitutes “Air care product(s)” (§108952(a)). Representative Plaintiff further
25 | reserves the right to amend this Complaint to allege a violation of the Safe Drinking Water and
26 | Toxic Enforcement Act of 1986 (California Health & Safety Code §§ 25249.5, *et seq.*), a.k.a.,
27 | “Proposition 65.”

28 | ³⁰ American Lung Association Sample Fragrance Free Policy for employers at
29 | <http://action.lung.org/site/DocServer/fragrance-free-workplace.pdf>.

30 | ³¹ A keyword search for “fragrance” on the Job Accommodation Network (JAN) of the Office
31 | of Disability Employment Policy yields no fewer than 130 articles on the topic, most of which
32 | discussing how to eradicate fragrances from the workplace and using fragrance-free policies as a
33 | disability accommodation. *See also*, discussion of problems with fragrance exposures in the
34 | workplace (National Institute of Occupational Safety and Health (NIOSH) article, at
35 | <https://www.cdc.gov/niosh/topics/indoorenv/ChemicalsOdors.html>); Canadian Centre for
36 | Occupational Health & Safety statement re: fragrance-free workplaces
37 | (https://www.ccohs.ca/oshanswers/hsprograms/scent_free.html); (Ontario) Occupational Health
38 | and Safety Act, R.S.O. 1990, c. O.1; ss. 25(1), 28 and 29; Massachusetts Nurses Association
39 | fragrance free policy sheet ([https://www.massnurses.org/health-and-safety/articles/chemical-
40 | exposures/p/openItem/1346](https://www.massnurses.org/health-and-safety/articles/chemical-exposures/p/openItem/1346)). *See, generally*, Environmental Health Network (<http://ehnc.org/>)
41 | for references to other fragrance-free workplace policies.

1 fragrance’s toxic properties or, at minimum, suggests its annoyance to a large segment, if not the
2 entirety, of the population. Not unlike the long lag time between knowledge of the dangers of
3 second-hand smoke and the resulting smoking bans, the public’s outcry against Synthetic
4 fragranced consumer products has apparently been ignored by Defendant for far too long.

5 **Defendant’s Knowing Operation of Unsafe Facilities**

6 58. Defendant’s release of harmful compounds upon the unsuspecting public is/was
7 also hardly an accident. Large facilities, like that operated by Defendant, generally maintain
8 elaborately zoned HVAC systems, designed to maintain optimal environmental conditions for
9 Defendant’s customers, employees, guests and/or patrons. For those facilities wanting to integrate
10 fragrance into those systems, a number of commercial scent dispersion machines are available to
11 produce a particular (sometimes even “signature”) scent—which (per their marketing pitches)
12 promise to enhance visitors’ experience.

13 59. Some of these devices are depicted in Figure 2, below:



Figure 2: Scent Dispersion Machines

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23 60. The manufacturers of SDMs and/or their partner organizations produce air supply
24 tubes (depicted below) containing concentrated fragrance for use with SDMs. Assisted by the
25 particular facilities’ HVAC system, SDMs and air supply tubes deliver a steady stream of toxic
26 compounds to pre-selected zones within the facilities.

27 61. At Defendant’s Facilities, either through (a) use of these SDMs or portable versions
28 thereof, (b) ultrasonic, nebulizing, evaporative (e.g., reed diffusers using essential oils), heat and/or

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 fan diffusers and/or (c) fragrance wall plug-ins, these toxic compounds are aimed by Defendant
2 directly at visitors as they walk through Defendant’s Facilities’ front door and/or in other common
3 and private areas. This is intended to trick visitors into associating Defendant’s Facilities with
4 cleanliness by masking odors such as mold, and to suggest that the Facilities’ unique smell is
5 tantamount to Defendant being a unique (and, thus, coveted) company, worthy of Class members’
6 patronage.

7 62. In systems incorporating/utilizing an HVAC system (for more widespread
8 dispersion), a rudimentary depiction of the process is shown in Figure 3, below:

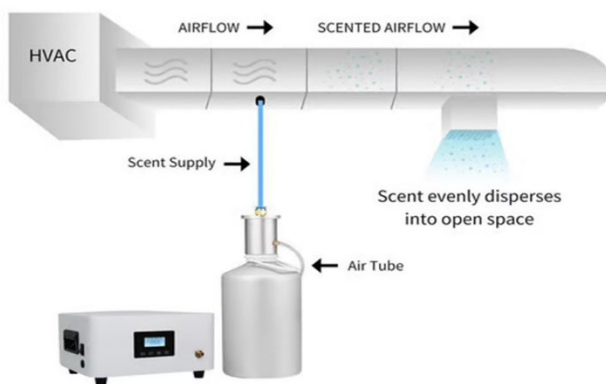


Figure 3: HVAC Dispersion Process

18 63. In systems incorporating/utilizing smaller SDMs (e.g., for narrower dispersion
19 and/or for smaller facility footprints) ultrasonic, nebulizing, evaporative (e.g., reed diffusers using
20 essential oils), heat and/or fan diffusers and/or fragrance wall plug-ins are also available.

21 64. Examples of these alternate devices/systems are depicted in Figure 4, below:



Figure 4: Other Scenting Devices

28

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555 12TH STREET, SUITE 2100
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TEL: (510) 891-9800

1 65. Vis-à-vis this equipment and process, visitors can be assured a dose of toxins
2 purportedly marketed to enhance visitor experience, but likely to cause skin, respiratory,
3 gastrointestinal, cognitive and other harms.

4 66. When used in environments like Defendant’s Facilities the above-depicted
5 equipment and process is often utilized to mask odors such as mold smells (such as where mold
6 has accumulated in the HVAC ductwork or in carpeted areas) and to promote a signature scent.

7 67. Although there are available a multitude of pre-designed/generic scents offered in
8 the form of Synthetic fragranced consumer products, many of the scents are customized for
9 specific clients to enhance their branding.

10 68. A few of these commissioned aromas are depicted in Figure 5, below:³²



17
18
19 69. And yet, while Synthetic fragranced consumer products like these are widely touted
20 as tools for enhancing customer experiences and maximizing corporate profitability, most
21 members of the public do not want fragrance in their workplaces, in hotels, on airplanes and/or in
22

23
24 ³² A marketplace exists for individuals and business wishing to emulate the “signature scents”
25 already in use at, e.g., popular hotels and other providers of goods and services. *See, e.g.*,
26 <https://www.hotelcollection.com/>; <https://aroma360.com/collections/>;
27 <https://signaturescents.com/hotel-fragrances/>; <https://shop.marriott.com/shop/fragrance/>;
28 <https://www.scentiment.com/pages/hotels>. Clearly, the identification alone of a fragrance as a
“signature scent” suggests an endorsement by the initially scent-branded business, not to mention
an association of safety and quality of the fragrance matching the perceived safety and quality of
the scent-branded business.

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555 12TH STREET, SUITE 2100
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TEL: (510) 891-9800

1 other closed areas.³³ As a result, the injunctive relief sought herein, while primarily sought to
2 protect Class members and future visitors and staff of Defendant’s business establishment, satisfies
3 a desire that most people already possess.

4 70. Defendant knew and/or had reason to know of the dangerous conditions it was
5 creating and foisting upon Class members—and of the heightened risks naturally attendant to such
6 conditions, including the foreseeable risk of emotional and physical harm to Class members.

7 71. Having not likely researched in depth the composition of fragrance, the dangers
8 from exposure thereto in Defendant’s Facilities, a reasonable consumer would not expect nor have
9 any way of knowing Defendant was exposing members of the public to compounds so toxic as
10 Synthetic fragranced consumer products. Indeed, a reasonable person would expect that Defendant
11 would not engage in practices dangerous to human health and/or that Defendant would warn them
12 of the potential harms of Synthetic fragrance exposure, especially in closed environments, before
13 luring the public onto its premises and asking them to pay money for Defendant’s
14 products/services.

15 72. Nowhere on any of Defendant’s social media, website, or other advertising
16 platforms is there any mention of the harms of fragrance, vis-à-vis which the public could make
17 informed decisions about whether to access Defendant’s Facilities. What’s more, the fact that
18 Defendant’s use of Synthetic fragranced consumer products in its Facilities is not mentioned at all
19 of its advertising platforms is also evidence that the public is not likely seeking out a fragranced
20 experience when patronizing Defendant’s Facilities. In other words, if use of Synthetic fragranced
21 consumer products was truly perceived by Defendant as a “selling point” to potential customers,
22 both logic and good marketing practice dictate that Defendant would likely make the fragrance
23 feature of its Facilities better known to all people considering patronage thereof.

24

25 ³³ A reported 53.1% of Americans are supportive of fragrance-free policies for workplaces—a
26 number that rises to well over 70% for persons with chemical sensitivity. Among the general
27 population (groups studied in the United States, Australia, United Kingdom and Sweden), if
28 given a choice between staying in a hotel with or without fragranced air, 60.7% of those
surveyed reported they would prefer a hotel without fragranced air. (See,
<https://www.sciencedirect.com/science/article/pii/S0360132319302148?via%3Dihub#sec7>).

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1 73. The fact that many companies sell their “signature scents” in their gift shops, spa
2 centers, through on-line portals, etc. further bolsters the message that fragrance is safe when it is,
3 in fact, not safe.

4 **The Falsity of Defendant’s Advertising and Its Knowledge Thereof**

5 74. On its website, Defendant touts that “all Loews Hotels” offer accessible rooms for
6 guests with disabilities.³⁴ It promises that it is “committed to providing individuals with disabilities
7 equal access to [its] goods, services, and facilities.”³⁵ It further promises that it makes “reasonable
8 modifications to [its] policies, practices, and procedures, and provide[s] [...] services to
9 individuals with disabilities where necessary to access [its] hotels.”³⁶

10 75. As detailed above, Defendant has made and continues to make various
11 representations about the accessibility and quality of its Facilities. These statements are clear and
12 unambiguous: consumers can and should depend on Defendant’s Facilities being safe and
13 accessible to all. Given this, none of the statements made by Defendant could reasonably be
14 considered mere “puffery,” insofar as those representations express specific assertions about a
15 clean and safe environment in its Facilities, available for use by all persons, free of discrimination.
16 The fact that Defendant maintains policies governing security, health and safety (e.g., smoking
17 prohibitions), and privacy reinforces Class members’ perception that Defendant takes all
18 reasonable steps to follow all laws and treat all persons with dignity and fairness.

19 76. Further, Defendant is an experienced and sophisticated employer and proprietor of
20 public accommodations—experienced in managing and operating the Facilities involved in this
21 litigation. On information and belief, Representative Plaintiffs aver that Defendant tested (and/or
22 received information regarding testing results) and/or otherwise evaluated the fragrance
23 compounds at issue prior to introducing them into Defendant’s Facilities. The fact that Defendant
24 may have unilaterally concluded that these chemicals smelled pleasant is no excuse for introducing
25 toxic materials into its Facilities and then failing to tell anyone about them until it is too late to
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27 ³⁴ <https://www.loewshotels.com/faqs> (last accessed June 9, 2026).
28 ³⁵ <https://www.loewshotels.com/accessibility> (last accessed June 9, 2026).
³⁶ *Id.*

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1 avoid their negative consequences. Due to the inherently dangerous nature of these fragranced
2 compounds Defendant purchased and foisted upon its employees and the public, and Defendant's
3 obligation to research the fragrances' potential health risks, Defendant must know its use of
4 fragrance presented substantial health risks to all patrons and workforce members and rendered its
5 Facilities inaccessible to the chemically disabled.

6 77. Incorporation of SDMs and other fragrance systems (even ones as simple as
7 fragrance wall plug-ins or reed diffusers) into building utilities requires consideration for the space,
8 ventilation, and volume of Synthetic fragranced consumer products needed to achieve the
9 Defendant's desired effect. Defendant's selection of a specific fragrance product implies an
10 exchange of information between Defendant and the manufacturer and/or distributor thereof
11 regarding the chemical components and associated safety risks of various fragrance options.

12 78. When Defendant invited Representative Plaintiffs and Class Members onto
13 Defendant's Facilities, it did so with full knowledge of the potential effects of these Synthetic
14 fragrance systems. Indeed, Defendant touted its Facilities as being of safe quality and providing
15 safe, full and equal access and enjoyment to/by all persons when. in fact, said Defendant's
16 Facilities' possessed the defects detailed herein.

17 79. Defendant knew or should have known that the composition of materials used in its
18 Synthetic fragrance diffusion system(s) were inappropriate for exposure to Class Members and
19 had a chilling effect on patronage by the chemically disabled community.

20 80. Defendant's discriminatory conduct was uniform as to all Class Members in that
21 Defendant denied full and equal access and enjoyment thereto and, to those Class Members who,
22 for whatever reason, were compelled to patronize Defendant's Facilities anyway, Defendant's
23 conduct uniformly caused them harm.

24 81. Despite Defendant's knowledge that its Facilities were defective and denied full
25 and equal access and enjoyment to Class Members, Defendant continues to offer dangerous
26 accommodations, services and/or goods.

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The Public’s Reliance on Safe Conditions at Defendant’s Facilities

82. Consumers routinely rely on advertising, including websites and social media posts published by businesses, in making purchasing decisions about that business’ goods and services.

83. Representative Plaintiffs and the Class members were among the intended recipients of Defendant’s deceptive representations and omissions.

84. Defendant’s false, misleading, and deceptive misrepresentations and omissions were intended to deceive and mislead, and are likely to continue to deceive and mislead, Representative Plaintiffs, Class members, reasonable consumers, and the general public.

85. Defendant’s deceptive representations and omissions are material in that a reasonable person would attach importance to such information (e.g., that Defendant operated its Facilities in a non-discriminatory manner) and would be induced to act upon such information in making purchasing decisions. As such, Representative Plaintiffs’ and Class members’ reliance upon such representations and omissions may be *presumed* as a matter of law. The materiality of those representations and omissions also establishes causation between Defendant’s conduct and the injuries sustained by Representative Plaintiffs and Class members.

86. In each situation whereby Class members sought to patronize Defendant’s Facilities, they reasonably relied, to their detriment, on Defendant’s reasonable level of care to ensure the premises were safe for entry. Conversely, in each situation whereby Class members decided not to patronize Defendant’s Facilities due to their knowledge of Defendant’s fragrance use, it was because Class members rightfully elected not to subject themselves to harm. In all such situations, however, Class members were deprived of the right to safe, full and equal access and enjoyment of Defendant’s place of public accommodation.

87. As a direct and proximate result of Defendant’s unfair and wrongful conduct, as set forth herein, and in addition to the unequally accessible condition of Defendant’s Facilities (i.e., for which the injunctive relief is warranted), Representative Plaintiffs and Class members (1) were misled into pursuing and paying for the Defendant’s services and goods, (2) received goods and services that failed to meet their reasonable expectations and Defendant’s promises, (3) were subjected to an experience that was other than what was represented by Defendant and to which

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1 Representative Plaintiffs and Class members did not expect or give informed consent, and/or (5)
2 were subjected to a potential hazard without due notice which they were, therefore, unable to give
3 consent to, and suffered the inherently detrimental effects thereof.

4 88. Defendant, at all times, knew that Representative Plaintiffs and Class members
5 would consider the general safety and adequacy of air quality in Defendant’s Facilities to be
6 material in their purchasing decisions, and would rely upon the misrepresentations and/or
7 omissions of Defendant in those decisions. Defendant’s concealment, misbranding and non-
8 disclosure were intended to influence consumers’ purchasing decisions and were done with
9 reckless disregard for the rights of consumers. Representative Plaintiffs’ and Class members’
10 reliance and resultant substantial monetary loss were reasonably foreseeable by Defendant, as
11 notice of the detrimental health effects of these fragrances is well-documented.

12 89. This action is brought to redress and end Defendant’s pattern of unfair and wrongful
13 conduct. Indeed, without imposition of injunctive relief by this Court, Defendant is likely to
14 continue to injure consumers and harm the public interest.

15 90. In fact, as of the date of filing this Complaint, other businesses across the United
16 States are decommissioning centralized fragrance dispersion from their HVAC systems, adopting
17 fragrance free workplace policies, and are even advertising fragrance free accommodations,
18 services and goods. Even if, during the pendency of this litigation, Defendant elected to remove
19 the fragrance dispersion systems from its Facilities’ HVAC system and/or removed other
20 dispersion devices, Defendant is not *presently* enjoined from and would not be judicially directed
21 against resuming operation of such to, *inter alia*, reduce cleaning costs and labor expenses, hide
22 unpleasant odors to create a false perception of cleanliness and/or to enhance its branding.
23 Accordingly, Representative Plaintiffs seek declaratory and injunctive relief to ensure Defendant
24 has, in fact, removed any and all of the fragrance systems from Defendant’s Facilities, and to
25 prevent Defendant from resuming the use of these Synthetic fragranced consumer products in the
26 future.

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OAKLAND, CA 94607
TEL: (510) 891-9600

1 **For Those Class Members Already Aware of Defendant’s Fragrance Use, They Are Not**
2 **Required to Repeatedly Subject Themselves to Harm to Prove Discrimination**

3 91. As detailed further in this Complaint, the Americans with Disabilities Act provides,
4 at 42 U.S.C. § 12182(a), that:

5 “No individual shall be discriminated against on the basis
6 of disability in the full and equal enjoyment of the goods, services,
7 facilities, privileges, advantages, or accommodations of any place
8 of public accommodation by any person who owns, leases (or leases
9 to), or operates a place of public accommodation.”

10 and, at 42 U.S.C. § 12182(b)(1)(A), that:

11 “(i) It shall be discriminatory to subject an individual or class of
12 individuals on the basis of a disability or disabilities of such
13 individual or class, directly, or through contractual, licensing, or
14 other arrangements, to a denial of the opportunity of the individual
15 or class to participate in or benefit from the goods, services,
16 facilities, privileges, advantages, or accommodations of an entity.

17 (ii) It shall be discriminatory to afford an individual or class of
18 individuals, on the basis of a disability or disabilities of such
19 individual or class, directly, or through contractual, licensing, or
20 other arrangements with the opportunity to participate in or benefit
21 from a good, service, facility, privilege, advantage, or
22 accommodation that is not equal to that afforded to other
23 individuals.; and

24 (iii) It shall be discriminatory to provide an individual or class of
25 individuals, on the basis of a disability or disabilities of such
26 individual or class, directly, or through contractual, licensing, or
27 other arrangements with a good, service, facility, privilege,
28 advantage, or accommodation that is different or separate from that
provided to other individuals, unless such action is necessary to
provide the individual or class of individuals with a good, service,
facility, privilege, advantage, or accommodation, or other
opportunity that is as effective as that provided to others.”

92. Further prohibitions against and definitions of the types of exclusionary conduct by
Defendant are iterated in the Americans with Disabilities Act at 42 U.S.C. §§ 12182(b)(1)(B) and
12182(b)(2)(A).

93. In light of these provisions, Defendant’s violations of law are inherent in its design
and/or use of fragrance in Defendant’s Facilities, independent of whether disabled persons have
already visited same or attempted to visit same. In short, Defendant’s discriminatory conduct exists
by virtue of a fragrance practice that effectively blocks this protected classification (i.e., disabled

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TEL: (510) 891-9800

1 persons) from safe, full and equal access and enjoyment of Defendant’s place of public
2 accommodation. 42 U.S.C. § 12182. Class members need to not subject themselves to personal
3 risk and harm so as to evidence or perfect their rights against this pattern of discrimination.

4 **Representative Plaintiffs and Class Members Suffered Harm, Including Unequal Access to**
5 **Defendant’s Public Accommodations**

6 94. As set forth in detail herein, Representative Plaintiffs and Class members suffered
7 harm as a direct result of Defendant’s actions.

8 95. Defendant’s use of hazardous chemicals constitutes a defect in Defendant’s
9 Facilities which unlawfully limits/prevents equal access thereto for Representative Plaintiffs and
10 Class members. In addition, because of the respiratory harm that actually has and/or will occur due
11 to the presence and exposure to the hazards described herein, there is a serious risk to the long-
12 term health of Representative Plaintiffs and Class members should they knowingly or unwittingly
13 visit Defendant’s Facilities when fragrance is present. Development of asthma and chronic
14 obstructive pulmonary diseases (COPD) have been associated with such exposure, leading to pain,
15 suffering, decreased productivity and unrealized potential.³⁷ To the extent Class members are
16 aware of these associations, their decisions to avoid Defendant’s Facilities are especially
17 legitimate.

18 96. The injuries sustained by Representative Plaintiffs and Class members flow directly
19 from the core common facts surrounding Defendant’s misconduct, including, without limitation:
20 (a) the Synthetic fragranced consumer products are known and/or should be known to Defendant
21 as potentially harming the health of its customers and employees, (b) Defendant’s Facilities were
22 inadequate and, indeed, dangerous, for their intended use at the time they were offered to the public
23 for its use, (c) Defendant does not provide adequate warnings concerning its use of and/or the
24 dangerous nature of Synthetic fragranced consumer products used, (d) Defendant, despite having
25 actual and/or constructive knowledge of the dangerous conditions of its Facilities, failed to provide
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27 ³⁷ Exposure to volatile organic chemicals can cause lifelong respiratory diseases, accompanied
28 by significant challenges to productivity and ability of the affected individual to lead a
meaningful and fulfilling life. See, <https://pmc.ncbi.nlm.nih.gov/articles/PMC7914726/>.

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555 12TH STREET, SUITE 2100
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TEL: (510) 891-9800

1 any public notice or warning and failed to decommission fragrance systems in the defective
2 Facilities, and (e) Defendant failed to provide Facilities accessible to disabled persons.
3 Defendant’s obligations to provide a safe and accessible working environment and/or safe and
4 accessible Facilities to its customers was well known and understood by Defendant at all relevant
5 times.

6 97. Moreover, as detailed above, there is a serious risk of harm to Representative
7 Plaintiffs or Class members who came into contact with airborne Synthetic fragrance chemicals
8 and particulates, independent of their membership in particularly susceptible groups.³⁸

9 **The Injunctive Relief Sought Herein is Timely, and No Other Sufficient Remedy Exists**

10 98. As a result of the practices described above, Representative Plaintiffs and Class
11 members, pursuant to the Americans with Disabilities Act and other statutory schemes discussed
12 herein, are entitled to an Order enjoining such future conduct. Especially in light of the paucity
13 of oversight (e.g., by the Occupational Safety and Health Administration and/or the Food and Drug
14 Administration) of the commercial use of fragrance in places of public accommodations, the
15 public’s general ignorance as to the dangers of fragrance use/exposure, and scent manufacturers’
16 particularly aggressive marketing of their “signature scents,” the injunctive relief requested herein
17 would help to fill a regulatory and legislative void, helping to bring Defendant’s businesses
18 practices into better alignment with the rules governing fragrance use in other nations.

19 99. And yet, even organizations and rule-making bodies in those other nations provide
20 insufficient guidance about the dangers of fragrance and, given their lack of jurisdiction in this
21 country, fail to sufficiently incentivize businesses like Defendant’s Facilities to cease using
22 fragrance in public accommodations in the United States.

23 100. By way of example, the International Fragrance Association (IFRA) is a worldwide
24 organization which represents the interests of the fragrance industry and provides guidance thereto

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27 ³⁸ Inhalation of volatile organic chemicals grossly increases the likelihood of developing
28 chronic respiratory diseases which, in turn, creates a substantial decrease in the ability to work
productively. See, <https://pmc.ncbi.nlm.nih.gov/articles/PMC7914726/>.

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1 but is, admittedly, “[c]reated by the fragrance industry for the fragrance industry”³⁹ and, thus, lacks
2 the neutrality necessary to objectively evaluate and/or curb fragrance use. Even if it did, the IFRA,
3 just like the Modernization of Cosmetics Regulation Act of 2022 (MoCRA),⁴⁰ focuses its work on
4 cosmetics and cosmetic product labeling, and not fragrance use in areas of public accommodation.

5 101. Currently, U.S. cosmetic regulations do not require brands to list individual
6 fragrance allergens on their labels. Thus, allergenic fragrance components—such as limonene,
7 linalool, or citral—may be, and generally are, captured under the single word “Fragrance.” By
8 contrast, the E.U. demands a more transparent approach, requiring many fragrance allergens to be
9 so declared. Thus, in the United States, it remains largely hidden (admittedly, even to some
10 businesses applying fragrance in their public areas) precisely how many dangerous compounds are
11 in any particular fragrance, and designers thereof often argue that such information, especially
12 when their fragrance is bespoke for a particular customer, constitutes a trade secret.

13 102. As a result, while dispersion in public accommodations of fragrance allergens
14 (likely overlapping with E.U.-style lists) may, over time, be categorically banned by FDA edict,
15 expansion of OSHA regulations or otherwise, the injunctive relief sought in this Complaint is
16 immediately necessary for the protection of disabled persons—specifically, in order to guarantee
17 the safe, equal and full access to Defendant’s Facilities by all persons, regardless of disability.

18 **Remediation of Defendant’s Fragranced Environment is Simple and Necessary**

19 103. Near identical forms of relief to that sought in this Complaint have been provided
20 either voluntarily, or have been imposed by law, in the past in analogous situations—not simply
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22 ³⁹ See, <https://ifrafragrance.org/about-ifra>. Nonetheless, some of IFRA’s publications are
23 helpful guidance to the circumstances here to the extent they provide [an albeit conservative]
24 baseline standard for what materials should not be used as fragrance ingredients—and show that
25 this list is growing fast. See, [https://d3t14p1xronwr0.cloudfront.net/docs/Standards-
Documentation/ifra-51st-amendment-index-of-ifra-standards.pdf](https://d3t14p1xronwr0.cloudfront.net/docs/Standards-Documentation/ifra-51st-amendment-index-of-ifra-standards.pdf); see also,
<https://www.fda.gov/media/190319/download?attachment>.

26 ⁴⁰ See, <https://ifrafragrance.org/about-ifra>. Nonetheless, some of IFRA’s publications are
27 helpful guidance to the circumstances here to the extent they provide [an albeit conservative]
28 baseline standard for what materials should not be used as fragrance ingredients—and show that
this list is growing fast. See, [https://d3t14p1xronwr0.cloudfront.net/docs/Standards-
Documentation/ifra-51st-amendment-index-of-ifra-standards.pdf](https://d3t14p1xronwr0.cloudfront.net/docs/Standards-Documentation/ifra-51st-amendment-index-of-ifra-standards.pdf). The Modernization of
Cosmetics Regulation Act of 2022 (MoCRA) is part of the Consolidated Appropriations Act,
2023 (P.L. 117-328).

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555 12TH STREET, SUITE 2100
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TEL: (510) 891-9800

1 for the sake of persons with disabilities, but on behalf of and inuring to the benefit of all persons,
2 with the goal of protecting respiratory health.

3 104. Indeed, just several short years ago, the COVID-19 pandemic brought into sharp
4 and often tragic focus the risks associated with inadequate attention to respiratory health—
5 numerous government agencies and private employers alike thereafter, but often too late to save
6 lives, establishing guidelines—other times, imposing strict mandates—requiring that individuals
7 “social distance,” not touch common surfaces, demand cashless point of purchase transactions,
8 wear face masks, etc.

9 105. Even before the COVID-19 pandemic, OSHA regulations, various state and federal
10 health and safety statutes, and even many private companies’ “best practices” prompted
11 commercial entities of all types to provide workers with eye wear, gloves, ear and skin protection,
12 and masks for employees in workplaces where the type of labor and/or equipment generated
13 excessive dust particles and/or exposed workers and consumers to hazardous chemical compounds
14 (e.g., California “Proposition 65” enumerated compounds), solvents, and bacteria and viruses.

15 106. By way of another (and uncannily similar) example, American businesses of all
16 types have either voluntarily imposed (or been required by law to impose) smoking bans, and
17 state⁴¹ and federal legislative bodies have codified laws prohibiting smoking in countless public
18 environments, including in and around “public accommodations”—these businesses, regulators
19 and legislators having long since recognized and vowed to address the irritants within and dangers
20 associated with first- and second-hand smoke. Indeed, this recognition of the dangers of smoking,
21 along with the willingness and clear ability to ban smoking in public accommodations exemplifies
22 the ease with which Defendant in the instant litigation can and should also eradicate fragrance use
23 in its Facilities.

24 107. Here, e.g., Defendant could easily and inexpensively decommission any fragrance
25 distribution systems it currently utilizes, adopt fragrance free policies for staff and guests, etc.

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28 ⁴¹ See, e.g., 8 CFR § 5148. (<https://www.dir.ca.gov/title8/5148.html>).

1 Indeed, should Defendant wish to enhance its branding, it could even use the adoption of such anti-
2 fragrance measures as marketing tools to attract health conscious individuals.

3 108. Whether Defendant elects to voluntarily take such first steps or not, however—and
4 given fragrance’s dangerous likeness to cigarette smoke, excessive dust, other lung and skin
5 irritants and various other toxic compounds already banned in workplaces and public
6 accommodations—this Court should immediately recognize the need for a permanent injunction
7 stopping Defendant’s use (and prohibiting its reintroduction) of harmful Synthetic fragranced
8 consumer products in its Facilities vis-à-vis, *inter alia*, those actions enumerated in the Prayer for
9 Relief below.

10
11 **FIRST COUNT**
12 **AMERICANS WITH DISABILITIES ACT**
13 **(42 U.S.C. §§ 12101, et seq.)**

14 109. Each and every allegation of the preceding paragraphs is incorporated in this Count
15 with the same force and effect as though fully set forth herein.

16 110. Title III of the Americans with Disabilities Act (“ADA”) holds, as a “general rule,”
17 that no individual shall be discriminated against on the basis of disability in the full and equal
18 enjoyment (or use) of goods, services, facilities, privileges, and accommodations offered by any
19 person who owns, operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

20 111. As detailed above, the sensitivities of Representative Plaintiffs and Class members
21 to (a) the synthetic compounds found in, (b) the secondary pollutants resulting from, and/or (c) the
22 chemicals required to produce fragrance substantially limit one or more major life activities (e.g.,
23 breathing, concentration), as enumerated in 29 C.F.R. § 1630.2(i) and elsewhere. When
24 Representative Plaintiffs and Class members are exposed to fragrance, symptoms such as migraine
25 headaches, nausea, chest tightness, coughing, loss of voice, scratchy throats, rhinitis and
26 concentration difficulties are almost inevitably experienced. Representative Plaintiffs and Class
27 members, as a result, avoid certain public areas and cannot sit in proximity to others wearing
28 fragrance without experiencing adverse and debilitating health reactions.

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

1 112. 42 U.S.C. § 12102(4)(D) provides that “[a]n impairment that is episodic or in
2 remission is a disability if it would substantially limit a major life activity when active.”
3 Furthermore, 42 U.S.C. § 12102(3)(i) provides that: “[t]he determination of whether an
4 impairment substantially limits a major life activity shall be made without regard to the
5 ameliorative effects of mitigating measures such as— (I) medication, medical supplies... .”

6 113. Defendant discriminated against Representative Plaintiffs and Class members by
7 denying them “full and equal enjoyment” and use of the goods, services, facilities, privileges and
8 accommodations of Defendant’s business during each visit and upon each incident of deterrence.

9 Failure to Make an Altered Facility Accessible

10 114. Representative Plaintiffs also allege, on information and belief, that Defendant’s
11 Facilities were substantially modified after January 26, 1993, independently triggering access
12 requirements under the ADA.

13 115. The ADA also requires that facilities altered in a manner that affects (or could
14 affect) its usability must be made readily accessible to individuals with disabilities to the maximum
15 extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility’s primary function
16 also requires making the paths of travel, bathrooms, telephones, and drinking fountains serving
17 that area accessible to the maximum extent feasible.

18 116. As provided in parallel legislation at 29 U.S.C. § 701(a):
19 “Congress finds that— (1) millions of Americans have one or more
20 physical or mental disabilities and the number of Americans with disabilities
21 such disabilities is increasing; (2) individuals with disabilities
22 constitute one of the most disadvantaged groups in society; (3)
23 disability is a natural part of the human experience and in no way
24 diminishes the right of individuals to— (A) live independently; (B)
25 enjoy self-determination; (C) make choices; (D) contribute to
26 society; (E) pursue meaningful careers; and (F) enjoy full inclusion
27 and integration in the economic, political, social, cultural, and
28 educational mainstream of American society.”

25 117. Here, Defendant altered Defendant’s Facilities in a manner (introducing Synthetic
26 fragranced consumer products in Defendant’s Facilities into its HVAC systems and/or by use of
27 commercial SDMs) that violated the ADA and was, thus, not readily accessible to members of the
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555 12TH STREET, SUITE 2100
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TEL: (510) 891-9800

1 physically disabled public—including Representative Plaintiffs and Class members—to the
2 maximum extent feasible.

3 118. And yet, Representative Plaintiffs allege, also on information and belief, that
4 Defendant makes efforts to comply with *other* health-oriented laws such as smoking bans and is,
5 thus, on notice of the dangerous properties of cigarette smoke in the workplace and in public
6 accommodations, and has shown that actions should and can be taken to address those dangers. In
7 short, Defendant has already conceded (i.e., through its ability to forbid/ban smoking) it has the
8 ability, once sufficiently motivated, to cease and desist from unhealthy practices, and can easily
9 do so as well by banning Synthetic fragranced consumer products in Defendant’s Facilities.

10 Failure to Modify Existing Policies and Procedures

11 119. The ADA also requires reasonable modifications in policies, practices and/or
12 procedures, when necessary to afford such goods, services, facilities, or accommodations to
13 individuals with disabilities, unless the entity can demonstrate that making such modifications
14 would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

15 120. Here, Defendant violated the ADA by failing to make reasonable modifications in
16 policies, practices and/or procedures connected to and/or governing Defendant’s Facilities when
17 these modifications were necessary to make available to all persons with disabilities (and would
18 not fundamentally alter the nature of) these goods, services, facilities and/or accommodations.

19 Failure to Maintain Accessible Features

20 121. Defendant, additionally, violated the ADA by failing to maintain in operable
21 working condition those features of Defendant’s Facilities that are required to be readily accessible
22 to and usable by persons with disabilities.

23 122. Such failure by Defendant to maintain Defendant’s Facilities in an accessible
24 condition to disabled persons was not an isolated or temporary interruption in service or access
25 due to maintenance or repairs.

26 123. As a direct and proximate result of the above-described willful and unlawful
27 conduct of Defendant, Representative Plaintiffs and Class members seek injunctive relief,
28 attorneys’ fees and costs available under the ADA. 42 U.S.C. § 12205.

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ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

PRAYER FOR RELIEF

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WHEREFORE, Representative Plaintiffs, individually, and on behalf of each member of the proposed Class, respectfully request the Court enter judgment in favor of Representative Plaintiffs and the Class, and for the following specific relief against Defendant(s) as follows:

1. That the Court declare, adjudge and decree that this action is a proper class action and certify the proposed Class and/or any other currently undefined but appropriate equitable and/or declaratory relief subclasses under Federal Rules of Civil Procedure Rule 23(b)(1) and/or 23(b)(2), including appointment of Representative Plaintiffs’ counsel as Class Counsel;

2. That the Court declare, adjudge and decree that this action is a proper class action and certify the proposed Class and/or any other currently undefined but appropriate damages subclasses under Federal Rules of Civil Procedure Rule 23(b)(3), including appointment of Representative Plaintiffs’ counsel as Class Counsel;

3. That Defendant be found to have violated the Americans with Disabilities Act (42 U.S.C. §§ 12101, *et seq.* as to the Representative Plaintiffs and Class members;

4. For an award of pre- and, subsequently to judgment, post-judgment interest on the amount of any and all economic losses, at the prevailing legal rate;

5. For a permanent injunction enjoining Defendant from dispersing Synthetic fragranced consumer products within its Facilities located within the United States of America, in spaces utilized by Class members and/or the public at large and/or limiting use of fragrance only to areas/rooms specified by customer demand and only after full disclosure thereto of the facts iterated in this pleading;

6. For an Order requiring Defendant to provide a form of corrective advertising to address the misrepresentations, misstatements and/or omissions made in the advertising and other promotional materials related to Defendant’s Facilities;

7. For an Order requiring an accounting for, and imposition of a constructive trust upon, all monies received by Defendant as a result of the unfair, misleading, fraudulent and unlawful conduct alleged herein, such funds to be used for discontinuing and eradicating any aftereffects of the use of Synthetic fragranced consumer products at Defendant’s Facilities;

1 8. For an award of reasonable attorneys’ fees, pursuant to 42 U.S.C. § 12205, and for
2 costs and litigation expenses, as allowed by law; and

3 9. For all other Orders, findings and determinations identified and sought in this
4 Complaint.

5
6 **JURY DEMAND**

7 Representative Plaintiffs, individually, and on behalf of the Plaintiff Class, hereby demand
8 a trial by jury for all issues triable by jury.

9
10 Dated: June 11, 2026

11 By: /s/ Scott Edward Cole
12 Scott Edward Cole, Esq. (CA S.B. #160744)*
13 Laura Grace Van Note, Esq. (CA S.B. #310160)*
14 Mark T. Freeman, Esq. (CA S.B. #293721)*
15 **COLE & VAN NOTE**
16 555 12th Street, Suite 2100
17 Oakland, California 94607
18 Telephone: (510) 891-9800
19 Email: sec@colevannote.com
20 Email: lvn@colevannote.com
21 Email: mtf@colevannote.com
22 Email: LegalDept@colevannote.com

23 *Attorneys for Representative Plaintiffs and the*
24 *Plaintiff Class*

25 **Pro hac vice forthcoming*

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27
28
COLE & VAN NOTE
ATTORNEYS AT LAW
555 12TH STREET, SUITE 2100
OAKLAND, CA 94607
TEL: (510) 891-9800

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