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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10 GENNA RIBAK, on behalf of herself
11 and all others similarly situated,

12 Plaintiff,

13 v.

14 GRANDE COSMETICS, LLC,

15 Defendant.

16 Case No. 2:21-cv-6839

17 **CLASS ACTION COMPLAINT**

18 **(JURY TRIAL DEMANDED)**

1 **CLASS ACTION COMPLAINT**

2 Plaintiff Genna Ribak brings this action on behalf of herself and all others
3 similarly situated against Grande Cosmetics, LLC (“Grande Cosmetics”). Ms. Ribak
4 alleges as follows upon personal knowledge as to herself and her own acts and
5 experiences and, as to all other matters, upon information and belief.

6 **I. NATURE OF ACTION**

7 1. Defendant Grande Cosmetics, an American manufacturer specializing in
8 beauty products, sells GrandeLASH-MD Lash Enhancing Serum, GrandeBROW
9 Brow Enhancing Serum, and GrandeHAIR Enhancement Serum (hereafter, the
10 “Enhancement Serums” or “Products”) without a prescription. Defendants
11 deceptively claim that the Enhancement Serums are safe cosmetics, or “serums,” with
12 no active drug ingredient, and no serious side effects. However, the Enhancement
13 Serums contain the active ingredient isopropyl cloprostenate (“ICP”), which is in the
14 same class of compounds as the active ingredient found in prescription drugs that
15 grows eyelashes, like Latisse. The Food and Drug Administration (“FDA”) associates
16 ICP with potential serious side effects like iris discoloration, and has concluded that
17 ICP lash and brow products are not safe for use except under supervision of a licensed
18 physician.

19 2. Because the Enhancement Serums are drugs within the meaning of Cal.
20 Health & Safety Code §§ 109875, *et seq.*, Grande Cosmetics was required to seek
21 regulatory approval before selling the Enhancement Serums to California consumers.
22 Grande Cosmetics sought no such approval, and instead concocted a scheme to take
23 the Enhancement Serums straight to market by selling them as cosmetics instead of
24 prescription drugs. Even though the Enhancement Serums are an unapproved drug
25 that should never have been available for sale to consumers, Grande Cosmetics
26 unlawfully sold hundreds of thousands of units of the Enhancement Serums to
27 California consumers at around \$65-\$125 apiece.

1 3. Like many other California consumers, Ms. Ribak purchased the
2 Enhancement Serums, GrandeBROW Brow Enhancing Serum and GrandeLASH-
3 MD Lash Enhancing Serum, without knowing it is a new drug with potentially serious
4 side effects not reasonably expected from a cosmetic—including iris discoloration,
5 the development of growths in the eye, and the complete loss of eyelashes. To stop
6 Grande Cosmetics’ sale of unapproved drugs to California residents and to recover
7 monetary relief for similar purchasers, Ms. Ribak brings this action on behalf of
8 herself and similarly situated purchasers in California based on Grande Cosmetics’
9 violation of (1) California’s Unfair Competition Law, Business and Professions Code
10 §§ 17200, *et seq.*, (2) California’s False Advertising Law, Business and Professions
11 Code §§ 17500, *et seq.*, and (3) California’s Consumer Legal Remedies Act, Civil
12 Code §§ 1750, *et seq.* (“CLRA”).

13 **II. PARTIES**

14 4. Plaintiff Genna Ribak is and was at all relevant times a citizen of the State
15 of California, residing in Los Angeles County, California. Ms. Ribak purchased and
16 used the Enhancement Serums, GrandeBROW Brow Enhancing Serum and
17 GrandeLASH-MD Lash Enhancing Serum, for personal, family, or household
18 purposes. Ms. Ribak placed orders for GrandeBROW on Ulta.com on November 29
19 and 30, 2019 and October 8, 2020. Ms. Ribak placed orders for GrandeLASH-MD on
20 Ulta.com on October 8, 2020 and March 22, 2021. On September 9, 2021, Ms. Ribak
21 placed an order for GrandeLASH-MD on Sephora.com.

22 5. Ms. Ribak examined the Enhancement Serums’ packaging, labeling, and
23 other marketing materials. If Grande Cosmetics had properly disclosed the true facts
24 regarding GrandeLASH-MD and GrandeBROW and its ingredients, Ms. Ribak
25 would not have purchased GrandeLASH-MD or GrandeBROW. Ms. Ribak
26 reasonably understood the marketing of GrandeLASH-MD and GrandeBROW to
27 mean or imply that the sale of GrandeLASH-MD and GrandeBROW is legal. Based
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1 on the labeling and marketing of GrandeLASH-MD and GrandeBROW, Ms. Ribak
2 reasonably believed that she was purchasing products that were legally saleable. Ms.
3 Ribak would not have purchased GrandeLASH-MD or GrandeBROW had she known
4 that they was being sold illegally, contained drug ingredients, and/or contained
5 ingredients known to cause adverse effects. Ms. Ribak would consider purchasing
6 GrandeLASH-MD and GrandeBROW in the future if they were sold under different
7 terms that complied with the law, and/or if she could be assured that they no longer
8 contained an undisclosed drug ingredient associated with serious undisclosed side
9 effects.

10 6. Defendant Grande Cosmetics, LLC is a cosmetics company
11 headquartered in Valhalla, New York. Grande Cosmetics markets and sells the
12 Enhancement Serums directly through its website, as well as through popular
13 retailers.

14 **III. JURISDICTION AND VENUE**

15 7. **Subject Matter Jurisdiction.** This Court has subject matter jurisdiction
16 pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2). The amount in
17 controversy, exclusive of costs and interest, exceeds the sum of \$5 million in the
18 aggregate. In total, there are well over 100 members of the proposed Class that are
19 known to exist. Complete diversity exists between at least one plaintiff—Ms. Ribak,
20 a citizen of California—and one defendant—Defendant Grande Cosmetics
21 headquartered in, and therefore a citizen of, New York.

22 8. **Personal Jurisdiction.** This Court has personal jurisdiction over Grande
23 Cosmetics because Grande Cosmetics conducts substantial business in this District
24 and in the State of California through its sale of products directly to California
25 consumers through its website and also through its California-based retailers. In
26 addition, Plaintiff and the Classes have suffered injury as a result of Grande
27 Cosmetics' acts in this District.

1 9. **Venue.** Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2)
2 because a substantial part of the events or omissions giving rise to this action occurred
3 in this District.

4 **IV. ALLEGATIONS COMMON TO ALL CLASS MEMBERS**

5 **A. The Enhancement Serums Are Unapproved Drugs**

6 10. The Enhancement Serums are unapproved new drugs because the overall
7 circumstances of Grande Cosmetics' sale of Enhancement Serums demonstrate that
8 Grande Cosmetics' objective intent in selling the Enhancement Serums was to affect
9 the structure and function of the body by growing hair.

10 *i. Statutory Framework*

11 11. Grande Cosmetics' business practices violate the California Health and
12 Safety Code that prohibits the sale of any new drug or misbranded product absent
13 preapproval. Cal. Health & Safety Code §§ 111550, 110398, 111440; *see also* 21
14 U.S.C. § 355(a).

15 12. By violating the Health and Safety Code and federal law, Grande
16 Cosmetics violated the unlawful prong of the UCL. By falsely claiming that the
17 Enhancement Serums are cosmetics and failing to disclose that it is a drug, Grande
18 Cosmetics also violated the FAL, and the CLRA.

19 13. Any product considered a new drug that is sold without an approved new
20 drug application ("NDA") is misbranded for purposes of California Health and Safety
21 Code §§ 110398 and 111440.

22 14. A substance is a drug if it is "intended to affect the structure of any
23 function of the body of man or other animals." Cal. Health & Safety Code § 11014;
24 21 U.S.C. § 321(g).

25 15. Under 21 C.F.R. § 310.527(b), incorporated into California law by
26 California Health and Safety Code § 110110, any over-the-counter drug purportedly
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1 intended to grow hair is a new drug *per se* for purposes of the FDCA, and thus also
2 for California Health and Safety Code § 111550.

3 16. The Enhancement Serums are also “misbranded” drugs under various
4 provisions of the Cal. Health & Safety Code, including:

5 (i) under § 111330 because the product labeling is misleading insofar as it fails
6 to disclose all significant safety concerns and/or fails to disclose that it is a drug, and
7 is a new drug sold without an approved new drug application;

8 (ii) under § 111335, because the product labeling and packaging do not
9 conform to the requirements of Chapter 4 (commencing with § 110290);

10 (iii) under § 111355 because the product labeling does not bear the established
11 name and quantity of each active ingredient;

12 (iv) under § 111360, because Grande Cosmetics fails to include in all
13 advertising materials a summary of all side effects and contraindications;

14 (v) under § 111375, because the product labeling does not bear adequate
15 warnings as to unsafe dosages or methods or duration of administration or application;
16 and/or

17 (vi) under § 111400, because it may be dangerous to health when used in the
18 suggested frequency, duration, or dosage.

19 17. Under the Health & Safety Code, it is unlawful for any person to
20 manufacture, sell, deliver, hold, or offer for sale any drug that is misbranded, or to
21 misbrand any drug. Cal. Health & Safety Code §§ 111440, 111445.

22 18. Because the Enhancement Serums are “new drugs” sold without approved
23 new drug applications, and because they are misbranded drugs, the Enhancement
24 Serums are sold illegally.
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1 ii. *The presence of ICP along with the marketing of the Enhancement*
2 *Serums confirm that they are drugs under the Sherman Law.*

3 19. Isopropyl cloprostenate (“ICP”) is a prostaglandin analog that grows hair
4 by extending the length of the hair cycle.

5 20. If ICP is present in a product and the marketing of the product contains
6 “appearance claims,” then the product is a drug under the Sherman Law. All of the
7 Enhancement Serums are drugs because they contain ICP and are marketed with
8 “appearance claims.”

9 a. GrandeLASH-MD, which is labeled and marketed as a “Lash Enhancing
10 Serum” that “promote[s] the appearance of naturally longer, thicker
11 looking lashes,” contains isopropyl cloprostenate.¹

12 b. GrandeBROW, which is labeled and marketed as a “Brow Enhancing
13 Serum” that “promote[s] the appearance of fuller, bolder looking brows
14 in just 6-8 weeks,” contains isopropyl cloprostenate.²

15 c. GrandeHAIR, which is labeled and marketed as a “Hair Enhancing
16 Serum” “for fuller & healthier looking hair,” contains isopropyl
17 cloprostenate.³

18 21. The presence of the prostaglandin analog, isopropyl cloprostenate, along
19 with appearance claims like “enhancing,” “promote the appearance of naturally
20 longer, thicker looking lashes,” “promote the appearance of fuller, bolder looking
21 brows,” and “for fuller & healthier looking hair,” indicate that the Enhancement
22 Serums are “intended to affect the structure and function of the body” and is a drug
23

24 ¹ See, e.g., <https://grandecosmetics.com/products/grandelash-md> (last visited August
25 17, 2021).

26 ² See, e.g., <https://grandecosmetics.com/products/grandebrow> (last visited August 17,
2021).

27 ³ See, e.g., <https://grandecosmetics.com/products/grandehair-rejuvenation-serum>
28 (last visited Oct. 5, 2021)

1 as defined by section 201(g)(1)(C) of the Act (21 U.S.C. § 321(g)(I)(C)).

2 iii. *Additional circumstances confirm that the Enhancement Serums*
3 *are drugs because they show that Grande Cosmetics' objective*
4 *intent in selling the Serums was to grow hair.*

5 22. Although the marketing claims discussed above combined with the
6 presence of ICP standing alone sufficiently demonstrate that the Enhancement
7 Serums are new drugs, additional circumstances confirm that it was Grande
8 Cosmetics' objective to sell ICP-containing Serums to affect hair growth, including
9 the price of the Products, the timeframe for seeing benefits from the Products, and the
10 actual function of the Products.

11 23. **Price Disparity.** All of the Enhancement Serums retail for a higher price
12 than the average cosmetic.

- 13 a. GrandeLASH-MD retails for approximately \$65 for a 3-month supply
14 and \$120 for a 6-month supply.⁴
15 b. GrandeBROW retails for approximately \$70 for a 4-month supply.⁵
16 c. GrandeHAIR retails for approximately \$65 for 20 mL and \$125 for 40
17 mL.⁶
18 d. GrandeMASCARA, on the other hand, retails for approximately \$25.⁷

19 24. **The timeframe for seeing benefits.** Unlike cosmetics such as mascara
20 that provide instant beautification benefits, the marketing of each of the Enhancement
21 Serums indicates that those products take weeks if not months to work.

- 22 a. The marketing of GrandeLASH-MD cites to a consumer study where,
23 after 12 weeks, “94% saw healthier looking lashes,” “91% saw longer

23 ⁴ See, e.g., <https://grandecosmetics.com/products/grandelash-md> (last visited Oct. 5,
24 2021).

25 ⁵ See, e.g., <https://grandecosmetics.com/products/grandebrow> (last visited Oct. 5,
26 2021).

26 ⁶ See, e.g., <https://grandecosmetics.com/products/grandehair-rejuvenation-serum>
27 (last visited Oct. 5, 2021)

27 ⁷ See, e.g., <https://grandecosmetics.com/products/grandemascara> (last visited Oct. 5,
28 2021).

1 looking lashes,” and “97% saw more visible lashes.” The instructions for
 2 “how to use” GrandeLASH-MD state that “[d]ue to the length of the lash
 3 cycle, apply every day for a full 3 months. After desired improvement is
 4 achieved, apply every other day for maintenance.” Additionally, as shown
 5 below, Grande Cosmetics markets GrandeLASH-MD with “before-and-
 6 after” pictures, which indicate noticeable eyelash growth after 12 weeks.⁸

7 b. The marketing of GrandeBROW states that it “promote[s] the appearance
 8 of fuller, bolder looking brows in just 6-8 weeks, with full improvement
 9 in 4 months.”⁹ The marketing cites to a 16 week consumer study where
 10 “100% saw fuller looking brows,” “94% saw healthier looking brows, and
 11 91% saw thicker looking brows.” The instructions for “how to use”
 12 GrandeBROW state that “[d]ue to the length of the brow cycle, apply
 13 every day for a full 4 months. After desired improvement is achieved,
 14 apply every other day for maintenance.” Grande Cosmetics markets
 15 GrandeBROW with “before and after” pictures, which indicate noticeable
 16 brow growth after 16 weeks.¹⁰

17 c. The marketing for GrandeHAIR states that the “appearance of healthier,
 18 thicker looking hair” improves “in 8 weeks, with full improvement in 4
 19 months.” The marketing cites to a 16-week expert clinical grader
 20 evaluation where “97% saw improved hair thickness,” and “97% saw less
 21 hair thinning.” The instructions for “how to use” GrandeHAIR states that
 22 droplets should be applied nightly until full improvement, and then every
 23 other day for maintenance. Grande Cosmetics markets GrandeHAIR with
 24 “before and after” pictures, which indicate noticeable hair growth.

25 **25. The actual function of the product.** The ICP in the Enhancement
 26 Serums grow lashes, brows, and hair by extending the length of the hair cycle.

27 26. Isopropyl cloprostenate is one of a class of chemicals known as
 28 prostaglandin analogs, which have long been used to reduce intraocular pressure in
 glaucoma patients.¹¹ According to the Glaucoma Research Foundation,

21 ⁸ See, e.g., <https://grandecosmetics.com/products/grandelash-md> (last visited Oct. 5,
 22 2021).

23 ⁹ See, e.g., <https://grandecosmetics.com/products/grandebrow> (last visited Oct. 5,
 24 2021).

25 ¹⁰ See, e.g., <https://grandecosmetics.com/products/grandemascara> (last visited Oct.
 26 5, 2021).

27 ¹¹ Lifetech Resources LLC Warning Letter (Apr. 18, 2011),
 28 [https://wayback.archive-
 it.org/7993/20170111100914/http://www.fda.gov/ICECI/EnforcementActions/Warni
 ngLetters/2011/ucm251951.htm](https://wayback.archive-it.org/7993/20170111100914/http://www.fda.gov/ICECI/EnforcementActions/Warni).

1 “prostaglandin analogs work by increasing the outflow of intraocular fluid from the
2 eye.”¹² A well-known side effect of glaucoma treatments containing prostaglandin
3 analogs is that they cause eyelash growth.¹³

4 27. In 2008, the FDA approved Latisse[®], whose active ingredient,
5 bimatoprost is a prostaglandin analog like ICP known for increasing eyelash hair
6 length, thickness, and darkness in patients with hypotrichosis (or inadequacy) of the
7 eyelashes.¹⁴ Latisse is classified as an ophthalmic drug and cannot be obtained
8 without a prescription.¹⁵

9 28. The FDA has found that, like the active ingredient in Latisse, the
10 prostaglandin analog, isopropyl cloprostenate is “well known to have an effect on the
11 structure or function of the body,” and that, accordingly, products containing
12 isopropyl cloprostenate “are drugs as defined by section 201(g)(1)(C) of the [Federal
13 Food, Drug, and Cosmetic] Act (21 U.S.C. § 321(g)(1)(C)).”¹⁶

14 29. Because they are objectively intended to affect the structure or function
15 of the body, as demonstrated by the fact that it contains isopropyl cloprostenate, and
16 the fact that marketing contains “appearance” claims like “longer looking,” as well
17 by these other circumstances surrounding their sale, Enhancement Serums qualify as
18 drugs under the Sherman Law.

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20
21 ¹² Prostaglandin Analogs, [https://www.glaucoma.org/treatment/medication-
guide.php#prostaglandin_analogs](https://www.glaucoma.org/treatment/medication-guide.php#prostaglandin_analogs) (last updated June 19, 2020).

22 ¹³ *See Id.*

23 ¹⁴ *See* Latisse Approval Letter (Dec. 24, 2008),
https://www.accessdata.fda.gov/drugsatfda_docs/nda/2008/022369s000_Approv.pdf

24 ¹⁵ *See* Latisse Full Prescribing Information (Mar. 2012),
25 https://www.accessdata.fda.gov/drugsatfda_docs/label/2012/022369s0051bl.pdf.

26 ¹⁶ Lifetech Resources LLC Warning Letter (Apr. 18, 2011),
27 [https://wayback.archive-
ngLetters/2011/ucm251951.htm](https://wayback.archive-it.org/7993/20170111100914/http://www.fda.gov/ICECI/EnforcementActions/Warni).

1 **B. The Fact that the Enhancement Serums Are Unapproved Drugs with**
2 **an Ingredient Associated with Serious Side Effects Is Material to**
3 **Consumers**

4 30. In marketing the Enhancement Serums, Grande Cosmetics materially
5 omits and does not adequately disclose to consumers that they are sold illegally
6 without proper government approval.

7 31. By omitting this information, Grande Cosmetics actively conceals
8 material facts and leads reasonable consumers to believe they are purchasing
9 Products whose sale does not violate federal and/or state law. Specifically, by
10 marketing and selling the Enhancement Serums, Grande Cosmetics effectively
11 represents to consumers that the Products are recognized as safe by the relevant
12 regulatory bodies, and that they are legally saleable, when in reality, they are not.

13 32. In addition to being drugs that are marketed and sold illegally, the
14 Enhancement Serums contain the prostaglandin isopropyl cloprostenate, which is
15 associated with serious adverse effects. Specifically, the FDA has found that
16 isopropyl cloprostenate may cause side effects to the eye including, but not limited
17 to, ocular irritation, hyperemia, iris color change, macular edema, ocular
18 inflammation, and interference with intraocular pressure reduction therapy.¹⁷ In
19 marketing and selling the Enhancement Serums, Grande Cosmetics materially omits
20 and does not adequately disclose to consumers that isopropyl cloprostenate is known
21 to cause eye-related diseases like hyperemia, macular edema, ocular inflammation,
22 and the lowering of intraocular pressure. Grande Cosmetics also materially omits that
23 when prostaglandin analogs, like ICP and bimatoprost, are applied to areas near the
24 face, they can cause excess hair growth outside the treatment area, for instance on the
25 cheek. Grande Cosmetics further fails to mention that ICP can cause clumps of hair,
26 brows, and lashes to completely fall out instead of grow.

27 ¹⁷ *Id.*
28

1 33. Grande Cosmetics lists amino acids, hyaluronic acid, and vitamin E as
 2 “key ingredients” in GrandeLASH-MD and GrandeBROW,¹⁸ but neglects to mention
 3 that it is the Products’ active drug ingredient isopropyl cloprostenate that causes hair
 4 growth. Similarly, Grande Cosmetics lists Procapil, ginkgo, and flower extracts as
 5 “key ingredients,” when in fact, it is the drug ingredient isopropyl cloprostenate that
 6 causes hair growth. Reasonable consumers want to understand whether products have
 7 active ingredients, and the effect that they may have—especially when the Product is
 8 applied and kept on at night around the eye and face.

9 34. Furthermore, numerous consumers have complained online that
 10 GrandeLASH-MD has caused side effects including, among other things, burning,
 11 itching, redness, discoloration, swelling, styes, severe dry eye, eyelash fallout, and
 12 drooping eyelids. For example:

- 13 • “I only used GrandeLash for a week and after the first use I experienced
 14 eyelid redness and bloodshot eyes. I figured it was just a first-time irritation
 15 thing, but had to use concealer to cover the eyelid redness. The next day it
 16 was worse. My eyelids were beginning to look dark brown/purple from the
 17 lash line to the eyebrow; darkest at the crease. I kept using the serum for the
 18 next 4 days, hoping it was just because I wasn't getting enough sleep that my
 19 eyes looked so dark, like I had been punched. I went to bed early for the next
 20 week to try to get 8+ hours of sleep, hydrated a ton and used a vitamin C eye
 21 cream, but I looked just as bad; kind of sickly honestly. Finally I looked up
 22 eyelid discoloration with GrandeLash and discontinued use that day. As
 23 quickly as the next morning I noticed a difference, and by the following day
 24 the discoloration was totally gone.”¹⁹
- 25 • “Ouch! I tried this on one eye as a test and OMG it stings like crazy. I did
 26 not dare to open my eye, so I put a sleeping mask on to keep it shut.”²⁰

23
 24 ¹⁸ Ingredients, GrandeLASH-MD Lash Enhancing Serum,
<https://grandecosmetics.com/products/grandelash-md> (last visited Aug. 13, 2021).

25 ¹⁹ BellaByrne, Sephora Community (Aug. 2021),
<https://community.sephora.com/t5/Everything-Eyes/GrandeLASH-sunken-eyes/m-p/5921011#feedback-success>.

26 ²⁰ Yvetteski Review,
 27 <https://www.makeupalley.com/product/showreview.asp/ItemId=201537/Grande->
 28

- 1 • “Don’t know if this works? I am highly allergic to something in this. My
2 eyeballs were red immediately after use. Tried a few more days and just got
3 worse.”²¹
- 4 • “This lash serum burned my eyes horribly and I woke up the next day with
5 extremely bloodshot eyes and swollen lids.”²²
- 6 • “I did 12 weeks of this and it did nothing for me but cause dark circles
7 (Latisse did the same for me but actually worked)[,] irritation, and a couple
8 of styes.”²³
- 9 • “I just had to see an ophthalmologist as the colors in my right eye have started
10 to bleed together. I have green eyes (green inner iris, with deep blue outer
11 iris), and the bleu part of my eye is getting thicker on one side and almost
12 bleeding into my inner iris, towards my pupil. It is quite noticeable to me, as
13 my eyes are no longer symmetrical and one eye appears darker than the other.
14 I’ve been using the Grande Lash-MD Lash Enhancing Serum for a few
15 months now, so only just connecting the dots.”²⁴

16 35. Consumers have also complained that GrandeBROW has caused side
17 effects including loss of brow hairs, discoloration, sunken eyes, and change of iris
18 color. For example:

- 19 • “This product caused discoloration all over my eyelid and it caused my eyes
20 to appear more sunken in. It’s like the premature aging I never asked for.”²⁵

21 Cosmetics-GrandeLASH-MD-Lash-Enhancing-Serum/Unlisted-Brand/Lash-
22 Treatments (last visited Aug. 23, 2021).

23 ²¹ AngelaBrooke 76 Review,

24 [https://www.makeupalley.com/product/showreview.asp/ItemId=201537/Grande-
25 Cosmetics-GrandeLASH-MD-Lash-Enhancing-Serum/Unlisted-Brand/Lash-
26 Treatments](https://www.makeupalley.com/product/showreview.asp/ItemId=201537/Grande-Cosmetics-GrandeLASH-MD-Lash-Enhancing-Serum/Unlisted-Brand/Lash-Treatments) (last visited Aug. 23, 2021).

27 ²² Michelle R. Review (May 9, 2021), [https://grandecosmetics.com/collections/lash-
28 serum/products/grandelash-md](https://grandecosmetics.com/collections/lash-serum/products/grandelash-md).

29 ²³ Penny 25 Review, Sephora (Apr. 22, 2020),

30 [https://www.sephora.com/product/grandlash-tm-md-lash-enhancing-serum-
31 P419219?skuId=1923275&icid2=skugrid:p419219](https://www.sephora.com/product/grandlash-tm-md-lash-enhancing-serum-P419219?skuId=1923275&icid2=skugrid:p419219).

32 ²⁴ AnnieSMR Comment (Mar. 2, 2021),

33 [https://community.sephora.com/t5/Everything-Eyes/Grandelash-change-eye-
34 color/m-p/4230222](https://community.sephora.com/t5/Everything-Eyes/Grandelash-change-eye-color/m-p/4230222).

35 ²⁵ MIM99 Review (June 2, 2021), [https://www.sephora.com/product/grandebrow-
36 brow-enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218](https://www.sephora.com/product/grandebrow-brow-enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218).

- 1 • “While SOME hair grew along my brows (not much, and not in places where
2 I actually put the product), hair ALSO grew along the side AND underneath
3 the eye. I now have hairy eyes, which is not what I was going for at all.”²⁶
- 4 • “Yes, grows brows, however, do not use if only using on one brow! I am now
5 stuck with one brow being three shades darker than the other one!”²⁷
- 6 • “When I first used this product, I had amazing results. When I started my
7 second tube, applying every other day as instructed my new fabulous brows
8 fell out.”²⁸

9 36. Consumers have also complained that GrandeHAIR has caused side
10 effects, such as irritation and dryness.²⁹

11 37. Grande Cosmetics is aware that the Enhancement Serums may cause such
12 damage due to an active drug ingredient. Despite notice and knowledge of the injuries
13 caused by the Enhancement Serums via the numerous consumer complaints Grande
14 Cosmetics has directly received and which are publicly available on the internet,
15 Grande Cosmetics has failed and/or refused to provide an adequate remedy for the
16 systemic injuries caused by the Enhancement Serums.

17 38. Not only does Grande Cosmetics fail to disclose the possibility of severe
18 and potentially permanent side effect, Grande Cosmetics represents that while
19 “sensitivity” to the product is rare, a few users may experience “mild irritation” when
20 first using the GrandeLASH-MD.³⁰

21 ²⁶ DCMouse Review (Feb. 18, 2019),
22 [https://www.sephora.com/product/grandebrow-brow-enhancing-serum-
P419218?skuId=2114817&icid2=skugrid:p419218](https://www.sephora.com/product/grandebrow-brow-enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218).

23 ²⁷ Expertchef Review (July 22, 2021),
24 [https://www.sephora.com/product/grandebrow-brow-enhancing-serum-
P419218?skuId=2114817&icid2=skugrid:p419218](https://www.sephora.com/product/grandebrow-brow-enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218).

25 ²⁸ Review (Apr. 15, 2018), [https://www.sephora.com/product/grandebrow-brow-
enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218](https://www.sephora.com/product/grandebrow-brow-enhancing-serum-P419218?skuId=2114817&icid2=skugrid:p419218).

26 ²⁹ See, e.g., “Doesn’t Work,” [https://www.ulta.com/p/grandehair-enhancing-serum-
pimprod2018702](https://www.ulta.com/p/grandehair-enhancing-serum-pimprod2018702) (last visited Aug. 23, 2021).

27 ³⁰ Frequently Asked Questions, <https://grandecosmetics.com/pages/faq> (last visited
28 Oct. 5, 2021).

1 39. Whether a product has adverse side effects caused by a drug ingredient is
2 material information that reasonable consumers would consider in deciding to buy the
3 Products. Indeed, The FDA has advised that, because of its potentially harmful
4 effects, products containing isopropyl cloprostenate are “not safe for use except under
5 the supervision of a practitioner licensed by law to administer them.”³¹

6 40. Reasonable consumers would consider the omitted facts to be important
7 in determining whether or not to purchase the Enhancement Serums.

8 41. Grande Cosmetics omitted the above-described material information with
9 the knowledge that its omissions would mislead and deceive consumers.
10 Alternatively, Grande Cosmetics was reckless in not knowing that the omissions were
11 deceptive and/or misleading.

12 42. Plaintiff and Class Members relied, to their detriment, on Grande
13 Cosmetics to distribute safe products. Instead, Grande Cosmetics marketed and sold
14 Products that contain an ingredient known to cause serious adverse effects.

15 43. As the direct and proximate result of Grande Cosmetics’ deceptive and/or
16 misleading material omissions, Plaintiff and putative Class Members have suffered
17 injury-in-fact and a loss of money or property through the out-of-pocket costs
18 expended to purchase the Enhancement Serums.

19 44. Grande Cosmetics has not recalled, relabeled, or reformulated the
20 Enhancement Serums, nor has it warned consumers about the dangers associated with
21 using the Enhancement Serums.

22 **V. CLASS ACTION ALLEGATIONS**

23 45. Plaintiff incorporates and realleges the above paragraphs.
24
25

26 ³¹ Lifetech Resources LLC Warning Letter (Apr. 18, 2011), [https://wayback.archive-](https://wayback.archive-it.org/7993/20170111100914/http://www.fda.gov/ICECI/EnforcementActions/Warni)
27 [it.org/7993/20170111100914/http://www.fda.gov/ICECI/EnforcementActions/Warni](http://www.fda.gov/ICECI/EnforcementActions/Warni)
28 <ngLetters/2011/ucm251951.htm>.

1 46. Plaintiff brings this action on behalf of herself and the members of the
2 proposed Class, which consists of:

3 All California consumers who purchased an Enhancement Serum for personal,
4 family, or household purposes from the beginning of the applicable statutory
5 period through present. Excluded from the Class are Defendant; any entity in
6 which Defendant has a controlling interest; and any legal representative, heir or
7 assign of Defendant. Also, excluded from the Class are any federal, state or local
8 governmental entities, any judicial officer presiding over this action and the
9 members of his/her immediate family and judicial staff, and any juror assigned
10 to this action.

11 47. The members of the Class are so numerous that joinder is impractical.
12 The Class consist of thousands of members, the precise number which is within the
13 knowledge of and can be ascertained only through Grande Cosmetics' records.

14 48. There are numerous questions of law and fact common to the Class which
15 predominate over any questions affecting only individual members of the Class.

16 Among the questions of law and fact common to the Class are:

- 17 a. Whether the Enhancement Serums qualify as drug products under California
18 laws governing food, drugs, and cosmetics;
- 19 b. Whether the Enhancement Serums are misbranded under California laws
20 governing food, drugs, and cosmetics;
- 21 c. Whether the manufacture, marketing, or sale of the Enhancement Serums are
22 unlawful under California laws governing food, drugs, and cosmetics;
- 23 d. Whether Grande Cosmetics had a duty to disclose material facts regarding
24 the Enhancement Serums' status as drugs, safety concerns associated with
25 the ICP in the Enhancement Serums, or the illegality of the sale of the
26 Enhancement Serums;
- 27 e. Whether Grande Cosmetics had a duty to not misrepresent material facts
28 regarding the Enhancement Serums' status as a drug, safety concerns
associated with the Enhancement Serums, or the illegality of the sale of the
Enhancement Serums;
- f. Whether Grande Cosmetics failed to disclose material facts regarding safety
concerns associated with the Enhancement Serums;
- g. Whether Grande Cosmetics failed to disclose material facts regarding the
Enhancement Serums status as drugs or the illegality of the sale of the
Enhancement Serums;
- h. Whether Grande Cosmetics' nondisclosures and misrepresentations would
be material to a reasonable consumer;

- 1 i. Whether Grande Cosmetics' nondisclosures and misrepresentations
2 constitute an unlawful business practice in violation of the UCL;
- 3 j. Whether Grande Cosmetics' nondisclosures and misrepresentations
4 constitute an unfair business practice in violation of the UCL;
- 5 k. Whether Grande Cosmetics' nondisclosures and misrepresentations were
6 likely to deceive a reasonable consumer in violation of the UCL, CLRA, or
7 FAL;
- 8 l. Whether Grande Cosmetics knowingly or willfully misrepresented or failed
9 to disclose the Enhancement Serums' status as drugs, significant safety
10 concerns associated with the ICP in the Enhancement Serums, or the
11 illegality of the Enhancement Serums sales;
- 12 m. Whether Grande Cosmetics was unjustly enriched by receiving moneys in
13 exchange for the Enhancement Serums;
- 14 n. Whether the challenged practices harmed Plaintiff and members of the Class;
15 and
- 16 o. Whether Plaintiff and members of the Class are entitled to restitution,
17 equitable relief, and/or injunctive relief.

18 49. Plaintiff's claims are typical of the claims of the members of the Class
19 because Plaintiff, like all members of the Class, purchased Enhancement Serums,
20 GrandeLASH-MD and GrandeBROW, not knowing that they were unapproved drugs
21 that were not legally saleable, or that they contained an active drug ingredient
22 associated with serious adverse side effects including, *inter alia*, iris color change,
23 sunken eye, styes, hair growth around the eye, complete hair loss, and hair growing
24 outside of treatment areas. Furthermore, like all members of the class, Plaintiff
25 sustained damages from Grande Cosmetics' wrongful conduct and continues to suffer
26 harm. Accordingly, Plaintiff has no interests antagonistic to the interests of any other
27 member of the Class.

28 50. Plaintiff is a representative who will fully and adequately assert and
protect the interests of the Class and has retained counsel who is experienced in
prosecuting class actions. Accordingly, Plaintiff is an adequate representative and will
fairly and adequately protect the interests of the Class.

1 51. A class action is superior to all other available methods for the fair and
2 efficient adjudication of this lawsuit because individual litigation of the claims of all
3 members of the Class is economically unfeasible and procedurally impracticable.

4 52. While the aggregate damages sustained by the Class are in the millions of
5 dollars, the individual damages incurred by each member of the Class resulting from
6 Grande Cosmetics' wrongful conduct are too small to warrant the expense of
7 individual lawsuits. The likelihood of individual Class members prosecuting their
8 own separate claims is remote, and, even if every member of the Class could afford
9 individual litigation, the court system would be unduly burdened by individual
10 litigation of such cases.

11 53. Grande Cosmetics has acted or refused to act on grounds that apply
12 generally to the Class, thereby making appropriate final injunctive and corresponding
13 declaratory relief with respect to the Class as a whole.

14 54. The prosecution of separate actions by members of the Class would create
15 a risk of establishing inconsistent rulings and/or incompatible standards of conduct
16 for Grande Cosmetics. For example, one court might enjoin Grande Cosmetics from
17 performing the challenged acts, whereas another might not. Additionally, individual
18 actions may be dispositive of the interests of the Class, although certain class
19 members are not parties to such actions.

20 55. The conduct of Grande Cosmetics is generally applicable to the Class as
21 a whole and Plaintiff seeks, *inter alia*, equitable remedies with respect to the Class as
22 a whole. As such, the systematic policies and practices of Grande Cosmetics make
23 declaratory relief with respect to the Class as a whole appropriate. Grande Cosmetics
24 must be stopped from selling an unapproved drug to California consumers in violation
25 of the law. Accordingly, Plaintiff seeks an injunction from Grande Cosmetics'
26 continued sale of the Enhancement Serums and to ensure that Grande Cosmetics
27 complies with the Sherman Law as incorporated into the UCL. Enjoining Grande
28

1 Cosmetics’ unlawful sale of the Enhancement Serums requires one injunction to
2 protect the class as a whole, and would not require a different injunction for each class
3 member.

4 **FIRST CAUSE OF ACTION**
5 **VIOLATION OF THE “UNLAWFUL” PRONG OF THE UCL**
6 **(CAL. BUS. & PROF. CODE § 17200, et seq.)**

7 56. Plaintiff incorporates and realleges by reference each and every allegation
8 contained in the preceding paragraphs as if fully set forth herein.

9 57. The UCL defines unfair business competition to include any “unlawful,
10 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or
11 misleading” advertising. Cal. Bus. & Pro. Code § 17200.

12 58. A business act or practice is “unlawful” under the UCL if it violates any
13 other law or regulation.

14 59. Grande Cosmetics has violated the unlawful prong by virtue of its
15 violations of the Sherman Food Drug & Cosmetics Laws, California’s Health &
16 Safety Code §§ 109875 et seq., selling new drugs without an approved new drug
17 application, and selling misbranded drug and cosmetic products. In addition, Grande
18 Cosmetics has violated the unlawful prong by virtue of its violations of the CLRA
19 and the FAL.

20 60. As a result of the conduct described above, Grande Cosmetics has been
21 unjustly enriched at the expense of Plaintiff and members of the proposed Class.
22 Specifically, Grande Cosmetics has been unjustly enriched by obtaining revenues and
23 profits that it would not otherwise have obtained absent its false, misleading, and
24 deceptive conduct.

25 61. Through its unlawful acts and practices, Grande Cosmetics has
26 improperly obtained money from Plaintiff and the Class.

1 62. Consequently, Plaintiff requests that this court cause Grande Cosmetics
2 to restore this money to Plaintiff and all Class members, and to enjoin Grande
3 Cosmetics from continuing to violate the UCL as discussed herein and/or from
4 violating the UCL in the future. Plaintiff seeks an injunction prohibiting the continued
5 sale of the Enhancement Products which are prescription drugs being sold as
6 cosmetics in violation of the Sherman Law and, accordingly, by the unlawful prong.
7 Plaintiff and the Class may be irreparably harmed and/or denied an effective and
8 complete remedy if such an order is not granted.

9
10 **SECOND CAUSE OF ACTION**
11 **VIOLATION OF THE “FRAUDULENT” PRONG OF THE UCL**
12 **(CAL. BUS. & PROF. CODE § 17200, et seq.)**

13 63. Plaintiff incorporates and realleges by reference each and every allegation
14 contained in the preceding paragraphs as if fully set forth herein.

15 64. The UCL defines unfair business competition to include any “unlawful,
16 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or
17 misleading” advertising. Cal. Bus. & Pro. Code § 17200.

18 65. A business act or practice is “fraudulent” under the UCL if it is likely to
19 deceive members of the consuming public.

20 66. Grande Cosmetics has violated the fraudulent prong of § 17200, because
21 its material misrepresentations and omissions regarding safety concerns associated
22 with the Enhancement Products and the fact that the Enhancement Products are
23 illegally marketed and sold as a purely cosmetic product when it is actually a drug,
24 have deceived Plaintiff and are highly likely to deceive reasonable members of the
25 consuming public.

26 67. Plaintiff and members of the Class have suffered injury in fact, including
27 the loss of money, as a result of Grande Cosmetics’ unlawful, unfair, and/or deceptive
28 practices. Specifically, Grande Cosmetics’ material misrepresentations and omissions

1 about the safety, legality, and drug ingredients of the Enhancement Products induced
2 reasonable purchasers, including Plaintiff, to buy the product, which they otherwise
3 would not have purchased or would have paid less for.

4 68. All of the wrongful conduct alleged herein occurred, and continues to
5 occur, in the conduct of Grande Cosmetics' business. Grande Cosmetics' wrongful
6 conduct is part of a general practice that is still being perpetuated and repeated
7 throughout the State of California.

8 69. Furthermore, as a result of the conduct described above, Grande
9 Cosmetics has been unjustly enriched at the expense of Plaintiff and members of the
10 proposed Class. Specifically, Grande Cosmetics has been unjustly enriched by
11 obtaining revenues and profits that it would not otherwise have obtained absent its
12 false, misleading, and deceptive advertising and conduct.

13 70. Through its fraudulent acts and practices, Grande Cosmetics has
14 improperly obtained money from Plaintiff and the Class.

15 71. Consequently, Plaintiff requests that this court cause Grande Cosmetics
16 to restore this money to Plaintiff and all Class members, and to enjoin Grande
17 Cosmetics from continuing to violate the UCL as discussed herein and/or from
18 violating the UCL in the future. Plaintiff and the Class may be irreparably harmed
19 and/or denied an effective and complete remedy if such an order is not granted.

20
21 **THIRD CAUSE OF ACTION**
22 **VIOLATION OF THE "UNFAIR" PRONG OF THE UCL**
23 **(CAL. BUS. & PROF. CODE § 17200, et seq.)**

24 72. Plaintiff incorporates and realleges by reference each and every allegation
25 contained in the preceding paragraphs as if fully set forth herein.

26 73. The UCL defines unfair business competition to include any "unlawful,
27 unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or
28 misleading" advertising. Cal. Bus. & Pro. Code § 17200.

1 74. A business act or practice is “unfair” under the UCL if the reasons,
2 justifications, and motives of the alleged wrongdoer are outweighed by the gravity of
3 the harm to the alleged victims.

4 75. Grande Cosmetics has violated the unfair prong of § 17200 because the
5 acts and practices set forth in the Complaint—including making misrepresentations
6 and material omissions regarding the drug ingredients contained in the Enhancement
7 Serums and the serious safety concerns associated with them—offend established
8 public policy.

9 76. The challenged conduct substantially injures consumers, and the harm to
10 consumers greatly outweighs any benefits associated with Grande Cosmetics’ actions.
11 Reasonable consumers are not in a position to understand, given Grande Cosmetics’
12 misrepresentations and omissions, the safety concerns posed by the Enhancement
13 Serums, or the fact that they are actually drugs that are illegally marketed and sold.

14 77. Through its unfair acts and practices, Grande Cosmetics has improperly
15 obtained money from Plaintiff and the Class.

16 78. Consequently, Plaintiff requests that this court cause Grande Cosmetics
17 to restore this money to Plaintiff and all Class members, and to enjoin Grande
18 Cosmetics from continuing to violate the UCL as discussed herein and/or from
19 violating the UCL in the future. Otherwise, Plaintiff and the Classes may be
20 irreparably harmed and/or denied an effective and complete remedy if such an order
21 is not granted.

22
23 **FOURTH CAUSE OF ACTION**
24 **VIOLATIONS OF THE FALSE ADVERTISING LAW**
25 **(CAL. BUS. & PROF CODE §§ 17500, *et seq.*)**

26 79. Plaintiff incorporates and realleges by reference each and every allegation
27 contained in the preceding paragraphs as if fully set forth herein.

28 80. California’s Business and Professions Code § 17500, *et seq.* prohibits

1 unfair, deceptive, untrue, or misleading advertising. When the seller has a duty to
2 disclose material facts about a product, the sale of the product to consumers without
3 disclosure of such material facts violates the FAL.

4 81. Grande Cosmetics markets and sells the Enhancement Serums as if it
5 were a purely cosmetic product free of significant safety concerns, when in fact, the
6 reverse is true. Specifically, Grande Cosmetics materially misrepresents and misleads
7 consumers about the fact that the Enhancement Serums are drugs, and the fact that
8 they pose serious health risks, and omits from its marketing materials the fact that the
9 Enhancement Serums are misbranded and sold illegally.

10 82. Through its false advertising scheme, Grande Cosmetics has improperly
11 obtained money from Plaintiff and the Class.

12 83. Consequently, Plaintiff requests that this court cause Grande Cosmetics
13 to restore this money to Plaintiff and all Class members, and to enjoin Grande
14 Cosmetics from continuing to violate the FAL as discussed herein and/or from
15 violating the FAL in the future. Plaintiff and the Class may be irreparably harmed
16 and/or denied an effective and complete remedy if such an order is not granted.

17 **FIFTH CAUSE OF ACTION**
18 **VIOLATIONS OF THE CONSUMERS LEGAL REMEDIES ACT**
19 **(CAL. CIV. CODE § 1750, *et seq.*)**

20 84. Plaintiff incorporates and realleges by reference each and every allegation
21 contained in the preceding paragraphs as if fully set forth herein.

22 85. At all relevant times, Plaintiff was a “consumer” as defined by Cal. Civ.
23 Code § 1761(d).

24 86. At all relevant times, the Enhancement Products constituted “goods” as
25 defined by Cal. Civ. Code § 1761(a)

26 87. At all relevant times, Defendant constituted a “person” as defined by Cal.
27 Civ. Code § 1761(c).

1 88. At all relevant times, Plaintiff and each of the class member’s purchases
2 of Defendant’s Products constituted a “transaction” as defined by Cal. Civ. Code §
3 1761(e).

4 89. Cal. Civ. Code § 1770(a)(2) prohibits “[m]isrepresenting the source,
5 sponsorship, approval, or certification of goods or services.”

6 90. As described herein, Grande Cosmetics violated the CLRA by marketing
7 and selling misbranded drug products, which required government approval prior to
8 sale, but which lacked such approval. The sale of each unit of the Enhancement
9 Serums was a misrepresentation to consumers that the product was recognized as safe
10 by the FDA and/or California Department of Public Health, when it was not.

11 91. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or
12 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
13 quantities which they do not have....” Furthermore, Cal. Civ. Code § 1770(a)(7)
14 prohibits “[r]epresenting that goods or services are of a particular standard, quality,
15 or grade, or that goods are of a particular style or model, if they are of another.”

16 92. Grande Cosmetics violated these provisions of the CLRA by marketing
17 and selling misbranded drug and cosmetic products that posed serious health and
18 safety concerns. The sale of each Enhancement Product misrepresented that the
19 product was free of undisclosed safety concerns. In addition, each Enhancement
20 Serum sale misrepresented that the product is not a drug, has been determined to be
21 safe, and is otherwise legally offered for sale.

22 93. The CLRA (including §§ 1770(a) (2), (5), (7)) supports claims for
23 omissions of material fact that Grande Cosmetics was obligated to disclose. In this
24 case, Grande Cosmetics was obligated, but failed to disclose the known safety
25 concerns associated with the isopropyl cloprostenate contained in the Enhancement
26 Serums, the fact that the Enhancement Serums are drugs, and the illegality of their
27 sales.

1 94. Plaintiff relied on Grande Cosmetics’ false and misleading omissions and
2 representations about the safety and legal status of the Enhancement Serums in
3 deciding to buy GrandeLASH-MD and GrandeBROW. Plaintiff would not have
4 purchased GrandeLASH-MD or GrandeBROW absent Grande Cosmetics’ unlawful
5 conduct.

6 95. Plaintiff, on behalf of herself and the proposed class, seeks an order
7 enjoining Defendant’s unfair or deceptive acts or practices described herein, equitable
8 relief, an award of attorneys’ fees, and costs under Cal. Civ. Code § 1780(e).

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff and the members of the Class demand a jury trial on
11 all claims so triable and judgment against Defendant Grande Cosmetics, LLC as
12 follows:

- 13 A. An order certifying that this action may be maintained as a class action,
14 that Plaintiff be appointed Class Representatives and Plaintiff’s counsel
15 be appointed Class Counsel;
- 16 B. A judgment awarding Plaintiff and the Class rescission, restitution and/or
17 other equitable relief, including, without limitation, restitutionary
18 disgorgement of all profits and unjust enrichment that Grande Cosmetics
19 obtained from Plaintiff and the Class as a result of its unfair and
20 fraudulent business practices described herein;
- 21 C. An order enjoining Grande Cosmetics from selling the Enhancement
22 Serums in California—unapproved drugs, and from continuing to violate
23 the UCL, FAL, and CLRA as described herein;
- 24 D. A judgment awarding Plaintiff her costs of suit; including reasonable
25 attorneys’ fees pursuant to California Civil Code § 1780(d), California
26 Code of Civil Procedure § 1021.5 and as otherwise permitted by statute;
27 and pre and post judgment interest; and
28

1 E. Such other and further relief as may be deemed necessary or appropriate.
2

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff and all others similarly situated hereby demand trial by jury on all
5 issues in this complaint that are so triable as a matter of right.

6 Dated: October 6, 2021

Respectfully submitted,

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