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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JULES VANDEN BERGE, individually
and on behalf of all others similarly
situated,

Plaintiff,

vs.

CHRISTOPHER MASANTO, ANDREW
MASANTO, ALTITUDE ADS LIMITED,
BLOOMING INVESTMENTS LIMITED,
and AMPLIFY LIMITED

Defendants

Case No.: '20CV0509 H BGS

CLASS ACTION COMPLAINT FOR:

- (1) Violation of California’s Consumer Legal Remedies Act;
- (2) Violation of California’s False Advertising Law;
- (3) Violation of the Unfair and Fraudulent Prongs of California’s Unfair Competition Law;
- (4) Violation of the Unlawful Prong California’s Unfair Competition Law;
- (5) Civil RICO;
- (6) Violation of Various Consumer Protection Laws;
- (7) Aiding and Abetting;
- (8) Civil Conspiracy.

DEMAND FOR JURY TRIAL.

Plaintiff JULES VANDEN BERGE, individually, and on behalf of all others similarly situated nationwide and in the State of California, by and through their undersigned counsel, hereby files this Class Action Complaint against Defendants, CHRISTOPHER MASANTO, ANDREW MASANTO, ALTITUDE ADS LIMITED (“Altitude Ads”), BLOOMING INVESTMENTS LIMITED (“Blooming Investments”), AMPLIFY LIMITED d/b/a Amplify Products, Amplify Limited Inc., and Amplify Media Inc. (“Amplify Limited”), collectively the “Cel MD Defendants,” and allege as follows:

JURISDICTION AND VENUE

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2 1. This Court has jurisdiction over this matter because this is a class action in
3 which, on information and belief, the damages exceed \$5 million, exclusive of interest
4 and costs, the number of class members exceeds 100, and as demonstrated below, the
5 parties are diverse pursuant to the Class Action Fairness Act of 2005 ("CAFA"), 28
6 U.S.C. § 1332(d).

7 2. This court also has jurisdiction because Plaintiff's Racketeer Influenced and
8 Corrupt Organizations Act ("RICO") claim, 18 U.S.C. §§ 1961, *et seq.*, arises under
9 federal law.

10 3. This Court has supplemental jurisdiction over the state law claims in this
11 action pursuant to 28 U.S.C. § 1367.

12 4. This Court has personal jurisdiction over Defendants because Defendants are
13 authorized to conduct and do business in California, including this District. Defendants
14 marketed, promoted, distributed, and sold their products in California, and Defendants
15 have sufficient minimum contacts with this State and/or sufficiently availed themselves
16 of the markets in this State through their promotion, sales, distribution, and marketing
17 within this State, including this District, to render the exercise of jurisdiction by this
18 Court permissible.

19 5. The Defendants purposely directed their activities towards California.

20 6. Defendants committed intentional acts by running websites from at least
21 2017 through the present accessible to California residents with knowledge that
22 California residents would purchase and were purchasing from those sites; by targeting
23 California residents with advertisements; by registering to do business in California; and
24 by shipping products to California residents.

25 7. These intentional acts were expressly aimed at California residents. The
26 Defendants targeted their conduct at California residents, including the Plaintiff, and
27 knew they were California residents by virtue of their shipping addresses and other
28 contact information. These acts involved ongoing, systemic, and continuous contact with

1 California because the shipment of Cel MD Products occurred from at least late 2017
2 through the present, a nearly three-year period. Those shipments often occurred as part of
3 subscriptions, meaning that the Defendants shipped continually and regularly to their
4 California customers over long periods of time. The acts were entirely commercial in
5 nature, as the Defendants profited from selling the Cel MD Products.

6 8. The Defendants generated substantial profits from their acts aimed at
7 California residents. They placed the Cel MD Products into the stream of commerce,
8 knowing and intending that they would be advertised over the Internet to California
9 residents and purchased by California consumers.

10 9. The Defendants knew or should have foreseen that their actions would cause
11 harm in California. As described herein, they intentionally ran advertising claiming to
12 have an advanced plant stem cell formula over a lengthy period of time. They knew that
13 California consumers were being harmed. Had they not done so, the California
14 consumers would not have been harmed because the Cel MD Products would not have
15 been shipped to them and the consumers would not have seen the false representations
16 described herein.

17 10. On information and belief, Defendant Andrew Masanto was aware that Cel
18 MD products were being advertised and sold in California on an ongoing basis, and took
19 specific actions to encourage these sales and activities in his role as co-founder and head
20 of the New York branch of Altitude Ads, through at a minimum advice, general
21 assistance, and financial assistance. Defendant Christopher Masanto likewise was aware
22 of this, and specifically directed these advertisements and sales in his role as CEO of
23 Altitude Ads and personally registered Amplify Limited to do business in California.

24 11. Because of these facts, personal jurisdiction is appropriate in California over
25 the Defendants.

26 12. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and (b)
27 because a substantial part of the events giving rise to Plaintiffs' claims occurred while
28 they resided in this judicial district, and because the Defendants have registered to do

1 business in California. Venue is further proper as to Defendants Christopher Masanto,
2 Altitude Ads, and Blooming Investments under 28 U.S.C. § 1391(c)(3) because they do
3 not reside in the United States.

4 **NATURE OF THE ACTION**

5 13. Cel MD is a line of hair loss and skin care products which—if the Cel MD
6 Defendants are to be believed—is nothing short of miraculous. The products purport to
7 use plant stem cells (in particular, stem cells grown in a Korean laboratory from ginseng
8 and asparagus) to cure hair loss and skin problems. These products are sold directly to
9 consumers via the Cel MD website (cel.md) and via Amazon.com, and have been since at
10 least April 2018 through the present.

11 14. The Cel MD Defendants claim to their customers that they have created a
12 “patented and expertly refined plant stem cell formula.”¹ This has resulted in the creation
13 by Cel MD of various miracle “plant stem cell” products designed to either improve skin
14 or that are “scientifically proven to effectively combat hair thinning and loss.”² The Cel
15 MD Defendants describe their product development as follows: “Partnering with beauty
16 experts in South Korea, our specialised Nanotech formula was optimised for your own
17 home-use.”³

18 15. Cel MD represents that its shampoo and conditioner was created by various
19 scientific experts: “Created by US Stem Cell Experts, and perfected for your own home-
20 use, by Nanotech beauty experts in Seoul, South Korea. Cel’s patented Shampoo &
21 Conditioner is the most advanced haircare product available that will help you fight hair
22 thinning and grow stronger, healthier hair.”⁴

23 16. Similarly, Cel MD claims of its skin care products: “Our powerful, patented
24 healing formula is scientifically proven to promote healthy looking skin.”⁵ The Cel MD
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26 ¹ Cel.Md, <https://www.cel.md/pages/cel-science> (last visited June 17, 2019).

27 ² Cel.Md, <https://www.cel.md/products/cel-shampoo-conditioner> (last visited June 17,
2019).

28 ³ *Id.*

⁴ *Id.*

⁵ Cel.Md, <https://www.cel.md/products/cel-mask> (last visited July 9, 2019).

1 Defendants claim to “use plant stem cells to help renew your skin cells, brighten and
2 tighten your complexion and soothe dry, irritated skin.”⁶

3 17. But Cel MD is no miracle. These products are nothing more than modern
4 snake oil, promising results that are impossible to deliver given the nature of their
5 ingredients. Much of the marketing of these products amounts to science fiction. All of
6 Cel MD’s customers are told that “plant stem cells” will help cure their hair and skin
7 products—an avenue of research that some believe may come true in a few decades. But
8 none of their customers are told the truth—that while Cel MD may use “plant stem cells”
9 in their products, those cells have been turned into extract: they are not living and have
10 been processed in ways that kill off the cells, making it impossible for the cells to
11 function in the way some scientists theorize a living plant stem cell could. Rather than
12 use this futuristic technique, the Cel MD Defendants are at best growing plant biomass as
13 part of a common manufacturing technique. Any “plant stem cells” they use are dead or
14 have been destroyed and cannot benefit hair or skin by virtue of being “stem cells.”

15 18. The “MD” in the name Cel MD would imply to the ordinary person that the
16 Cel MD Defendants are either doctors or a medical practice. In fact, it is unlawful in
17 California to use these initials without being a licensed medical doctor because it may
18 falsely suggest otherwise. But in the name Cel MD, the “MD” actually stands for
19 Moldova—the country from which the Cel MD Defendants purchased their domain
20 name, and a country to which these Defendants have no other connections whatsoever.
21 The Cel MD Defendants are not a medical practice. They are an advertising agency that
22 launched its own proprietary products. Yet online, they pose as doctors, frequently giving
23 medical advice to cancer patients and individuals who have suffered hair loss from
24 serious medical procedures such as chemotherapy or brain surgery. And that medical
25 advice is invariably to try Cel MD’s products.

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⁶ *Id.*

1 19. The Cel MD Defendants have engaged in pervasive dishonesty throughout
2 their advertising materials. They have photoshopped their products onto pictures of
3 beauty bloggers and models, falsely claiming that those bloggers and models endorsed
4 them. They have used photos of their own employees or stock photos from the Internet as
5 “customer photos.” They have told science fiction tales of operating a human stem cell
6 cloning facility, of having developed “super skin,” “super bacteria,” and “super biotin.”
7 They claimed their products have FDA approvals, when in fact they do not. They utilize
8 fake timers on their website which purport to limit the availability of discounts, when in
9 fact those timers do nothing whatsoever. They tell customers that there is a limited supply
10 of their products so that there is great urgency in purchasing them before they run out—
11 and they have been telling them this same tale of imminent future shortages for over a
12 year.

13 20. Perhaps most gallingly, the Cel MD Defendants have long been aware that
14 ingredients in their products cause allergic reactions in some customers. There have been
15 numerous reports of scalp burns, of rashes, of hair falling out, and other serious side
16 effects. Yet the Cel MD Defendants did nothing to address it and issued no warnings to
17 their customers. Instead, they actively targeted customers with hair loss from serious
18 medical issues such as brain surgery or cancer. Posing as a medical practice under the
19 name “Cel MD,” these advertising agents urged the seriously ill to try their products as a
20 potential remedy. With no medical expertise, no knowledge of how their products would
21 interact with these customers’ ongoing treatments, and knowing only that their products
22 could cause severe allergic reactions, the Cel MD Defendants went ahead and
23 recommended them anyway.

24 21. The Defendants could have killed someone. Their actions were reckless to
25 the point of being horrifying. To treat the most vulnerable among us as an economic
26 resource to be harvested is appalling. And yet all of their customers were treated this
27 way—not as people but as victims to be lied to, hyped, and told whatever it took to close
28 the sale. This conduct must be stopped—and it must be severely punished.

1 **THE PARTIES**

2 **Plaintiffs**

3 22. **Plaintiff Jules Vanden Berge** is a citizen of California residing in Vista,
4 CA. In roughly February of 2019, Plaintiff Vanden Berge signed up for a subscription for
5 Cel MD’s shampoo and conditioner products on the Cel.md website. On February 28,
6 2019, her credit card was billed two charges of \$19.95 and \$51.95 attributed to “CEL MD
7 NEW YORK GB.” On March 30, 2019, Plaintiff Vanden Berge was sent an invoice for
8 the “Microstem Cell Thickening Conditioner” and “Microstem Cell Thickening
9 Shampoo” from Cel MD. On March 31, 2019, she was again billed \$51.95 by Cel MD.

10 23. Plaintiff Vanden Berge is a cancer survivor who donates her hair to help
11 patients undergoing chemotherapy. She purchased the Cel MD products in reliance on the
12 Defendants’ representations in their Facebook advertisements and on their website that
13 these products would improve her hair quality and growth, hoping that it would enable
14 her to donate more hair to those suffering from cancer.

15 24. After using the Cel MD products for several months, she noticed no
16 difference and realized that the products were ineffective. She contacted Cel MD to
17 cancel her subscription and attempted to get a refund, but was treated rudely by their
18 customer service representatives and was not given the refund she requested. She felt as
19 if the Cel MD customer service representatives were falsely suggesting that she had
20 signed up for a long-term contract and made her feel threatened about canceling her
21 subscription.

22 **The Cel MD Defendants**

23 25. **Defendant Christopher Masanto** is a citizen of Australia residing in
24 London, United Kingdom. Christopher Masanto is the CEO and Director of Altitude Ads
25 Limited, the owner and Director of Blooming Investments Limited, and the CEO and
26 Secretary of Amplify Limited. According to Christopher Masanto’s LinkedIn profile, in
27 his position at Altitude Ads he “leads a talented team of internet marketers who specialise
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1 in advertising products and services online at scale.”⁷ One of those is the Cel MD line of
2 products, which Christopher Masanto states on his LinkedIn profile was created by
3 himself and Altitude Ads in April 2018. Defendant Christopher Masanto signed the
4 documents filed with the California Secretary of State on behalf of Amplify Limited to do
5 business in California.

6 **26. Defendant Andrew Masanto** is a citizen of Australia residing in New York,
7 NY. Andrew Masanto describes himself in his biography as “a serial entrepreneur, having
8 founded Altitude Shoes (sold in 2012), Higher Click SEO Agency (sold in 2013),
9 Altitude Ads (ongoing) and then Co-Founding Hadera Hashgraph in 2017.”⁸

10 **27.** In 2010, Andrew Masanto began a blog called “Not Your Average Lawyer”
11 in which he chronicled his business endeavors and his efforts to leave the law.

12 **28.** Andrew Masanto wrote public posts on his blog providing career advice to
13 his brother, Christopher Masanto.⁹ On information and belief, Andrew Masanto played
14 this role of advisor to his brother with respect to Altitude Ads and Cel MD.

15 **29.** In 2014-2015, Andrew Masanto created a skin care company called Royal
16 Dermatological Foundations, incorporated as RDF LLC (“RDF”). The RDF website
17 states that “Entrepreneur Andrew Masanto started RDF LLC with an idea that the latest,
18 cutting-edge, skincare technology should be made available to the public through the
19 power and convenience of the internet.”¹⁰ The site states that “[h]aving run numerous
20 successful online businesses in the UK, Andrew saw the opportunity to use his skills in
21 internet marketing to make a move into the skincare industry, but with an internet
22 marketing twist.... Utilizing industry contacts from his former businesses, Andrew set out
23 to learn and understand as much as he could about the skincare industry and
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26 ⁷ LinkedIn, <https://uk.linkedin.com/in/christopher-masanto-56088a4a> (last visited June 18, 2019).

⁸ Reserve, <https://reserve.org/our-team> (last visited June 22, 2019).

27 ⁹ Andrew Masanto, How to Choose What Business to Start: Eating the Right Pie,
28 <https://web.archive.org/web/20160821092420/http://www.notyouraveragelawyer.com/how-to-choose-what-business-to-start/> (last visited Oct. 20, 2019).

¹⁰ RDF Website, <http://www.rdfcompany.com/about.html> (last visited July 31, 2019).

1 marketplace.... Andrew quickly expanded the team and RDF LLC now includes two
2 talented American team members - Andrew Yeoh and Alex Page. Together, the three
3 have set out to research and create products that utilize the most cutting edge materials in
4 global skincare, leveraged by online distribution.”¹¹ The RDF website lists two products
5 in development—an “aging serum” designed to be applied to the skin, and an “advanced
6 eye repair cream.” Cel MD has created similar products, the Nanotech Stem Cell Face
7 Mask and its Eye Serum.

8 30. While RDF appears to have never gotten off the ground, by 2018 Andrew
9 Masanto was clearly involved in Cel MD. He describes himself in his biography as
10 having “founded” Altitude Ads, the parent company and creator of Cel MD.¹² He has
11 conducted hiring on behalf of Altitude Ads and had access to the Altitude Ads LinkedIn
12 account, posting an advertisement on LinkedIn for a personal assistant to work for
13 Altitude Ads in New York City.¹³ In the advertisement, Andrew Masanto describes
14 himself as one of “[t]he Founders of the successful advertising companies Jump 450 and
15 Altitude Ads (NYC branch)...”¹⁴ The advertisement was posted in roughly June-July
16 2018, which coincides with the launch of Cel MD in April 2018 and its subsequent ramp-
17 up. Cel MD is the primary product line of Altitude Ads. On information and belief,
18 Andrew Masanto operates the New York branch of Altitude Ads through the Delaware
19 corporation Amplify Limited. Andrew Masanto’s resume features extensive experience in
20 Internet marketing, including lecturing on online marketing at Harvard Business
21 School.¹⁵ Andrew Masanto also previously founded a similarly-named company called
22 Altitude Shoes, an online shoe marketing company that also operated out of the United
23 Kingdom.¹⁶ On information and belief, Andrew Masanto was involved creating and
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25 ¹¹ *Id.*

26 ¹² Reserve, <https://reserve.org/our-team> (last visited June 22, 2019).

27 ¹³ LinkedIn, <https://www.linkedin.com/jobs/view/personal-assistant-at-altitude-ads-744634627/> (last visited June 22, 2019).

28 ¹⁴ *Id.*

¹⁵ LinkedIn, <https://www.linkedin.com/in/andrewmasanto> (last visited June 22, 2019).

¹⁶ *Id.*

1 developing the Cel MD and its marketing materials. This is supported by his background
2 and experience, his interest and work in founding a nearly-identical skin care company
3 just a few years before Cel MD, the timing of his hiring activities on behalf of Altitude
4 Ads, the corporate structure of the companies which are based in New York (where
5 Andrew Masanto lives) and London (where Christopher Masanto lives), and his publicly
6 acknowledged role as co-founder of Altitude Ads and his role in operating the New York
7 branch of Altitude Ads, whose only apparent activities in that time frame involve Cel
8 MD. On information and belief, Andrew and Christopher Masanto are brothers, and they
9 cooperated together in creating and promoting Cel MD after Andrew Masanto's RDF
10 skin care venture failed.

11 31. **Defendant Altitude Ads Limited (“Altitude Ads”)** is a United Kingdom
12 corporation with a registered address of: c/o Buzzacott LLP, 130 Wood Street, London,
13 United Kingdom, EC2V 6DL. Defendants Blooming Investments Limited and
14 Christopher Masanto are listed as the owners, operators, or beneficiaries in interest of
15 Altitude Ads in its corporate documents. Altitude Ads lists Cel MD on its website under
16 the banner “Our Brands” along with photos of the products and a link to the Cel MD
17 website. Altitude Ads further includes a description above the pictures of Cel MD stating
18 “Our aim is to take incredible ideas, turn them into tangible brands, and use our expertise
19 to grow those brands into profitable businesses. Here are some of our most recent
20 launches.”¹⁷ Christopher Masanto states on his LinkedIn profile that “Altitude Ads has
21 created some of the fastest growing direct to consumer brands in Europe. One of which is
22 Cel MD....”¹⁸ The Cel MD website states that “Amplify is solely owned by Altitude Ads
23 Ltd.”¹⁹

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¹⁷ Altitude Ads, <https://www.altitudeads.com/> (last visited June 19, 2019).

¹⁸ LinkedIn, <https://uk.linkedin.com/in/christopher-masanto-56088a4a> (last visited June 18, 2019).

¹⁹ Cel MD Website, <https://www.cel.md/pages/terms-conditions> (last visited July 9, 2019).

1 32. **Defendant Blooming Investments Limited (“Blooming Investments”)** is
2 a United Kingdom corporation with a registered address of: c/o Buzzacott LLP, 130
3 Wood Street, London, United Kingdom, EC2V 6DL. Defendant Christopher Masanto is
4 listed as the owner, operator, or beneficiary in interest of Blooming Investments Limited
5 in its corporate documents. Blooming Investments Limited is listed in the corporate
6 documents of Altitude Ads as owning more than 75% of Altitude Ads and being a
7 “person with significant control.”

8 33. **Defendant Amplify Limited** is a Delaware corporation with a registered
9 address of: 310 Alder Rd PO BOX 841, Dover, DE 19904. Amplify Limited is registered
10 to do business in California under the name “Amplify Products,” with a listed address of
11 1375 Broadway, 15th Floor, New York, NY. Defendant Christopher Masanto is the Chief
12 Executive Officer and Secretary of Amplify Limited, as reflected in its corporate filings
13 as a foreign corporation doing business in California and Florida. In its Florida filings,
14 Amplify Limited refers to itself as “Amplify Limited Inc.,” and is registered to do
15 business in Florida as “Amplify Media Inc.” The Cel MD website states that it “is
16 operated by Amplify LTD.”²⁰ The product packaging for the Cel MD products likewise
17 lists their company name as “Amplify LTD.”

18 34. Together Defendants Christopher Masanto, Andrew Masanto, Altitude Ads
19 Limited, Blooming Investments Limited, and Amplify Limited (“the Cel MD
20 Defendants”) created, own, operate, and control the Cel MD brand, website, and business
21 operations. Together they manufacture, advertise, market, distribute, and/or sell the Cel
22 MD products to thousands of consumers in California and throughout the United States,
23 and have done so from roughly September 27, 2017 (when they launched their Facebook
24 page as “Stem Cell MD”) through the present.

The Cel MD Joint Venture

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²⁰ Cel.Md, <https://www.cel.md/pages/terms-conditions> (last visited June 19, 2019).

1 35. The Cel MD Defendants formed a joint venture, and each of the members of
2 that joint venture, as well as the joint venture itself, are jointly and severally liable for the
3 wrongful conduct of any members acting in furtherance of the venture.

4 36. Defendants Christopher Masanto, Andrew Masanto, Altitude Ads Limited,
5 Blooming Investments Limited, and Amplify Limited combined their property, skill, and
6 knowledge with the intent to carry out a single business undertaking. That business
7 undertaking was the Cel MD brand and website, led by Christopher Masanto (who
8 ultimately owns and controls the three other corporate entities) and Andrew Masanto
9 (who on information and belief directs the United States operations of the joint venture).

10 37. Each of the Cel MD Defendants has an ownership interest in the joint
11 venture. Christopher Masanto is the ultimate owner of the group of companies according
12 to their corporate filings in the UK. On information and belief, in his role as “co-founder”
13 Andrew Masanto is entitled to an ownership interest. Such agreement is further implied
14 by the members’ conduct in creating and controlling the Cel MD brand and website, as
15 well as by the statements on the Cel MD Defendants’ websites and LinkedIn pages.

16 38. On information and belief, the Cel MD Defendants have joint control over
17 the business, or agreed to delegate that control. Such control is implied by the member’s
18 conduct because Christopher Masanto is ultimately the owner and the CEO of Altitude
19 Ads, Amplify Limited, and Blooming Investments Limited, and by Andrew Masanto’s
20 exercise of the power to hire employees on behalf of Altitude Ads and his control over
21 the Altitude Ads LinkedIn account.

22 39. The Cel MD Defendants have an agreement to share the profits and losses of
23 the joint venture. Such agreement is implied by the members conduct because of the
24 overlapping corporate ownership and decision-making structure, as well as the various
25 statements on their websites and LinkedIn pages.

26 **FACTUAL ALLEGATIONS**

27 **Deceptive Brand Name and**
28 **Omissions Regarding the Cel MD Brand Name**

1 40. The Cel MD Defendants use the brand name “Cel MD” as an overall brand
2 for marketing their products. All of the products are sold on the Cel.md website or using
3 the Cel MD name on Amazon.com. The Cel MD Defendants’ Facebook advertisements
4 were all labeled as from “Cel MD” until roughly July-August 2019, and the title of their
5 Facebook page was Cel MD. At some point this was changed, but the Facebook URL
6 remains “celmdbeauty” and the product is still described as Cel MD on the page. Since
7 that time, the Cel MD Defendants have maintained Facebook advertising accounts with
8 titles such as “Cel MD Offers” or “Cel MD Results,” and are presently advertising under
9 those names. The Cel MD Defendants’ Instagram page is titled “celmd.beauty” and this
10 is featured prominently as the name at the top of the page.²¹ The Cel MD Defendants’
11 Youtube page is titled “Contact Stem Cell MD Tech,” and the names for the vast majority
12 of the advertising videos they have uploaded (which are embedded into their website and
13 viewable there) begin their titles with the words “Cel MD.”²² On information and belief
14 and given the structure of their websites and sales funnels, every customer of the Cel MD
15 products would have been exposed to and viewed the “Cel MD” brand name.

16 41. The “MD” portion of this brand name is deceptive or misleading to
17 consumers because it falsely implies to consumers that medical doctors, or “M.D.’s,” are
18 selling the Cel MD products. “MD” is commonly known as an abbreviation used by
19 doctors to signify their educational training and achievement, or as part of the name of a
20 medical practice.

21 42. In the context of Cel MD’s website, however, MD is an abbreviation for the
22 country of Moldova. On information and belief, the Cel MD Defendants have no
23 connection to the country of Moldova. Based on representations on the packaging of the
24 Cel MD products, those products are not made in Moldova, were not designed there, and
25 on information and belief the only connection between Cel MD and Moldova is that the
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27 ²¹ Cel MD Instagram, <https://www.instagram.com/celmd.beauty/?hl=en>, (last visited
28 June 23, 2019).

²² Cel MD Youtube Page, <https://www.youtube.com/channel/UCrQoAp3iHHR-ZEAXG50d0Aw/videos>, (last visited June 23, 2019).

1 Defendants chose to purchase a domain from that country. There do not appear to be any
2 references anywhere on the Cel MD website to Moldova other than the use of the MD
3 abbreviation.

4 43. The Cel MD Defendants have repeatedly used the “MD” portion of their
5 name to suggest to consumers that they are medical doctors. For example, in a page on
6 the Cel MD website containing fake reviews from customers attributed to photos of a
7 model and a photo lifted from a woman in a “cougar” meme, the Cel MD Defendants
8 portray the page as an article written by “Ryan Connor, Stem Cell MD.”²³ But on
9 information and belief, just like the fake reviews, Ryan Connor is not in fact a doctor and
10 is instead a pseudonym for a Cel MD employee. The page attributes glowing quotes to an
11 unnamed doctor: “One doctor put it best saying ‘with these masks you get the powerful
12 skin healing properties of stem cells, without the ethical dilemma of using real human
13 stem cells. A brilliant invention.’”²⁴ But just as the customer quotes on this page can be
14 proven fake by a simple Google reverse image search, on information and belief this
15 quote from a “doctor” was faked by the Cel MD employees as well. The page also claims
16 that the Cel MD mask was developed by a “NY based stem cell expert”—but again, the
17 identify of this “expert” is never disclosed.²⁵

18 44. On information and belief, the Cel MD Defendants chose the “MD”
19 abbreviation to deliberately suggest to consumers that their products were sold by a
20 medical practice. The Cel MD Defendants registered a domain name from the country of
21 Moldova because URL’s registered through Moldova utilize a .md country code in their
22 domains instead of the .com code. By registering through Moldova, the website would
23 appear as “cel.md” instead of “cel.com” or some other domain name. Many domain name
24 suffixes are reserved for particular industries (for example, .xxx for pornography, .com
25 and .biz for commercial enterprises, and more than 1,000 others including .dental for
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27 ²³ Cel.Md, [https://www.cel.md/pages/why-stem-cell-md-decided-to-offer-a-free-trial-
on-top-selling-product-1](https://www.cel.md/pages/why-stem-cell-md-decided-to-offer-a-free-trial-on-top-selling-product-1) (last visited July 29, 2019).

28 ²⁴ *Id.*

²⁵ *Id.*

1 dentists and .doctor for doctors). Because of this common and well-known practice, a
2 reasonable consumer would be deceived into thinking that .md was a suffix for medical
3 doctors.

4 45. The Cel MD Defendants further deceived their customers by omission by
5 failing to disclose the information that “MD” in the URL stands for Moldova and not
6 “Medical Doctor(s)” and for failing to disclose that they are not doctors nor are they a
7 medical practice.

8 46. The Cel MD Defendants were under a duty to disclose this information to
9 Plaintiff and the Class Members because the Cel MD Defendants had exclusive
10 knowledge of material facts not known to them, namely that “MD” stands for Moldova
11 and not “medical doctor(s)” as reasonable consumers would assume.

12 47. Plaintiff and the Class Members did not know this, and the information was
13 difficult to discover because it requires expertise in domain names and their operation as
14 well as an investigation into the qualifications of the actual people who are behind Cel
15 MD, who are not disclosed by name on the Cel MD website and who cannot be easily
16 located without searching corporate records (and in some instances cannot be located at
17 all from public information).

18 48. The Cel MD Defendants were under a duty to disclose this information to
19 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
20 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
21 this matter. The Cel MD Defendants have hidden or deleted negative comments on their
22 Facebook ads, as evidenced by the disparity between comments listed on the ads and
23 comments appearing on the ads. For example, on one ad, there have been 16 comments,
24 but only 9 of those comments are publicly visible.²⁶ Advertisers on Facebook have the
25 option to hide comments by customers on their ads.

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28 ²⁶ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=558708074666940> (last visited June 21, 2019).

1 49. As a specific example, a page capture taken on June 27, 2019 at of 6:09 PM
 2 Pacific time, one of the Cel MD Defendants' Facebook advertisements featured publicly
 3 visible comments by two individuals seeking to convey negative information about the
 4 Cel MD Defendants to consumers. One, by an individual named Terry Hopkins,
 5 questioned whether the Cel MD products could "actually make your hair thin out more"
 6 and specifically asked the Cel MD Defendants (who had been actively replying to
 7 customers' questions) whether that was a possibility:



9 **Terry Hopkins** Why have you not answered Dave Klein question? This makes me extremely skeptical especially that we have heard in
 10 the past that some of these so called products that makes your hair grow can actually make your hair thin out more. His question was
 11 does your product have a chance to make you hair thin even more? I looked for your response in the comments to him but you skipped
 his question and been answering several questions after his question. 😞

Like · Reply · 40m

12
 13 50. Another individual named Sean O'Reilly responded to a "before and after"
 14 photo which the Cel MD Defendants posted saying "Lol... more lies." The same
 15 individual posted several other negative comments in the thread, also informing
 16 customers that if they stopped using the products, they risked "more hair loss."



18 **Jonathan Breux** what happens when you stop using it?

Like · Reply · 5w



19 **Cel MD** Hi Jonathan! 😊 Regarding what happens when you stop, your hair should not fall out when you stop using the
 20 product. However, you will find that any new hairs will not grow and eventually your hair will return to the condition it was in prior
 to using the product.

Like · Reply · 5w



21 **Sean O'Reilly** Cel MD Nothing except for more hair loss 😞

22 Like · Reply · 9h

23
 24 51. By the following morning, on June 28, 2019 as of 11:55 AM Pacific time,
 25 these comments had been hidden or deleted by the Cel MD Defendants and were no
 26 longer visible to the public. On information and belief, they were hidden rather than
 27 deleted, since the number of comments listed on the advertisement had gone up from 285
 28 to 301 even as fewer comments were publicly visible.

1 52. In aggregate, there are more than 10,000 comments listed across the Cel MD
2 Defendants’ various Facebook advertisements, which millions of people have been
3 exposed to. On information and belief, the Cel MD Defendants have actively hidden
4 numerous comments on their Facebook advertisements using the “Hide Comment”
5 feature in order to suppress negative information about their products and to prevent
6 potential customers from discovering it. These hidden comments remain accessible to the
7 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
8 these hidden comments, further information material to this matter will be found to have
9 been hidden, concealed, or covered up by the Cel MD Defendants.

10 53. On information and belief, the Cel MD Defendants have further engaged in
11 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
12 order to suppress material negative information about their products and to prevent
13 consumers from discovering it.

14 54. The Cel MD Defendants were further under a duty to Plaintiff and the Class
15 members because they made partial representations—using the term “MD” and
16 describing themselves on their website as “innovators” who are “pioneering scientific
17 methods” when in fact they are an advertising company—but also suppressed, concealed,
18 or did not disclose material facts that qualify those representations, namely that they are
19 not medical doctors, are not a medical practice, that MD in the URL stands for Moldova,
20 and that they have no connection to Moldova.

21 55. The Cel MD Defendants knew, or by the exercise of reasonable care should
22 have known, that their omissions were untrue and misleading, and deliberately made the
23 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
24 other Class Members. Those omissions could have been corrected by using a different
25 URL to host the Cel MD website and removing “MD” entirely from its name on Amazon,
26 Facebook, on the Cel MD website, and in any other places it is used.

27 56. This use of “MD” in the Cel MD name is no minor deception—it is a
28 violation of the California laws against unauthorized practice of medicine. The Cel MD

1 Defendants are not physicians, surgeons, or practitioners licensed by California or any
2 other state as medical doctors. Pursuant to Cal. Bus. & Professions Code § 2054, “[a]ny
3 person who uses in any sign, business card, or letterhead, or in an advertisement... the
4 initials ‘M.D.’ or any other terms or letters indicating or implying that he or she is a
5 physician and surgeon, physician, surgeon, or practitioner under the terms of this or any
6 other law... is guilty of a misdemeanor.” The Cel MD Defendants’ conduct is thus
7 unlawful under the California Unfair Competition Law.

8 57. The Cel MD Defendants’ misrepresentations and omissions regarding their
9 brand name were material to consumers. A reasonable consumer would attach importance
10 to the truth or falsity of these misrepresentations and omissions in deciding whether to
11 purchase the Cel MD products because had they known that Cel MD was not a medical
12 practice and was not run by doctors, and that in fact the “innovators” were an advertising
13 agency staffed primarily by digital marketing specialists with no medical degrees,
14 consumers would not have purchased the Cel MD products or would not have paid as
15 much for those products. Plaintiff and the Class members thus reasonably relied upon
16 these representations in making their purchase decisions.

17 **Omissions Regarding Reviews and Endorsements**

18 58. Customer reviews, testimonials, videos, and photographs that purport to
19 come from happy customers pervade the Cel MD Defendants’ marketing materials. In
20 their Facebook advertisements, in their Youtube pages, on the Cel.md website, and on the
21 Amazon website, these endorsements are present. On information and belief, and based
22 on the structure of the Cel.md sales funnels and websites, every customer who purchases
23 a product from Cel.md would have been exposed to and view at least one of these
24 endorsements at least through roughly October 2019.

25 59. The Cel MD Defendants’ website utilizes customer reviews throughout the
26 site—often associated with photographs of what purport to be real customers who have
27 given gushing reviews of the Cel MD products. But many of the photos are not in fact
28

1 real customers. Instead, they are stock photos of models who have no connection
2 whatsoever with the Cel MD Defendants or their products.

3 60. For example, a photo purporting to be of a customer named “Rachel T.” who
4 made a “Verified purchase” and gave Cel MD’s shampoo and conditioner a five-star
5 review features a vibrant-looking woman with a full head of hair:²⁷



11 Rachel T. Verified purchase

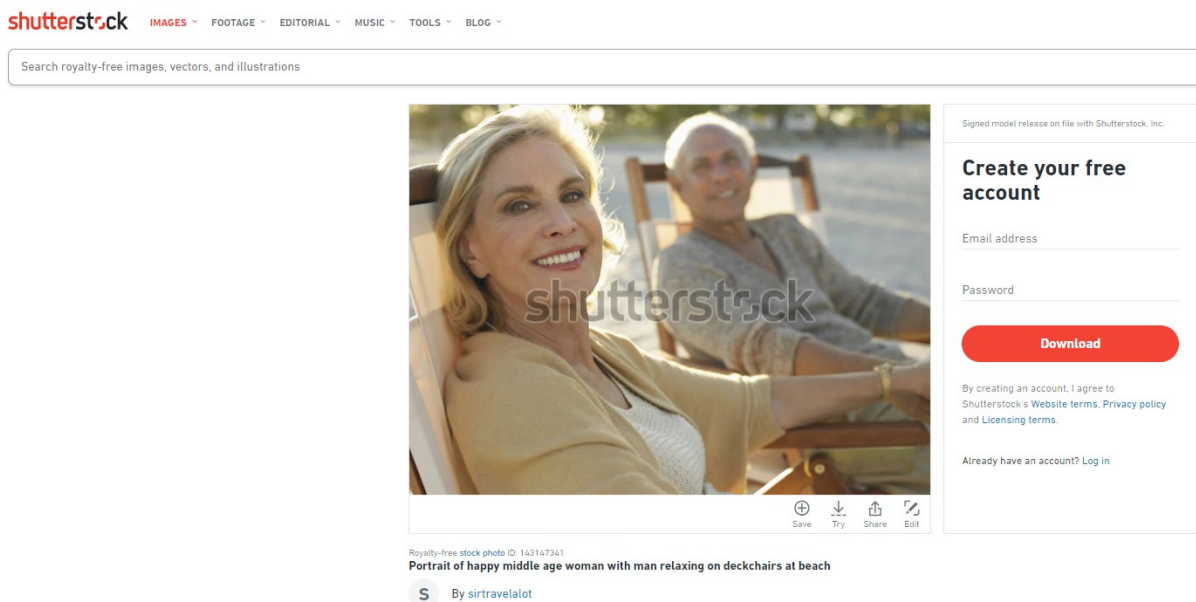
12 My hair has transformed. It feels and looks
13 healthier.

14 61. But this photo originated from a stock photo website called Shutterstock,
15 which offers licenses to an identical photo of a model who, on information and belief, has
16 no associations with Cel MD and has never used or purchased any Cel MD products:²⁸

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27 ²⁷ Cel.Md, <https://www.cel.md/collections/hair-growth> (last visited June 18, 2019).

28 ²⁸ Shutterstock, <https://www.shutterstock.com/image-photo/portrait-happy-middle-age-woman-man-143147341?src=FiCnNnqogTELUI08x6atlQ-1-51&studio=1> (last visited June 18, 2019).

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62. In some cases the same photos are presented on different parts of the Cel MD Defendants’ website as being different verified customers with different names who gave different reviews. For example, “Pam W.” purportedly is a customer who reviewed Cel MD’s eye serum:²⁹



Pam W. Verified purchase

I had bags beneath my eyes and within 2 weeks the bags are half their size. Can't wait to see what 2 more weeks will bring.

²⁹ Cel.Md, <https://www.cel.md/collections/stem-cell-eye-serum> (last visited June 18, 2019).

63. But “Pam W.” uses the same photo as “Sylvia F.,” who purportedly is a customer who reviewed Cel MD’s hand cream:³⁰



Sylvia F. Verified purchase

Love this product, I’ve gifted it to all my friends this Christmas!

64. Similarly, “Barbara D.” gives a glowing review of Cel MD’s eye serum:³¹



Barbara D. Verified purchase

I like the way it goes on. I put it on right before bed, on upper lashes only, so when my eyes are closed, the bottom lashes are touching. I’ve only been using it a week and so far so good

65. “Barbara D.” makes another appearance under the name “Janet R.” to give a similarly enthusiastic endorsement of Cel MD’s hand cream:³²

³⁰ Cel.Md, <https://www.cel.md/collections/stem-cell-hand-cream> (last visited June 18, 2019).

³¹ Cel.Md, <https://www.cel.md/collections/stem-cell-eye-serum> (last visited June 18, 2019).

³² Cel.Md, <https://www.cel.md/collections/stem-cell-hand-cream> (last visited June 18, 2019).



Janet R. Verified purchase

I've struggled with over-washed, dry hands for so long and FINALLY a hand cream that works!!

66. On another page in which a Cel MD employee claims to be a medical doctor, two photos lifted from other parts of the Internet are used with fake reviews attributed to them, portraying the two women as customers named "Charlotte" and "Ashleigh."³³



³³ Cel.Md, <https://www.cel.md/pages/why-stem-cell-md-decided-to-offer-a-free-trial-on-top-selling-product-1> (last visited July 29, 2019).

1 67. In fact, the photo of “Charlotte” appears to have been taken from a “cougar”
2 meme website³⁴ where it appears in a more complete form (meaning the cropped photo
3 on the Cel MD site could not be the original source because the second photo contains
4 additional imagery of the individual pictured):



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16 68. As for “Ashleigh,” the photo is in fact of a model named Yasmina Rossi
17 who has no apparent connection to the Cel MD Defendants.³⁵ The same photo of
18 Yasmina Rossi that the Cel MD Defendants claim is a customer named “Ashleigh”
19 appears in larger form and is publicly available on Pinterest and various other sites.³⁶

20 69. In other instances, the Cel MD Defendants have photoshopped their own
21 products onto pictures of random individuals from the Internet, falsely representing to
22 consumers that they are customers. For example, beneath a headline stating “WHAT
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26 ³⁴ MemeBomb.net, <https://memebomb.net/mother-in-law-meme-1/> (last visited July 29, 2019).

27 ³⁵ Yasmina Rossi Instagram, <https://www.instagram.com/yasmina.rossi/?hl=en> (last visited July 29, 2019).

28 ³⁶ Pinterest, <https://www.pinterest.com/pin/472103973435459969/?lp=true> (last visited July 29, 2019).

1 OUR CUSTOMERS ARE SAYING,” the Cel MD Defendants included this photo of a
2 “customer” who appears to be holding up a bottle of a Cel MD product:³⁷



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12 70. But the photo is nothing but a crude photoshop—neither the hand nor the
13 bottle are featured in the original photo of this individual, who is actually an author and
14 journalist named Lauren Galley whose photo was stolen by the Cel MD Defendants from
15 a Huffington Post article.³⁸



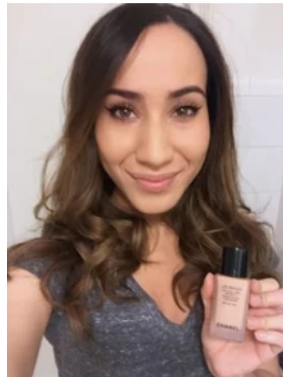
25 ³⁷ Cel MD Website, <https://promos.cel.md/caxcconogift/index.php> (last visited August
1, 2019).

26 ³⁸ Five Reasons to Take Another Selfie, https://www.huffpost.com/entry/5-reasons-to-take-another-selfie_b_4742798?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAMHq4NuZzMwKBHAAGxUJi9ANSB9VvA0KGqubCzCh1jib9geUegLzykM0QibzUD1Hc-JXk87yVi_CtAKkUaXkAFmGNiQSVl4gEnmDVfjtwSj1IjvJQLnbKgzyYG4uufsnff8dfy0_IO_fbTOj4ppp2qA81JUUtWnDtbTrDyolUVpkVj (last visited August 1, 2019).

1 71. Another photo again features a woman labeled as a “customer” holding up a
2 Cel MD product:³⁹



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11 72. And again, the Cel MD Defendants stole this photo, which is actually of
12 Marianne Mychaskiw, a beauty editor and journalist who took this photo for one of her
13 articles in InStyle Magazine and who was originally pictured holding up a Chanel
14 product:⁴⁰

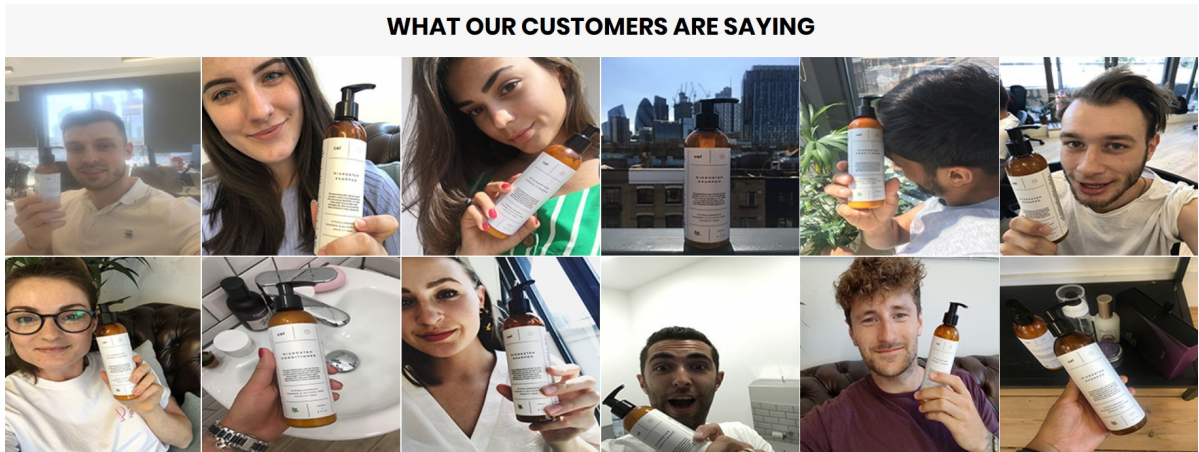


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23 73. In other instances, the “customers” in photos on the Cel MD website appear
24 to be photos of Altitude Ads employees who took photos of themselves pretending to be
25 satisfied customers of their own products. For example, a block of “customers” on the
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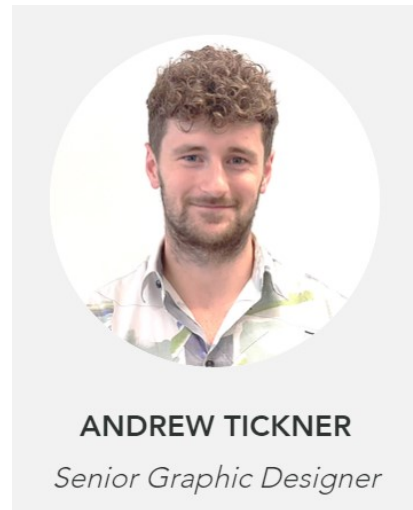
27 ³⁹ Cel MD Website, <https://promos.cel.md/caxcconogift/index.php> (last visited August
1, 2019).

28 ⁴⁰ We Put 5 Foundations to the Selfie Test, [https://www.instyle.com/beauty/we-put-5-
foundations-selfie-test?](https://www.instyle.com/beauty/we-put-5-foundations-selfie-test?) (last visited August 1, 2019).

1 Cel MD website features individuals holding up bottles of the Cel MD shampoo or
2 conditioner products.⁴¹ The website clearly labels them as “customers” and features
3 reviews beneath the block of photos.



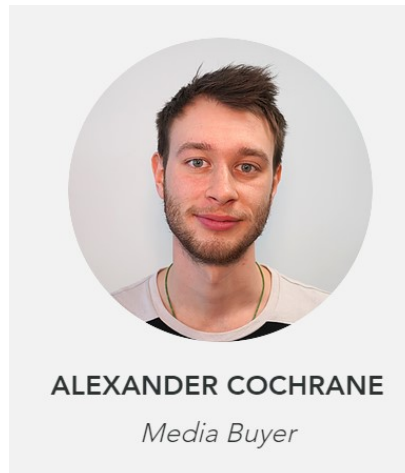
13 74. But at least two of these photos are not of customers but of Altitude Ads
14 employees. One photo bears a striking resemblance to Andrew Tickner, a Senior Graphic
15 Designer at Altitude Ads:⁴²



28 ⁴¹ Cel MD Website, <https://promos.cel.md/dmxcspgiftbf/index.php> (last visited August 7, 2019).

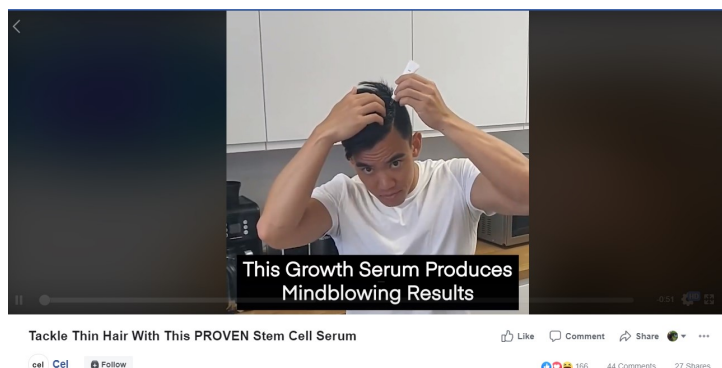
⁴² Altitude Ads Website, <https://www.altitudeads.com/> (last visited August 7, 2019).

1 75. Another of the “customer” photos appears to be of Alexander Cochrane, a
2 Media Buyer for Altitude Ads:



13 76. In video advertisements on Facebook, Altitude Ads employees are featured
14 as customers, when in fact they are employees posing in the breakroom of the Altitude
15 Ads offices. Both of the “customer photos” of Mr. Tichner and Mr. Cochrane have
16 appeared as purported customers in Facebook advertisements for Cel MD.⁴³

17 77. A video advertisement on Facebook for Cel MD opens on an individual
18 applying “Stem Cell Serum” to his head, bragging about his “mindblowing results.”⁴⁴



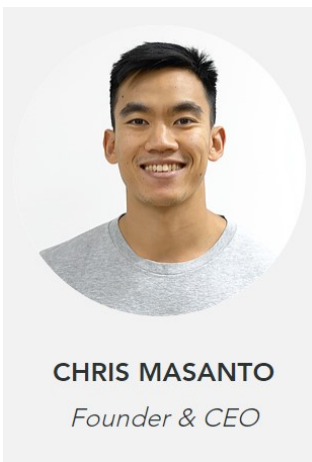
27 ⁴³ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=736610636755659> (last visited August 14, 2019).

28 ⁴⁴ Cel MD Facebook Page, <https://www.facebook.com/celmdbeauty/videos/2443615495914938/?v=2443615495914938> (last visited August 14, 2019).

1 78. The individual appears amid a stream of photos and videos of people
2 depicted as the “results” of the Cel MD products. In another video, the same individual is
3 presented under what looks like a customer-written endorsement: “27 days in – And My
4 Hairs Back” (sic).⁴⁵



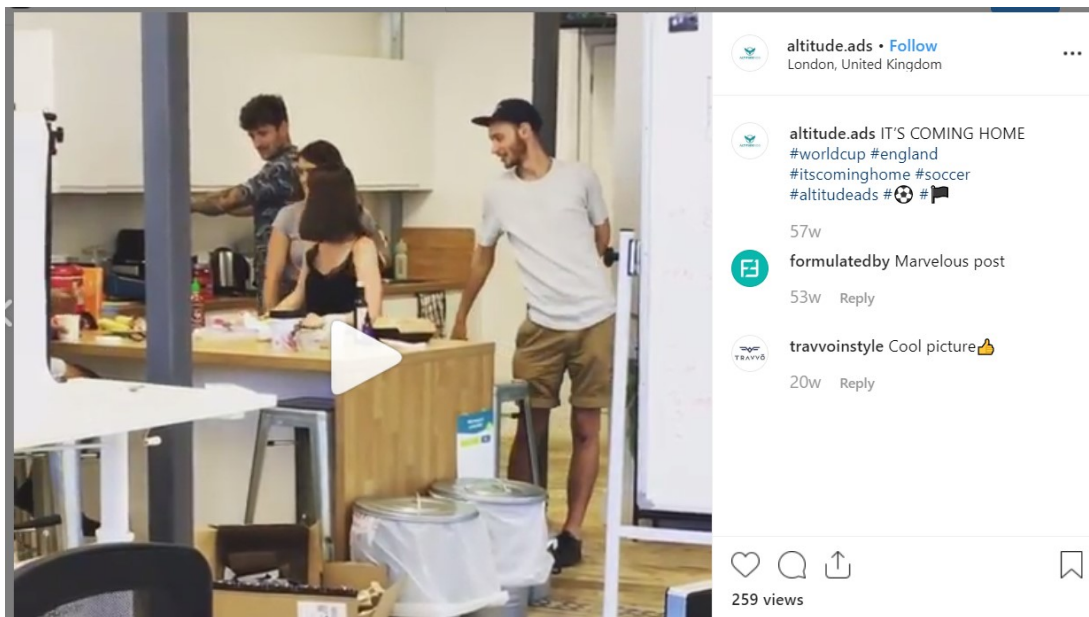
14 79. But rather than a customer, the individual appears to be none other than
15 Defendant Christopher Masanto.⁴⁶



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27 ⁴⁵ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=498179097396472> (last
visited September 17, 2019).

28 ⁴⁶ Altitude Ads Website, <https://www.altitudeads.com/> (last visited August 14,
2019).

1 80. Furthermore, images on the Altitude Ads Instagram account of Altitude Ads
2 employees Alexander Cochrane and Andrew Tickner dancing in their company
3 breakroom show an identical layout to the kitchen in which the individual in the
4 Facebook advertisements is posing:⁴⁷

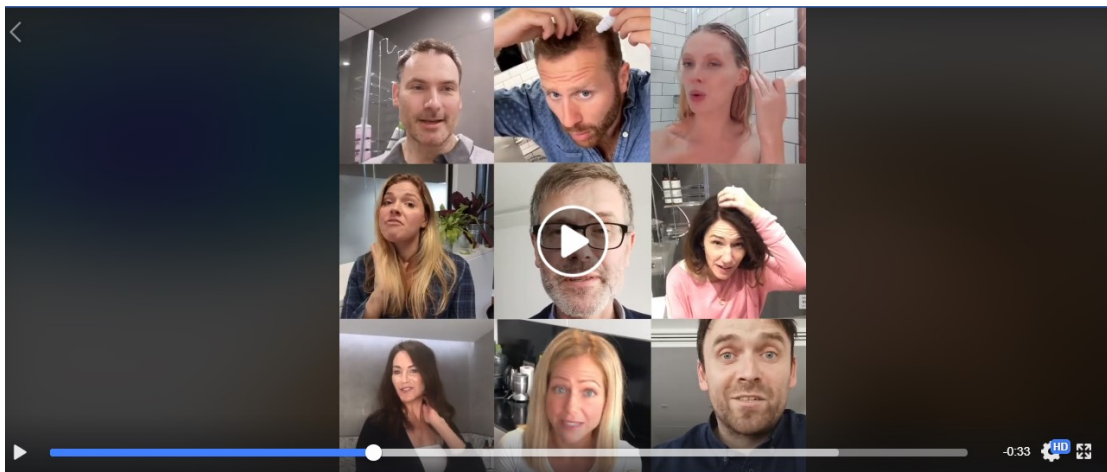


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18 81. Later in one of the same Facebook videos, an individual who resembles
19 Altitude Ads employee Jack Nicoll appears among the purported customer results (top
20 center):⁴⁸

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27 ⁴⁷ Altitude Ads Instagram Account, <https://www.instagram.com/p/Bk5VYysAgHw/> (last visited August 14, 2019).

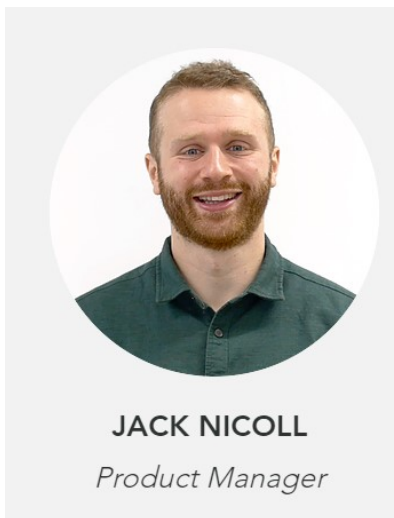
28 ⁴⁸ Cel MD Facebook Page, <https://www.facebook.com/celmdbeauty/videos/2443615495914938/?v=2443615495914938> (last visited August 14, 2019).

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Tackle Thin Hair With This PROVEN Stem Cell Serum Like Comment Share 166 44 Comments 27 Shares

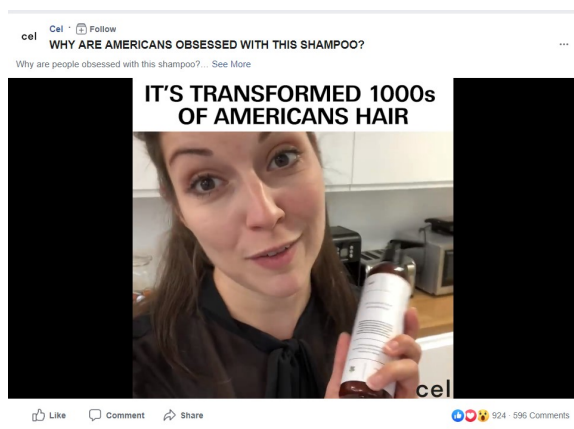
82. Compare to a photo of Mr. Nicoll from the Altitude Ads website:⁴⁹



83. In another video, what appears to be the same individual featured later in this Complaint in the “Representations Regarding Limited Supply” section, who appears in a number of videos on the Cel MD website as a company spokesperson, is instead

⁴⁹ Altitude Ads Website, <https://www.altitudeads.com/> (last visited August 14, 2019).

1 featured posing as an American whose hair has been “transformed.”⁵⁰ But a close
2 inspection of the background reveals that this photo again appears to have been taken in
3 the company breakroom of Altitude Ads in London.



12 84. On information and belief, many of the other “customer photos” on the Cel
13 MD website are either of Altitude Ads employees or friends of those employees who are
14 not actual customers. Nowhere is it disclosed that these photos are of employees or others
15 who have been compensated.

16 85. Multiple other “customer photos” have been reused on the Cel MD website
17 with different customer names and different reviews.

18 86. Many of the other images presented on the Cel MD website as being
19 customers or reviewers who made a “Verified purchase” also appear on hundreds of other
20 third-party websites with no connection to Cel MD—suggesting that they were also
21 originally stock photos or stolen from other individuals. On information and belief, the
22 Cel MD Defendants or their agents purchased these stock photos or obtained them from
23 third party websites, falsely labeled them as actual customers, and wrote many of the
24 “reviews” on their website themselves.

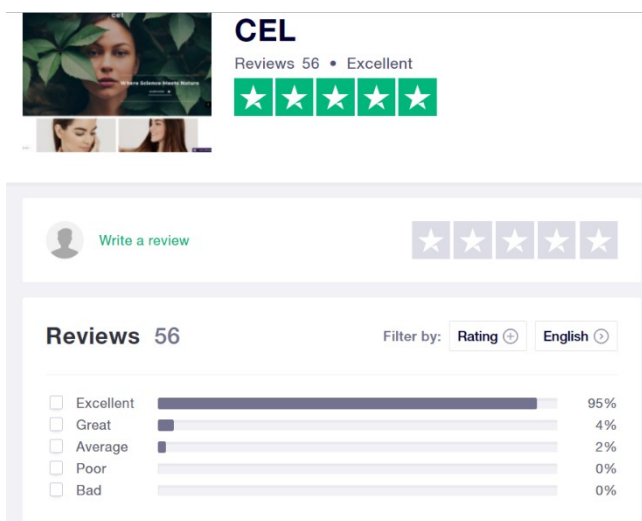
25 87. The appearance associated with the reviewers is material to Cel MD’s
26 customers and their decision to purchase the products at issue. Because these fake photos
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28 ⁵⁰ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=289061205112777> (last visited August 14, 2019).

1 are of individuals with the kind of healthy, vibrant hair and perfect skin that Cel MD is
 2 selling to its customers as the primary benefits of its products, portraying reviews as
 3 coming from these individuals misleads Cel MD customers as to the kinds of results they
 4 may expect from using the products.

5 88. Cel MD also utilizes a website called “TrustPilot” to display reviews on its
 6 own website, and it frequently touts its high scores in advertisements. In an interview
 7 with The Guardian, TrustPilot acknowledged that there is a widespread “black market”
 8 for fake reviews on its website.⁵¹

9 89. As of June 2019, the reviews for Cel MD on TrustPilot were almost
 10 universally positive, with 95% of reviewers giving Cel MD a 5-star rating.⁵²



21 90. By contrast, on Amazon in the same time period, Cel MD’s shampoo and
 22 conditioner products managed a mediocre 3.7 rating, with a full 20% of reviewers giving
 23 the products the lowest possible 1 star rating:⁵³

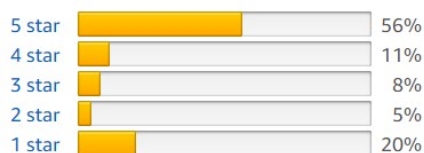
26 ⁵¹ Mike Deri Smith, “Fake Reviews Plague Consumer Websites,” *The Guardian* (online, Jan. 26, 2013), <https://www.theguardian.com/money/2013/jan/26/fake-reviews-plague-consumer-websites> (last visited June 18, 2019).

27 ⁵² TrustPilot, <https://uk.trustpilot.com/review/cel.md?page=3> (last visited June 18, 2019).

28 ⁵³ Amazon.com, <https://www.amazon.com/CEL-MD-Thickening-Conditioner-Stimulating/dp/B07D7HRVDL> (last visited June 18, 2019).

549 customer reviews

★★★★☆ 3.7 out of 5 stars ▾



91. From March 26, 2019 through October 13, 2019, Cel MD continued to have this same disparity in TrustPilot reviews, racking up almost 200 five-star reviews with zero negative reviews. But on October 14, 2019—after the Cel MD Defendants learned that that they were being investigated for a class action lawsuit—this suddenly changed. A flood of one-star, two-star, and three-star reviews for Cel MD were released onto the TrustPilot website, all dated after October 14, 2019. Cel MD went from a 4.9 rating to a 4.3 rating, with its one-star ratings jumping from zero to ten percent.⁵⁴ The rating has continued to plunge now that negative reviews have been allowed, and is down to a 4.1 as of March 2020.

92. It is a statistical impossibility that Cel MD could go more than six months and 200 reviews without a single negative review, and then suddenly receive more than 26 one-star reviews in the space of a single month.

93. Articles online about how marketers manipulate TrustPilot explain what likely happened here. One tactic companies use that could produce these results is called review flagging: “Trustpilot allows businesses to flag a review for removal if it breaches any of their review guidelines. The review is then removed from the Trustpilot platform if found to be in breach. There are several grounds for which a review could be flagged.... These include (but are not limited to): The service experience has not occurred within the last 12 months.”⁵⁵

⁵⁴ TrustPilot, <https://www.trustpilot.com/review/cel.md> (last visited Nov. 18, 2019).

⁵⁵ Danny Richman, “Can you trust TrustPilot?,” (online, June 26, 2019), <https://www.seotraininglondon.org/can-you-trust-trustpilot/> (last visited Nov. 18, 2019).

1 94. In other words, the Cel MD Defendants are able to simply flag negative
2 reviews, claim the person is not a customer, and their reviews will never show up on the
3 TrustPilot website, giving the appearance that no one is complaining. Another possibility
4 is that the Cel MD Defendants have been purchasing fake reviews, or have been “gating”
5 the reviews by directing certain selected customers to TrustPilot, or that they have been
6 providing incentives to customers to post reviews on TrustPilot without disclosure.

7 95. Whatever the explanation, the one explanation that cannot be true is a claim
8 that Cel MD’s TrustPilot reviews were unmanipulated. It is as if a street busker claimed
9 to have flipped heads 200 times in a row, and then suddenly begins flipping mostly tails
10 after they are called out for it. The most likely explanation is not a freak of statistics—it
11 is a rigged coin.

12 96. On information and belief, this vast disparity is because of manipulation or
13 falsification of the TrustPilot reviews by Cel MD. Because the TrustPilot reviews
14 automatically populate Cel MD’s website, this manipulation makes it appear to visitors of
15 the Cel MD website that Cel MD receives almost universally positive reviews—when in
16 fact, the reviews on Amazon complain of problems ranging from ineffectiveness of the
17 products to scalp burns or hair loss caused by the very Cel MD products that were
18 supposed to prevent it.

19 97. On information and belief, some of Cel MD’s positive Amazon reviews are
20 fake or were obtained through undisclosed compensation.

21 98. On information and belief, some of Cel MD’s positive reviews or comments
22 on its Facebook ads are fake or were obtained through undisclosed compensation. The
23 Cel MD Defendants have also hidden or deleted negative comments on their Facebook
24 ads, as described further herein. On information and belief, the Cel MD Defendants have
25 actively hidden comments on their Facebook advertisements in order to suppress negative
26 material information from actual users who would report the same experiences of scalp
27 burns and hair loss as reviewers on Amazon have reported, as well as other material facts
28 the Cel MD Defendants seek to hide from their customers.

1 99. On information and belief, some of the endorsers used in Cel MD’s videos
2 and video advertising were beneficiaries of undisclosed compensation or were paid actors
3 and actresses. For example, “Sam” in one of Cel MD’s Youtube videos appears to be
4 either reading from a prepared or memorized script and stumbles over the words.⁵⁶
5 Similarly, “Paul” in another video appears to be an actor, with exaggerated intonations
6 and pauses in his speech suggesting a memorized script (along with a forced and
7 unnatural reference to a 90-day money back guarantee).⁵⁷ And “Sophie,” who is featured
8 in Cel MD advertisements, speaks in the tone of a stage actress with unnatural pauses,
9 intonations, and facial expressions.⁵⁸ On other pages, “Sophie” is labeled as “Jennifer
10 Denby,” the supposed author of a lengthy and professionally written sales letter for Cel
11 MD, and “Paul” is described as her husband.⁵⁹

12 100. The Cel MD website includes a link to a disclaimer on a separate page that is
13 linked to from the bottom of the Cel MD site, included among links to five separate pages
14 of various legal disclosures. This link is not even available on many pages on the website,
15 and the disclaimer is not accessible from those pages. Among the legal disclaimers on
16 this page is the statement: “Compensation And Benefits To Testimonialists. Some of the
17 testimonialists on this site receive affiliate commissions based on sales of products or
18 services for which they give testimonials. Other testimonialists receive free promotional
19 materials or free products or services to review. To the best of our knowledge we believe
20 these testimonials represent the honest opinions of the testimonialists.”⁶⁰

21 101. In other words, Cel MD pays some of the individuals providing testimonials
22 or reviews for their endorsements. But those payments are not disclosed in the Facebook
23 ads, are not disclosed on Cel MD’s Amazon page, and are not disclosed in the videos

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25 ⁵⁶ Cel MD Youtube page, <https://www.youtube.com/watch?v=slwYoBVCjV0> (last visited
June 24, 2019).

26 ⁵⁷ Cel MD Youtube page, <https://www.youtube.com/watch?v=iMeyoPjdZW0> (last visited
June 24, 2019).

27 ⁵⁸ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=521751705022292> (last
visited June 21, 2019).

28 ⁵⁹ Cel.Md, https://promos.cel.md/caxcspbf_x_unique/ (last visited Nov. 19, 2019).

⁶⁰ Cel.Md, <https://www.cel.md/pages/testimonial-results-disclaimer> (last visited
June 21, 2019).

1 featuring the paid endorsers or in proximity to any of the reviews on the Cel MD website.
2 This failure to disclose that endorsers are being paid in reasonable proximity to the paid
3 endorsements renders them misleading and deceptive, as the reviews are presented to
4 consumers as if they are real or as if the endorsers are not being compensated.

5 102. On information and belief, and based on the structure of Cel MD's
6 advertising, website, and sales funnel, all purchasers of the Cel MD products would have
7 been exposed to and would have viewed reviews that were fake, compensated for without
8 disclosure, which featured photos or videos of non-customers, or which were
9 manipulated to make it appear as if the overall reviews were more positive than they
10 actually were.

11 103. The Cel MD Defendants made material omissions regarding their customer
12 reviews and misled consumers by omitting material information which they were under a
13 duty to disclose relating to their reviews. The Cel MD Defendants failed to disclose to
14 consumers who viewed their videos, their Amazon page, their website, or their Facebook
15 advertisements that some of their reviews and endorsements were fake, compensated for
16 without disclosure, featured images of individuals who were not the reviewer, or which
17 were manipulated to make it appear as if the overall reviews were more positive than they
18 actually were. While the Cel MD Defendants made limited disclosures on a separate page
19 on their website that some of their reviews and endorsements were compensated, that
20 disclosure is of no legal relevance because it was made on a separate page and was not
21 made in proximity to the reviews or endorsements, and because the disclosure contained
22 material omissions (for example, that some reviews were fake or manipulated or that the
23 photos were not of actual customers, as well as the true nature of the actual
24 compensation).

25 104. The Cel MD Defendants were under a duty to disclose this information to
26 Plaintiff and the Class Members because the Cel MD Defendants had exclusive
27 knowledge of material facts not known to them, namely that they had written the reviews
28 themselves, that the photos were not of actual customers or reviewers, that the reviews or

1 endorsements were compensated for, or that reviews were manipulated to make it appear
2 as if the overall reviews were more positive than they actually were.

3 105. Plaintiff and the Class Members did not know this, and it was difficult to
4 discover because information about the authorship of reviews or the compensation and
5 identity of the authors is non-public.

6 106. The Cel MD Defendants were under a duty to disclose this information to
7 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
8 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
9 this matter. The Cel MD Defendants have hidden or deleted negative comments on their
10 Facebook ads, as described further herein.

11 107. In aggregate, there are more than 10,000 comments listed across the Cel MD
12 Defendants' various Facebook advertisements, which millions of people have been
13 exposed to. On information and belief, the Cel MD Defendants have actively hidden
14 numerous comments on their Facebook advertisements using the "Hide Comment"
15 feature in order to suppress negative information about their products and to prevent
16 potential customers from discovering it. These hidden comments remain accessible to the
17 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
18 these hidden comments, information material to this matter will be found to have been
19 hidden, concealed, or covered up by the Cel MD Defendants.

20 108. On information and belief, the Cel MD Defendants have further engaged in
21 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
22 order to suppress material negative information about their products and to prevent
23 consumers from discovering it.

24 109. The Cel MD Defendants were further under a duty to Plaintiff and the Class
25 members because they made partial representations—that the reviews reflected the
26 statements of customers or endorsers and their actual appearance—but also suppressed,
27 concealed, or did not disclose material facts that qualify those representations, namely
28 that the reviews were authored by Cel MD employees or were fake, that reviewers or

1 endorsers were compensated, that they featured photos who were not the reviewer, or that
2 they were manipulated to make it appear as if the overall reviews were more positive than
3 they actually were.

4 110. The Cel MD Defendants knew, or by the exercise of reasonable care should
5 have known, that their omissions were untrue and misleading, and deliberately made the
6 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
7 other Class Members. Those omissions could have been corrected by including the
8 omitted information in proximity to the reviews on the Cel MD website, by including
9 prominent disclaimers in the Cel MD videos, by including a prominent disclaimer on its
10 Amazon product descriptions, and/or by including prominent disclaimers in the text or
11 videos on its Facebook advertisements.

12 111. These omissions are designed to induce consumers to purchase the Cel MD
13 products based on the positive and enthusiastic endorsements of the fake or paid
14 reviewers. As a result of these omissions, Plaintiff and the Class purchased products they
15 would not have or pay more for them than they otherwise would have.

16 112. The Cel MD Defendants' omissions regarding their customer reviews were
17 material to consumers. A reasonable consumer would attach importance to these
18 omissions in deciding whether to purchase the Cel MD products because the experience
19 of other consumers and the ratings other consumers give to products are important in a
20 reasonable consumer's purchasing decision. A product with highly positive reviews is
21 reasonably considered by consumers to be more valuable than a product with bad
22 reviews, and whether or not consumer reviews are fake, involved compensation, were
23 manipulated, or feature pictures of stock models would be important to a reasonable
24 consumer.

25 **Misrepresentations and Omissions Regarding Plant Stem Cells**

26 113. A core selling point across the Cel MD product line—repeated throughout
27 the Cel MD Defendants' advertising and its website—is that the products contain “plant
28 stem cells” which can miraculously cure ailments such as hair loss or skin problems. The

1 company name as well as the product names includes references to plant stem cells,
2 suggesting that Cel MD's products work using some sort of plant stem cell technology.
3 But this is false, and the Cel MD Defendants further omit a crucial fact from these
4 statements that they are obliged to disclose: that "stem cells" they utilize are in fact dead
5 plant stem cells that have been processed and turned into extract, not live stem cells, and
6 thus they cannot be effective for hair loss or skin care. *See* Ex. 1 at 4-7.

7 114. The Defendants' claims about plant stem cells are pervasive and, on
8 information and belief, would have been viewed by every customer of the Cel MD
9 products. For example, in video advertisements on Facebook, the Cel MD Defendants
10 tout their Cel MD Microstem Hair Stimulating Formula product as "using never before
11 seen stem cells extracted from asparagus..."⁶¹ Other advertisements on Facebook tout
12 "stem cell scientists" and products that incorporate "stem cells from the ginseng root."⁶²
13 Cel MD's Facebook advertisements uniformly present some variant of this claim
14 regarding plant stem cells as useful ingredients, referring to their "asparagus stem cell
15 formula,"⁶³ "plant stem cell technology,"⁶⁴ "formulated with rejuvenating plant stem
16 cells,"⁶⁵ "made with hair growing stem cells" and "plant stem cells,"⁶⁶ "Cel uses stem
17 cells spliced from asparagus,"⁶⁷ and "rejuvenating ginseng plant stem cells."⁶⁸

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19 ⁶¹ Cel MD Facebook Page, <https://www.facebook.com/stemcellmdtech/videos/302877597273302/?v=302877597273302>
(last visited June 20, 2019); *see also* Cel MD Facebook,
20 <https://www.facebook.com/watch/?v=584986425248487> (last visited June 25, 2019).

21 ⁶² Cel MD Facebook Page, <https://www.facebook.com/watch/?v=375481709898653> (last
visited July 1, 2019); *see also* <https://www.facebook.com/watch/?v=584986425248487>
22 (last visited July 1, 2019); <https://www.facebook.com/watch/?v=262621244685737>
(last visited July 1, 2019).

23 ⁶³ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=593499861160717> (last
visited July 1, 2019).

24 ⁶⁴ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=567763017045877> (last
visited July 1, 2019); *see also* <https://www.facebook.com/watch/?v=769988723400483>
(last visited July 1, 2019).

25 ⁶⁵ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=289061205112777> (last
visited July 1, 2019).

26 ⁶⁶ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=1492061334264309> (last
visited July 1, 2019).

27 ⁶⁷ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=2305197056416196> (last
visited July 1, 2019).

28 ⁶⁸ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=685912108492624> (last
visited July 1, 2019).

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115. The product packaging for the Cel MD products prominently makes these misrepresentations. For example, the bottle label for both the Cel MD Shampoo and Conditioner states: “This specialized stem cell hair formula contains a blend of hair-strengthening and stimulating ingredients. Our unique three-stage formula helps repair damaged hair cells and provides the ideal nutrients for thick, luscious hair.”

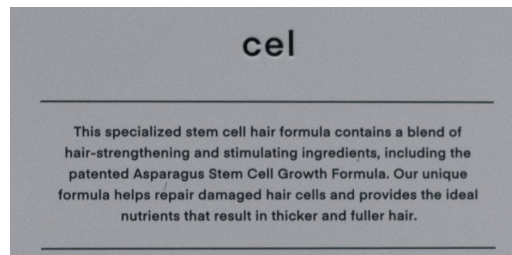


1 116. This claim is also made on the exterior of the boxes which the Cel MD
2 Shampoo and Conditioner are contained in:



11 117. Identical language appears on the exterior of the box for the Cel MD
12 Microstem Hair Thickening Mask.

13 118. The other Cel MD products contain near-identical representations on the
14 product packaging. For example, the Cel MD Microstem Hair Stimulation Forumula
15 states on its packaging: “This specialized stem cell hair formula contains a blend of hair-
16 strengthening and stimulating ingredients, including the patented Asparagus Stem Cell
17 Growth Formula. Our unique formula helps repair damaged hair cells and provides the
18 ideal nutrients that result in thicker and fuller hair.”



1 119. The Cel MD Nanotech Stem Cell Face Mask claims on the box that: “This
2 specialised gel mask is formulated from organic nanofibers that form a gentle bond with
3 the surface of your skin. Our unique stem cell enhancing serum can then penetrate deeper
4 under the dermal facial layers to rejuvenate from the inside out. By harnessing the power
5 of stem cells and storing their growth factors in these nanofibers, the mask is more
6 effective in delivering peptides and nutrients into damaged areas. Healing signals to the
7 skin stimulates regeneration, and fibroblasts become activated to produce collagen and
8 connective tissue. The result is healthier, plumper, and firmer skin.”

9 120. The Cel MD Stem Cell Cuticle Formula states on its box: “This specialised
10 stem cell nail rejuvenating formula contains a blend of cuticle nourishing ingredients.”

11 121. The Cel MD Neck and Decolletage Cream states on its box: “This
12 specialised cream, formulated in South Korea, is designed to form a gentle bond with the
13 surface of your skin. Our unique ginseng stem cell cream can then penetrate deeper under
14 the skin’s layers to rejuvenate your skin from the inside out.”

15 122. On information and belief, all of the Cel MD products make similar claims
16 on their packaging with a common representation: that the products utilize a stem cell
17 formula.

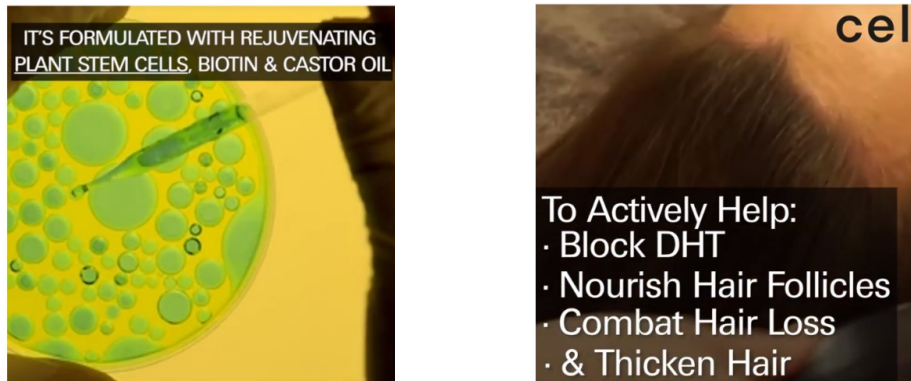
18 123. But these claims are false. There is no “stem cell formula” in the products,
19 let alone one which can regrow hair, skin, eyelashes, and nail cuticles. The Cel MD
20 products do not contain stem cells—they contain, at best, extract which has been
21 processed with chemicals. And because of this processing, the products cannot “help
22 repair damaged hair cells” or strengthen or stimulate hair, grow human cuticles or
23 eyelashes, or penetrate human skin to rejuvenate it from the inside. Every customer of the
24 Cel MD products is exposed to these misrepresentations because they appear on the
25 labels and packaging, and customers rely on these misrepresentations in purchasing the
26 products, in not exercising their right to return the products within the return period, and
27 in maintaining their subscriptions.

28

1 124. In video advertisements on Youtube, the Cel MD Defendants refer to
2 extracting stem cells from the ginseng plant, which “have been proven to combat hair
3 thinning and loss” and which “Cel have formulated into a shampoo....”⁶⁹



11 125. Youtube videos which are embedded in the Cel MD website make similar
12 representations:⁷⁰



21 ⁶⁹ Cel MD Youtube Page, https://www.youtube.com/watch?v=HN_8fe6SSWc (last visited
22 June 21, 2019).

23 ⁷⁰ Cel MD Youtube Page, <https://www.youtube.com/watch?v=bqVLk37Uj0M> (Cel MD
24 Microstem Hair Stimulation Formula) (last visited June 23, 2019); see also
25 <https://www.youtube.com/watch?v=S6x6QcT3Tsk> (Cel MD Stem Cell Neck Cream) (last
26 visited June 23, 2019); <https://www.youtube.com/watch?v=CaEsRDMoEbY> (Cel MD Stem
27 Cell Rejuvenating Hand Cream) (last visited June 23, 2019);
28 https://www.youtube.com/watch?v=1Dmp_y_MKY (Cel MD Microstem Hair Stimulation
Formula) (last visited June 23, 2019); https://www.youtube.com/watch?v=8t7v_oXnBWE
(Cel MD Microstem Hair Stimulation Formula) (last visited June 24, 2019);
<https://www.youtube.com/watch?v=eoEOoZyN3HI> (Cel MD Shampoo and Conditioner) (last
visited June 24, 2019); <https://www.youtube.com/watch?v=oPhqvnYN9M8> (Cel MD
Overnight Regeneration Cream) (last visited June 24, 2019);
https://www.youtube.com/watch?v=p84Fuf_4iFw (Cel MD Brow & Lash Boosting Serum)
(last visited June 24, 2019); <https://www.youtube.com/watch?v=RGQKQQUzZ9A> (Cel MD
Shampoo and Conditioner) (last visited June 24, 2019).

1
2 126. The Cel MD Amazon pages describe their use of “stem cell technology.”⁷¹
3 The titles of almost every product Cel MD sells on Amazon includes the phrase “stem
4 cell.”⁷² The Cel MD Amazon product pages tout the benefits of “ginseng and asparagus
5 stem cells,”⁷³ “plant stem cells,”⁷⁴ and claim to be “made from millions of plant-based
6 stem cell peptides that communicate with your own stem cells telling them to produce
7 beautifully tight, glowing skin.”⁷⁵ On information and belief, every customer of the Cel
8 MD products who purchased through Amazon would have been exposed to and viewed
9 representations that the products they purchased were beneficial because they included
10 plant stem cells.

11 127. The Cel MD website has gone through at least two iterations, and was
12 changed substantially on roughly August 5th to August 6th 2019. The previous version
13 was permeated with representations that their products contain beneficial plant stem cells.
14 For example, the home page is titled “Stem Cell Inspired Beauty Products” and features
15 imagery of plants, the “Cel MD” name, the tagline “Where Science Meets Nature,” and
16 pictures of products with names such as “Nanotech Stem Cell Face Mask” and “Stem
17

18 ⁷¹ Cel MD Amazon Page, <https://www.amazon.com/CEL-MD-Thickening-Conditioner-Stimulating/dp/B07D7HRVDL/> (last visited July 1, 2019) (Cel MD Shampoo and Conditioner); see also <https://www.amazon.com/CEL-MD-Stimulation-Formula-Asparagus/dp/B07GH48RX9/> (last visited July 1, 2019) (Cel MD Microstem Hair Stimulation Formula); <https://www.amazon.com/Thickening-Regrowth-Thinning-Treatment-Glycerin/dp/B07N6LKXCL/> (last visited July 1, 2019) (Cel MD Shampoo stand-alone page); <https://www.amazon.com/Thickening-Moisturizing-Conditioner-Regrowth-Treatment/dp/B07N6K5BCB/> (last visited July 1, 2019) (Cel MD Conditioner stand-alone page); <https://www.amazon.com/Stem-Cell-Dandruff-Shampoo-Women/dp/B07PFBTMJG/> (last visited July 2, 2019) (Cel MD Anti-Dandruff Shampoo).

19 ⁷² See *Id.* Only Cel MD’s Advanced Hair Supplement product does not include this
20 language in its title.

21 ⁷³ Cel MD Amazon Page, <https://www.amazon.com/CEL-MD-Thickening-Conditioner-Stimulating/dp/B07D7HRVDL/> (last visited July 1, 2019) (Cel MD Shampoo and Conditioner); <https://www.amazon.com/Thickening-Regrowth-Thinning-Treatment-Glycerin/dp/B07N6LKXCL/> (last visited July 1, 2019) (Cel MD Shampoo stand-alone page).

22 ⁷⁴ Cel MD Amazon Page, <https://www.amazon.com/CEL-MD-Stimulation-Formula-Asparagus/dp/B07GH48RX9/> (last visited July 1, 2019) (Cel MD Microstem Hair Stimulation Formula).

23 ⁷⁵ Cel MD Amazon Page, <https://www.amazon.com/CEL-MD-Hydrating-Moisturizing-Recovery/dp/B07289VTFV/> (last visited July 2, 2019) (Cel MD Nanotech Stem Cell Face Mask).

1 Cell Rejuvenating Hand Cream.”⁷⁶ A prominent link at the top of the home page leads to
2 a “Cel Science” page that explains “The Science of Stem Cell Skin Care” and touts
3 “Cel’s patented and expertly refined plant stem cell formula...”⁷⁷ The individual product
4 pages from which customers purchase the Cel MD products each contain a section titled
5 “Key Ingredients” which touts the benefits of plant stem cells. On information and belief,
6 every customer of the Cel MD products who purchased through the Cel MD website prior
7 to the August 5th to August 6th redesign would have been exposed to and viewed
8 representations that the products they purchased were beneficial because they included
9 plant stem cells.

10 128. On August 5th to August 6th, 2019, the Cel MD Defendants implemented a
11 website redesign. While the structure of the website changed and representations about
12 plant stem cells were removed from some pages, the Defendants have not removed
13 similar representations from their advertising leading customers to that website, have not
14 removed it from the labels and packaging, and continue to make these representations on
15 their website itself.

16 129. For example, the Cel MD Defendants continue to represent on their website
17 that their products utilize a plant stem cell technology:⁷⁸

18
19 Ever wondered how our Stem Cell Shampoo can transform your hair making
20 it stronger, healthier and more resilient to future damage?

21 Working with beauty experts in South Korea, we were able to produce our
22 specialized Nanotech formula and optimize it for home-use. Our shampoo is
23 highly effective, ensuring your hair is strong and protected, and your scalp is
24 the optimum condition for healthy hair growth!

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26
27 ⁷⁶ Cel.md, <https://www.cel.md/> (last visited July 2, 2019).

⁷⁷ Cel.md, <https://www.cel.md/pages/cel-science> (last visited July 2, 2019).

⁷⁸ Cel.md, <https://www.cel.md/blog/5-science-driven-reasons-our-shampoo-gives-you-thicker-healthier-hair> (last visited Mar. 16, 2020).

1 130. This page goes on to provide a detailed description of how the “Nanotech
2 formula” in the Cel MD Shampoo supposedly works:⁷⁹

3
4 A plant stem cell is a type of cell that’s capable of self-renewal. They can
5 adapt to other cell forms when needed, and work to repair damage, boost
6 regeneration and support healthy growth. When used in haircare, the stem
7 cells encourage the formation of new hair and hair pigments. Plant stem cells
8 also increase the lifespan of the hair follicles, so the hair can stay in the
9 anagen phase of the hair for longer, preventing hair fall-out.

10 As we age, our hair follicles either become dormant completely or shrink in
11 size. When they shrink in size it means that they still produce hair, but it’s
12 much lighter, thinner and more brittle than before so it appears like there is
13 no hair growth at all. Using Stem Cells in your haircare routine helps to
14 prevent this premature hair loss by stimulating the dormant follicles and
15 encouraging thicker, stronger growth.

16 131. On information and belief, the Cel MD Defendants do not use a “Nanotech
17 formula” in their products.

18 132. In another article, the Cel MD Defendants claim that plant stem cells can
19 replace damaged human cells, increase collagen, repair human cells, and increase the
20 production of human skin cells:⁸⁰

21 Plant stem cells are what’s known as undifferentiated cells, and are found in
22 the meristems of vegetation. They work like human stem cells, in the sense
23 that they have the ability to self-renew and replace damaged cells. This is
24 how a plants grow back when a stem has been cut.

25 In the same way the cells work to repair damaged plant cells, they will help
26 to repair the skin cells from damage and boost collagen - hitting rewind on
27 aging skin.

28 ⁷⁹ *Id.*

⁸⁰ <https://stemcellmdtech.myshopify.com/blogs/news/human-stem-cells-vs-plant-stem-cells-which-one-is-better-for-younger-skin> (last visited Mar. 16, 2020).

1 Although different to human stem cells, they're still capable of replacing the
2 damaged cells in the skin and increasing the production of human skin cells
3 and collagen.

4 133. The article goes on to claim that Cel MD's plant stem cell technology is
5 better than human stem cell technology, both because it is safer and because it can heal
6 and repair skin "in a much more controlled way:"⁸¹

7
8 Besides the ethical issues surrounding human stem cells, the main problem
9 with using them in our skincare routine is that they can over-stimulate our
10 cells, leading to unwanted results and in the worst case, diseases. They're
11 much harder to control than plant stem cells.

12 Plant stem cells on the other hand can heal & repair skin in a much more
13 controlled way than human cells. Put simply, the likelihood of a severe skin
14 reaction using plant stem cell technology is extremely small vs using human
15 stem cells which is relatively high. This is precisely the reason we built our
16 range of beauty products using Plant Stem Cell Technology only.

17 Take our best-selling Stem Cell Face Mask for example. The skin on your
18 face is the most sensitive area on your body so it was very important for us
19 that plant stem cells delicately interacted with skin to promote healing.
20 Using human stem cells instead would likely result in more adverse skin
21 reactions which we absolutely do not want!

22 This same rationale also applies to many of our other products that target
23 sensitive skin areas. Our Stem Cell Eye Serum is another great example of a
24 product that greatly benefits from a plant stem cell formulation vs human
25 stem cell formulation. In any scenario where you deal with skin around the
26 eyes, we wanted to make 100% sure our eye serum would provide 1)
27 optimal skin healing but more importantly 2) not lead to any adverse skin
28 reactions. Hence using plant stem cells!

As a final note, it is important to mention that plant stem cells, though safer
to apply, still contain many of the benefits of human stem cells. It was
important for us not to sacrifice any of the potential benefits of stem cells by

⁸¹ *Id.*

1 taking the plant route. Our Stem Cell Neck & Decolletage Cream is a great
2 example of a plant stem cell solution that works phenomenally well at
3 tightening and firming skin around your neck. In fact, many of our
4 customers say it works BETTER than other human-formulated stem cell
5 products they've bought!

6 OUR VERDICT

7 When it comes to human and plant stem cells, they both work in a similar
8 way. The only real difference is that human stem cells can be a little more
9 potent, but when it comes to working to activate your skin cells, plant stem
10 cells work just as well. While researchers develop more effective ways to
11 use human stem cells in skincare, plant stem cells remain the most powerful
12 and transforming technology in the skincare market!

13 To browse our range of Plant Stem Cell skincare products, click through this
14 link!

15 134. On information and belief, to the extent there are any differences in the
16 versions of the website, the Defendants utilize data analytics tools which track customer
17 purchases with granularity and which can be used to define a class on this issue for
18 individuals injured after that date.

19 135. Each of the representations made by the Cel MD Defendants above omits
20 the full truth: that the plant stem cells contained in the Cel MD Defendants' products
21 have been processed and turned into "extract," such that the cells are no longer alive and
22 cannot provide the theoretical benefits of plant stem cells that the Cel MD Defendants are
23 referring to in their sales materials. A detailed analysis of this issue is contained in the
24 attached Preliminary Expert Report from Dr. Robert Farrell, a Professor of Biology at
25 Penn State York with a background in plant and animal cell biology. Ex. 1. That analysis
26 is incorporated here by reference.

27 136. The Cel MD Defendants' website and advertisements are thin on supporting
28 evidence for their scientific claims. But on one page of their website, the Cel MD
Defendants cite an article in a journal called Future Science OA titled "Plant stem cells in

1 cosmetics: current trends and future directions” by Sonia Trehan, Bozena Michniak-
2 Kohn, and Kavita Beri. The Cel MD Defendants describe this article on their website as a
3 “[s]tudy showing the potential benefits of stem cells for combating hair loss.”⁸² The
4 citation is described as supporting a statement by the Cel MD Defendants that the Cel
5 MD Shampoo and Conditioner products include “Ginseng Stem Cells to boost hair
6 follicle health & strengthen hair.”

7 137. The article is not a “study” as the Cel MD Defendants claim—it is a journal
8 article surveying research in the field.

9 138. The article discusses the potential use of plant stem cells in cosmetics
10 applications and makes clear that “[r]esearch on the use of plant stem cells as skin care is
11 still in its infancy.”⁸³

12 139. The article does not include the words “ginseng” or “asparagus” and
13 includes no discussion of ginseng or asparagus stem cells, the two types of plants that
14 pervade the Cel MD Defendants’ representations to their customers.⁸⁴

15 140. The article states that “[r]esearch on the use of plant stem cells as skin care
16 is still in its infancy.”⁸⁵ It then surveys research into various medical treatments involving
17 “active plant cells”—in other words, living plant cells.

18 141. After reviewing the current research status of various efforts involving plant
19 stem cells, the authors note that “[t]erminology is crucial in claims made by
20 cosmeceuticals, for example, understanding that when the term ‘plant stem cell’ is used
21 as an ingredient, it actually refers to the extract of the primitive cell. Many skin care
22 companies are promoting their products with the claim of utilizing stem cell
23 technology.”⁸⁶

24 ⁸² Cel.Md, <https://www.cel.md/pages/wg-shampoo-conditioner-1> (last visited June 19,
25 2019).

26 ⁸³ Sonia Trehan, Bozena Michniak-Kohn, & Kavita Beri, *Plant stem cells in cosmetics: current trends and future directions*, 3 *Future Sci. OA* (2017), available at
27 <https://www.future-science.com/doi/10.4155/fsoa-2017-0026> (last visited June 19,
2019).

28 ⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

1 142. But these claims are not the truth, as the authors of the article explain: “In
2 fact, almost all cosmetic companies advertising to contain stem cells in their products
3 actually contain stem cell extracts and not the live stem cells. Although research on plant
4 stem cells used in skin care reveals their potential as skin protectives, antiaging and
5 antiwrinkle products, the actual stem cells in cosmetic formulations are already dead.
6 Extracts from stem cells cannot act in the same way as the live stem cells. Claimed
7 benefits of smooth and firm skin are due to antioxidants and active extracts from stem
8 cells. To gain all the authentic benefits from stem cells and to let them work the way they
9 are promised to in skin care applications, they need to be incorporated as live cells and
10 should remain so while in the cosmetic formulation.”⁸⁷

11 143. The authors of the very article the Cel MD Defendants rely on in making
12 their scientific claims concludes that the plant stem cell extracts contained in such
13 cosmetics are not, in fact, effective: “Plant stem cell therapy needs to move in the right
14 direction to implement its inherent potential in skin care. This might happen in the next
15 20 years but any cosmetic that is advertised to be antiaging due to plant stem cells at this
16 time is about as effective as all the skin creams without stem cells.”⁸⁸

17 144. To the extent “plant stem cells” are used in the Cel MD products they are not
18 live cells, and as such are not effective, do not provide benefits to consumers, and do not
19 function in the way that a live stem cell would. Ex. 1 at 5. Instead, the Cel MD products
20 contain extract—dead plant material which has no connection or relation to any of the
21 ongoing scientific speculation or research regarding the potential of live plant stem cells.
22 The process of creating extract generally involves using chemicals (for example,
23 alcohols) to remove raw materials in a way that would be certain to kill any plant stem
24 cells.⁸⁹ In the cosmetics industry specifically, when plant stem cells are used to create
25 extract it is done through a process whose steps would “generally include harvest,
26

27 ⁸⁷ *Id.*

28 ⁸⁸ *Id.*

⁸⁹ Extract, <https://en.wikipedia.org/wiki/Extract> (last visited June 19, 2019).

1 homogenization and disruption of the cell mass, extraction with solvents or proteolytic
2 enzymes and/or chromatographic methods, and washing steps.... Furthermore, if the
3 extract is a powder, a drying process with freeze dryers, spray dryers, or vacuum dryers is
4 required.”⁹⁰

5 145. The ingredients⁹¹ for the Cel MD products make clear that they contain
6 **extract**, not live plant stem cells: Cel MD Nanotech Stem Cell Face Mask (contains
7 “Panax Ginseng Stem Cell Extract”); Cel MD Microstem Hair Stimulating Shampoo
8 (contains “Ginseng Stem Cell Extract,” “Malus Domestica Stem Cell Extract,” “Iris
9 Pallida Stem Cell Extract”); Cel MD Microstem Hair Stimulating Conditioner (contains
10 “Malus Domestica Stem Cell Extract,” “Iris Pallida Stem Cell Extract”); Cel MD
11 Microstem Hair Stimulating Formula (contains “Asparagus Officinalis Extract” along
12 with various other plant extracts). The remaining Cel MD products purport to contain
13 plant stem cells which are not labeled “extract” but which, on information and belief, are
14 not live cells: Cel MD Nanotech Lash and Brow Growth Serum (contains “Ginseng
15 Meristem Stem Cell”); Cel MD Stem Cell Eye Serum (contains “Panax Meristem Cell
16 Culture Conditioned Media”); Cel MD Stem Cell Neck Cream (contains “Panax Ginseng
17 Meristem Cell Culture Conditioned Media”).

18 146. On information and belief, to the extent the Cel MD Defendants use plant
19 stem cells, those plant stem cells as part of a **manufacturing process** to create plant
20 material and not as a live, active ingredient. Ex. 1 at 6. In other words, the ingredients are
21 a product of a manufacturing process using plant stem cells to grow plant material—and
22 once turned into extract, those cells are no longer alive and the resulting plant material is
23 functionally no different than any other plant material harvested directly from a plant
24 grown naturally.

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26
27 ⁹⁰ Eibl et al, *Plant cell culture technology in the cosmetics and food industries: current state and future trends*, 102 *Applied Microbiology & Biotechnology* (2018),
28 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6153648/> (last visited June 19, 2019).

⁹¹ Cel.Md, <https://www.cel.md/pages/ingredients-alti> (last visited June 19, 2019).

1 147. A 2018 article in the Journal of Applied Biology and Microbiology makes it
2 clear that cosmetics companies using “plant stem cells” are using those cells as a
3 substitute method of creating plant biomass (i.e., growing the cells instead of harvesting a
4 whole plant and processing it to create the same ingredients): “The use of plant cell
5 cultures instead of whole plants allows products for the cosmetics and food industries to
6 be manufactured with less energy, lower possible impacts on the environment, and
7 independent of location and season.”⁹²

8 148. This manufacturing process is simply a more advanced method of
9 replicating traditional ingredients—but it does not change how those ingredients function.

10 149. Notably, the Cel MD Defendants give varying and mutually inconsistent
11 explanations to their customers of how their “plant stem cell” technology purports to
12 work. While primarily telling their customers that their products contain plant “stem
13 cells,” at other times the Cel MD Defendants have claimed that instead the products
14 contain plant exosomes, stating: “We extract the exosomes from plant stem cells which
15 provide the perfect transport mechanism to penetrate the hair follicle and deliver our
16 formula.”⁹³



17
18 **Kristy Giardina Smith** Does this work if you have alopecia?

19 Like · Reply · 6w



20 **Cel MD** Hi Kristy! 😊 Yes, lots of our customers with alopecia have seen amazing results with our hair growth formula. We
extract the exosomes from plant stem cells which provide the perfect transport mechanism to penetrate the hair follicle and
deliver our formula. Unlike most products that simply sit on the scalp.

21 Try it for yourself today with our 90 day guarantee. Click "Learn More" below the video to see the offers available!

22 Like · Reply · 6w

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26 ⁹² Eibl et al, *Plant cell culture technology in the cosmetics and food industries: current state and future trends*, 102 *Applied Microbiology & Biotechnology* (2018),
27 available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6153648/> (last visited
June 19, 2019).

28 ⁹³ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=806688903035987> (last
visited June 27, 2019).

1 150. Exosomes are a type of vesicle, a particle that is released from a cell to carry
2 “cargo” outside of the cell wall.⁹⁴ They are not cells and are likewise not stem cells. Ex. 1
3 at 6-7.

4 151. While plants do have exosomes, the study of how they work and even how
5 to identify them is in its infancy, according to a February 1, 2019 article in *The Scientist*
6 summarizing the state of research in the field: “Researchers.... have just begun to scratch
7 the surface of what plant exosomes do.”⁹⁵ Notably, February 2019 is long after Cel MD
8 launched in roughly April 2018, or first posted on Facebook in September 2017 as Stem
9 Cell MD.

10 152. Scientists are investigating whether plant exosomes can interact with the
11 human body by being ingested (as opposed to topically applied to hair or skin). But as the
12 scientists quoted in the article make clear, this is a cutting-edge area of research and it is
13 still unclear whether plant exosomes could theoretically affect human biology: “Innes
14 says these exosome-like particles have only ever been isolated from whole homogenized
15 plant tissue, which means they represent vesicles from inside and outside the cell.
16 Because of this, it’s still unclear whether exosomes—the only vesicles that leave the
17 cell—truly do carry proteins or RNAs that can affect human biology. Innes’s group is
18 hoping to bring some clarity to that question by culturing cancer cells in the lab with
19 purified exosomes from *Arabidopsis* and looking for changes in the cells’ gene
20 expression.”

21 153. As with their other explanations of how their products work, the Cel MD
22 Defendants appear to have taken their marketing language from news articles or other
23 sources about future areas of research, claiming to have made astounding discoveries that
24 leading scientists in the field of plant biology were apparently totally unaware of.

26 ⁹⁴ Exosome (vesicle), [https://en.wikipedia.org/wiki/Exosome_\(vesicle\)](https://en.wikipedia.org/wiki/Exosome_(vesicle)) (last visited
27 August 16, 2019); Extracellular vesicle,
https://en.wikipedia.org/wiki/Extracellular_vesicle (last visited August 16, 2019).

28 ⁹⁵ Amanda Keener, *Exosomes Make Their Debut in Plant Research*, *The Scientist* (Feb.
1, 2019), available at [https://www.the-scientist.com/features/exosomes-make-their-
debut-in-plant-research-65336](https://www.the-scientist.com/features/exosomes-make-their-debut-in-plant-research-65336) (last visited August 16, 2019).

1 154. The Cel MD Defendants cannot maintain a consistent explanation as to how
2 it is their products actually work: in some cases they claim the product utilizes plant stem
3 cells themselves, in others they claim to utilize peptides, in others to use the genetic
4 engineering technology of “splicing,” in others to have developed “super bacteria” which
5 has been combined with ginseng stem cells, and in still others to utilize exosomes
6 extracted from plant stem cells. In the ingredients for the products, however, they claim
7 to use extract, chemically processed plant material which is no longer living.

8 155. These stories are mutually inconsistent and cannot all be true. But the details
9 do not matter to the Cel MD Defendants: they are simply spouting scientific mumbo-
10 jumbo at their customers with the common theme of plant stem cells. They are well
11 aware that most customers will not be trained scientists and will not have any reason to
12 question the representation that there is some sort of advanced plant stem cell formula in
13 the products which can cure hair loss or help their skin.

14 156. The Cel MD Defendants uniformly misrepresent to their customers that the
15 Cel MD products contain plant stem cells or a stem cell formula based on plants. This is
16 false, as the products do not contain stem cells but instead contain chemically treated
17 extract which cannot function as the Defendants claim.

18 157. The Cel MD Defendants also deceived their customers by omission by
19 failing to disclose the information that the plant stem cells in their products are extract
20 containing dead plant cells, not live stem cells, and that they thus cannot provide the
21 theoretical benefits to skin and hair that some scientists believe living plant stem cells
22 might provide in the future.

23 158. The Cel MD Defendants were under a duty to disclose this information to
24 Plaintiff and the Class Members because the Cel MD Defendants had exclusive
25 knowledge of material facts not known to them, namely the methods by which the plant
26 stem cells in their products are processed and the difference between live and dead stem
27 cells.

1 159. Plaintiff and the Class Members did not know this, and the information was
2 difficult to discover because it requires scientific expertise, as well as information
3 regarding the Cel MD Defendants’ proprietary manufacturing process for the plant stem
4 cells which purportedly takes place in Korea.

5 160. The Cel MD Defendants were under a duty to disclose this information to
6 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
7 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
8 this matter. The Cel MD Defendants have hidden or deleted comments on their Facebook
9 ads containing information material to customers, as described further herein.

10 161. In aggregate, there are more than 10,000 comments listed across the Cel MD
11 Defendants’ various Facebook advertisements, which millions of people have been
12 exposed to. On information and belief, the Cel MD Defendants have actively hidden
13 numerous comments on their Facebook advertisements using the “Hide Comment”
14 feature in order to suppress negative information about their products and to prevent
15 potential customers from discovering it. These hidden comments remain accessible to the
16 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
17 these hidden comments, information material to this matter will be found to have been
18 hidden, concealed, or covered up by the Cel MD Defendants.

19 162. On information and belief, the Cel MD Defendants have further engaged in
20 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
21 order to suppress material negative information about their products and to prevent
22 consumers from discovering it.

23 163. The Cel MD Defendants were further under a duty to Plaintiff and the Class
24 members because they made partial representations—that plant stem cells or live plant
25 stem cells can help improve hair or skin conditions, which some scientists believe will be
26 true in the future—but also suppressed, concealed, or did not disclose material facts that
27 qualify those representations, namely that plant stem cells must be living at the time of
28

1 application to provide these theoretical benefits, and that any plant stem cells contained in
2 the Cel MD products are dead plant material or extract.

3 164. As a further example of these partial representations, the Cel MD
4 Defendants portray their products as containing living and active stem cells, running
5 video advertisements on Facebook featuring floating asparagus stem cells bouncing
6 against a human scalp in what appears to be water from a shower or bath.⁹⁶ The
7 accompanying text reads: “Apply It Directly To Targeted Areas... To Activate The
8 Asparagus Stem Cell Formula.”⁹⁷



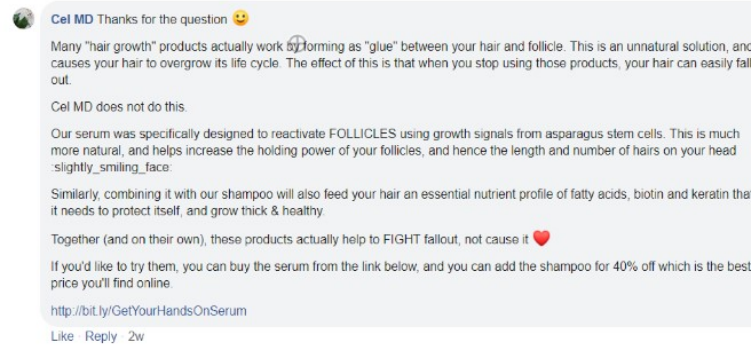
18 165. In another example, the Cel MD website describes its shampoo and
19 conditioner products as containing living plant stem cells which interact with human hair
20 follicles via some unexplained means to increase their formation and lifespan: “A plant
21 stem cell is a type of cell that’s capable of self-renewal. They can adapt to other cell
22 forms when needed, and work to repair damage, boost regeneration and support healthy
23 growth. When used in haircare, the stem cells encourage the formation of new hair and
24 hair pigments. Plant stem cells also increase the lifespan of the hair follicles, so the hair
25 can stay in the anagen phase of the hair for longer, preventing hair fall-out.”⁹⁸

26 _____
27 ⁹⁶ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=593499861160717> (last
visited June 19, 2019).

28 ⁹⁷ *Id.*

⁹⁸ Cel.Md, <https://www.cel.md/blogs/news/5-science-driven-reasons-our-shampoo-gives-you-thicker-healthier-hair> (last visited June 17, 2019).

1 166. The Cel MD Defendants told people who asked for details on Facebook that
 2 their “serum was specifically designed to reactivate FOLLICLES using growth signals
 3 from asparagus stem cells.”⁹⁹ This suggests the presence of live asparagus stem cells
 4 interacting with human hair follicles to send these purported “growth signals.”



13 167. Each of the Cel MD products is touted to consumers using a common
 14 representation: that plant stem cells are being used in the products which can cure or
 15 alleviate a health condition. Each representation is misleading or deceptive because it
 16 omits that the actual ingredients are not the kind of living plant stem cells which could
 17 theoretically provide a health benefit by virtue of their status as “stem cells.” Each
 18 product is marketed under the “Cel MD” line and/or along with some variant of “stem
 19 cell” or “stem” in the names, a practice which is designed to suggest the use of live plant
 20 stem cells.

21 168. The Cel MD Defendants knew, or by the exercise of reasonable care should
 22 have known, that their omissions were untrue and misleading, and deliberately made the
 23 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
 24 other Class Members. Those omissions could have been corrected by including the
 25 omitted information in proximity to the representations on the Cel MD website, by
 26 including prominent disclaimers in the Cel MD videos, by including a prominent
 27

28 ⁹⁹ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=593499861160717> (last visited May 27, 2019).

1 disclaimer on its Amazon product descriptions, and/or by including prominent
2 disclaimers in the text or videos on its Facebook advertisements.

3 169. These omissions are designed to induce consumers to purchase the Cel MD
4 products. As a result of these omissions, Plaintiff and the Class purchased products they
5 would not have or pay more for them than they otherwise would have.

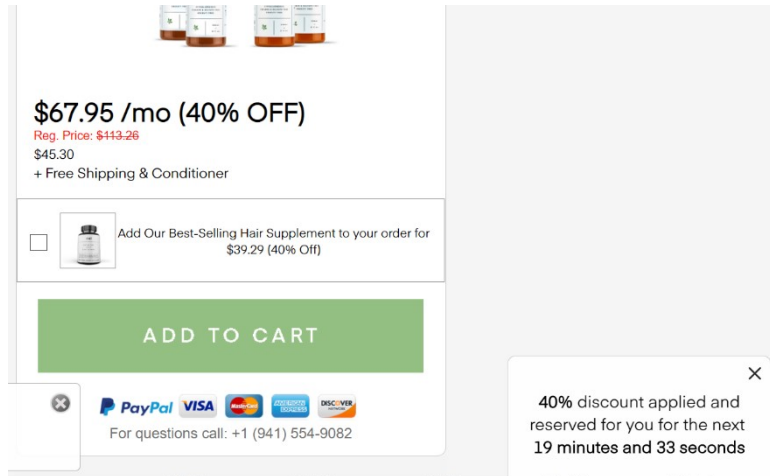
6 170. The Cel MD Defendants' omissions regarding plant stem cells were material
7 to consumers. A reasonable consumer would attach importance to these omissions in
8 deciding whether to purchase the Cel MD products because they are seeking to purchase
9 the products to obtain the theoretical benefits of plant stem cells, which they cannot
10 actually benefit from since the products at issue do not contain live plant stem cells.

11 171. The Cel MD Defendants further knew that they were misrepresenting to
12 consumers that their products contained plant stem cells or a stem cell formula. As a
13 result of these misrepresentations, consumers purchased products they would not have or
14 paid more for them than they otherwise would have, or they retained products for longer
15 than they otherwise would have and were damaged.

16 172. The Cel MD Defendants' misrepresentations regarding stem cells were
17 material to consumers. A reasonable consumer would attach importance to the truth or
18 falsity of these misrepresentations in deciding whether to purchase the Cel MD products
19 because if they knew that the products did not contain plant stem cells or a stem cell
20 formula, and that the products could not as a matter of biology provide the claimed health
21 benefits, consumers would not have purchased the products or would have paid less for
22 the products. Plaintiff and the Class members thus reasonably relied upon these
23 representations in making their purchase decisions.

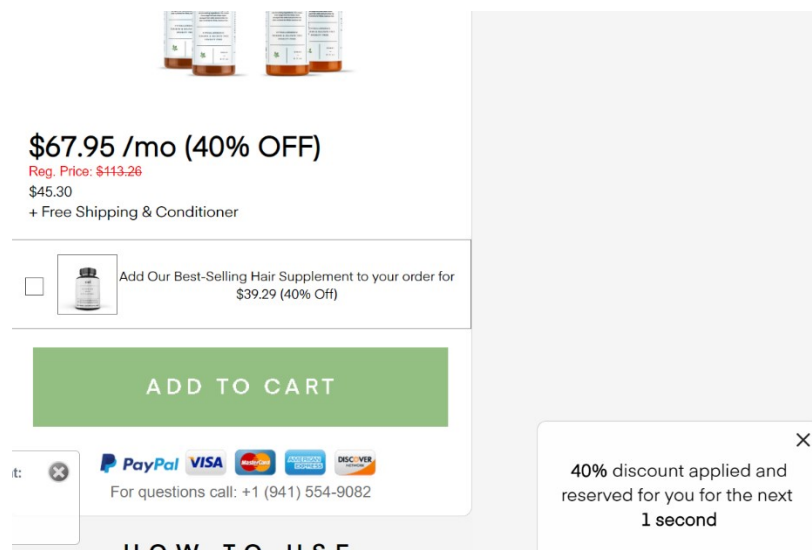
24 **Omissions Regarding Deceptive Timers**
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1 173. Another way the Cel MD Defendants deceive consumers on their website is
2 through fake countdown timers—clocks that pop-up on the screen and pretend to count
3 down to the impending expiration of a large discount. An example appears below:



12 174. The timer appears in the lower right-hand corner of Cel MD’s website in a
13 box claiming that a “40% discount” has been “applied and reserved for you for the next
14 20 minutes.”¹⁰⁰ The 40% discount is referenced elsewhere on the page as being a
15 reduction from a “Reg. Price” of \$113.26 to \$67.95 per month.

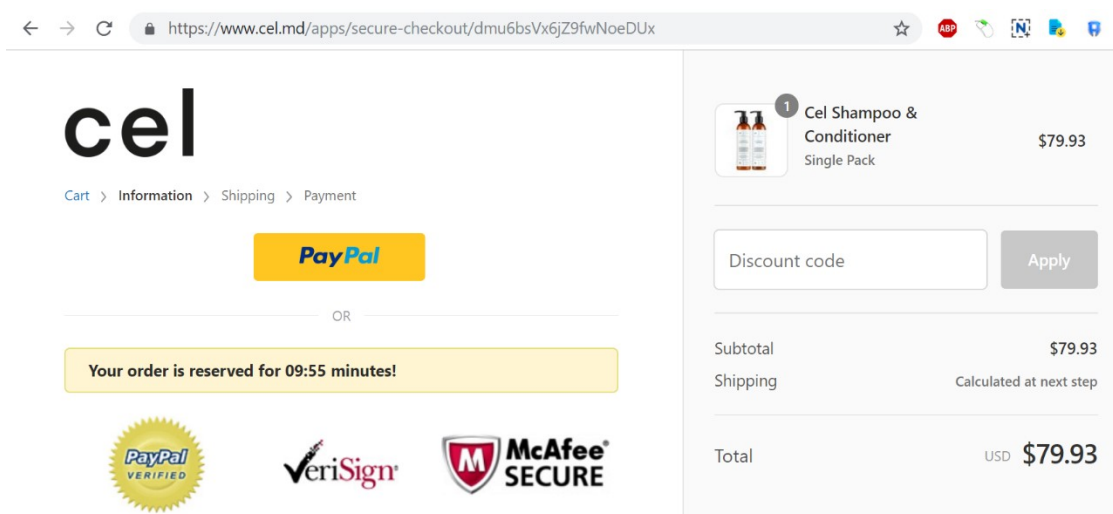
16 175. But at the expiration of the 20-minute deadline, the timer is programmed to
17 simply stop at the 1 second mark:



100 Cel.Md, <https://promos.cel.md/dmxcpsub/index.php> (last visited June 17, 2019).

176. At the end of this false deadline, nothing whatsoever happens. The “40% discount” is not being “reserved” for the customer for a limited time as the timer states. Rather, the timer simply stops counting at 1 second—and the customer is welcome to purchase at the same price whether they purchase within the 20-minute deadline or whether they wait as long as they please.

177. Other timers that appear on the Cel MD checkout pages are set for 10 minutes, claiming to reserve product for the customer, but there is no consequence to the customer if they fail to purchase within that period:



178. On information and belief and based on a review of the Cel MD website, every customer who purchases from the Cel MD website will encounter a timer claiming that product or discounts have been reserved, with no actual effect on the customer’s ability to purchase or purchase price. To the extent they do not, on information and belief it will be possible to define a class using customer analytics data tracked by the Defendants.

179. The Cel MD Defendants made material omissions regarding the timers on their website by omitting material information which they were under a duty to disclose relating to those timers. The Cel MD Defendants failed to disclose to consumers who

1 viewed the timers that the products could still be purchased after the timers had counted
2 down, and that any discounts remained available after the timers had counted down.

3 180. The Cel MD Defendants were under a duty to disclose this information to
4 Plaintiff and the Class Members because the Cel MD Defendants had exclusive
5 knowledge of material facts not known to them, namely that at the end of the countdown,
6 nothing whatsoever would happen to the discount or product and the consumers would
7 still be able to purchase at that discounted price.

8 181. Plaintiff and the Class Members did not know this, and given the nature of
9 the timer, it was difficult to discover because the Plaintiff and Class Members would
10 have to run the risk of permanently losing a significant discount should they let the timer
11 run out without a purchase being made. Even if Plaintiff or a Class Member had tested
12 the timer, they lacked the specialized knowledge of computer code necessary to
13 determine whether the timer had stopped in error or because it was programmed to.

14 182. The Cel MD Defendants were under a duty to disclose this information to
15 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
16 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
17 this matter. The Cel MD Defendants have hidden or deleted negative information in
18 comments on their Facebook ads, as described further herein.

19 183. In aggregate, there are more than 10,000 comments listed across the Cel MD
20 Defendants' various Facebook advertisements, which millions of people have been
21 exposed to. On information and belief, the Cel MD Defendants have actively hidden
22 numerous comments on their Facebook advertisements using the "Hide Comment"
23 feature in order to suppress negative information about their products and to prevent
24 potential customers from discovering it. These hidden comments remain accessible to the
25 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
26 these hidden comments, information material to this matter will be found to have been
27 hidden, concealed, or covered up by the Cel MD Defendants.

28

1 184. On information and belief, the Cel MD Defendants have further engaged in
2 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
3 order to suppress material negative information about their products and to prevent
4 consumers from discovering it.

5 185. The Cel MD Defendants were further under a duty to Plaintiff and the Class
6 members because they made partial representations—that a discount was available to
7 them and had been applied—but also suppressed, concealed, or did not disclose material
8 facts that qualify those representations, namely that there was in fact no time limit on that
9 reservation and the discount could be claimed and the product could be purchased after
10 the timer ran out.

11 186. The Cel MD Defendants knew, or by the exercise of reasonable care should
12 have known, that their omissions were untrue and misleading, and deliberately made the
13 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
14 other Class Members. Those omissions could have been corrected by including the
15 omitted information in proximity to the timers on the Cel MD website.

16 187. These omissions are designed to induce consumers to purchase the Cel MD
17 products by creating a false sense of urgency for customers of Cel MD, misleading
18 customers into impulse purchases they would not have otherwise made by convincing
19 them that they will face a sudden and substantial price increase if they wait or that they
20 will not be able to purchase these products anymore if they wait. As a result of these
21 omissions, Plaintiff and the Class purchased products they would not have or pay more
22 for them than they otherwise would have.

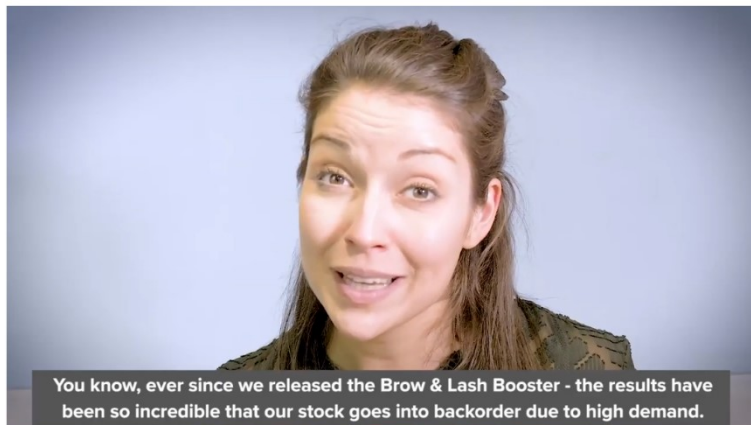
23 188. The Cel MD Defendants' omissions regarding their timers were material to
24 consumers. A reasonable consumer would attach importance to the truth or falsity of
25 these omissions in deciding whether to purchase the Cel MD products because if the
26 countdown has no bearing on the availability of the product or discounts, consumers
27 would not feel the need to purchase on impulse and under time pressure that did not exist.

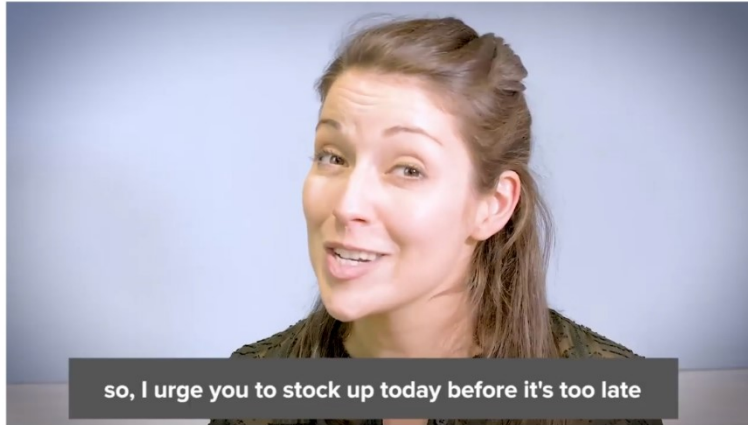
28 **Representations Regarding Limited Supply**

1 189. As part of the check-out process, customers who order Cel MD products on
2 the Cel MD website are subjected to false representations designed to make them believe
3 that there is a limited supply of products and that they should add additional products to
4 their order to avoid the risk of Cel MD running out of those products.

5 190. After a customer completes a purchase of a Cel MD product, the customer is
6 taken to a web page featuring an embedded Youtube video of a woman stating: “You
7 know, ever since we released [product name], the results have been so incredible that our
8 stock goes into backorder due to high demand. So I urge you to stock up today before it’s
9 too late.” This text is read aloud and appears at the bottom of the screen. Multiple Cel
10 MD products are simply plugged into an identical video script to produce the same
11 message.

12 191. An example for the Cel MD Brow & Lash Booster product appears below:



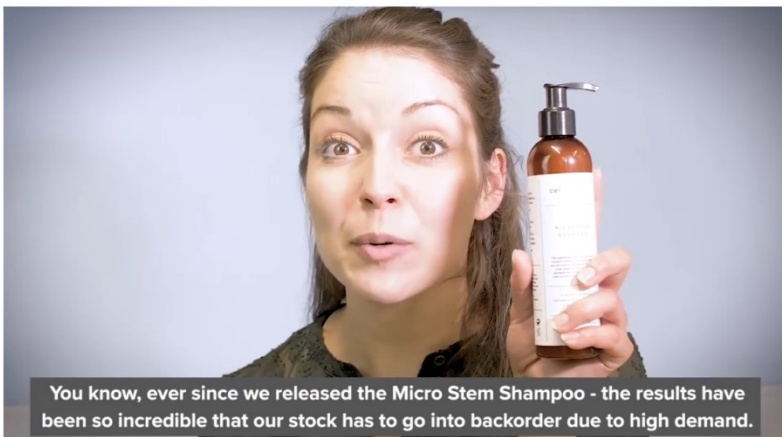
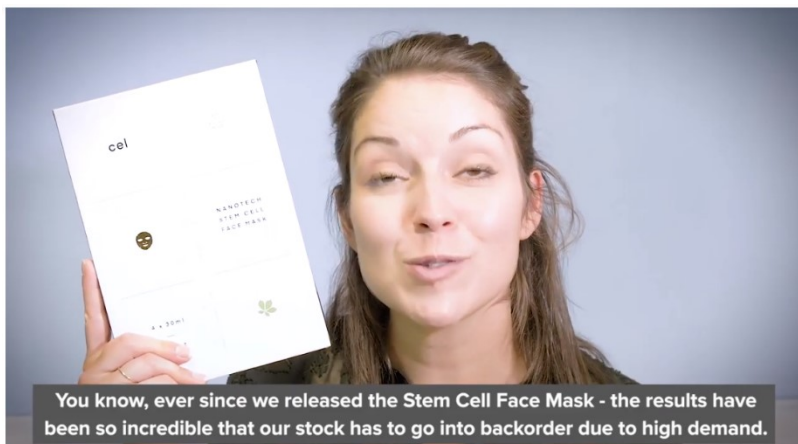


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192. But on information and belief, these representations are false—Cel MD’s stock is not in backorder, and it is not about to be “too late” for consumers to purchase the Cel MD products. The truth is that Cel MD simply made near-identical videos of the same woman repeating the same for various products, and then shows the consumer a video making the claim about products they purchased:¹⁰¹

¹⁰¹ Cel MD Youtube Page, <https://www.youtube.com/watch?v=2zWCxNSwvcM> (last visited June 20, 2019); Cel MD Youtube Page, <https://www.youtube.com/watch?v=1huvDP-Hhe8> (last visited June 20, 2019).

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193. Whichever product they purchase, customers who purchase a product on the Cel MD website are exposed to a series of “upsell” pages for other Cel MD products attempting to convince the consumer to add additional products to their order. In addition to the videos, the pages contain text representations that Cel MD is having difficulty keeping the “upsell” products in stock.

194. On information and belief, every customer who purchases from the Cel MD website is exposed to these representations, with the only difference being the name of the product inserted into the false claim.

195. Cel MD has been making these claims that its products were on backorder with limited stock since at least August 15, 2018, when it first uploaded the Youtube “upsell” videos which it embeds on its website. From at least August 15, 2018 to the

1 present, Cel MD has been making these claims of product shortages to each of its
2 customers, without any variation in the supposed status of its backorders.

3 196. These misrepresentations are designed to induce consumers to add additional
4 products to their orders and to induce them to sign up for or maintain subscription
5 payments which were part of their order. As a result of these misrepresentations,
6 consumers purchase products they would not have or pay more for them than they
7 otherwise would have, or they retain products for longer than they otherwise would have
8 and are damaged by losing access to Cel MD's limited time money-back guarantees.


9 197. The Cel MD Defendants' misrepresentations regarding their limited supply
10 or backorders were material to consumers. A reasonable consumer would attach
11 importance to the truth or falsity of these misrepresentations in deciding whether to
12 purchase the Cel MD products because if they knew that the products were not limited in
13 supply and could be purchased at any time, consumers would not feel the need to
14 purchase on impulse and under time pressure that did not exist and would not have added
15 additional quantities to their orders based on these representations. Plaintiff and the Class
16 members thus reasonably relied upon these representations in making their purchase
17 decisions.

18 **Omissions Regarding Side Effects**

19 198. The Cel MD Products can have serious side effects caused by either allergic
20 reactions to one or more of the ingredients or to chemical contamination. These include
21 allergic reactions, anaphylactic shock, swelling, itching, red skin, scabs, burning, stinging
22 pains, headaches, and hair loss. Many customers have reported these side effects on
23 Amazon. The Cel MD Defendants have acknowledged that they are aware that these side
24 effects can occur and have stated that they are caused by allergic reactions to the
25 ingredients in their products, but only in response to specific complaints by customers in
26 Amazon reviews—buried in the comments to the over 1000 reviews on the Amazon
27 website for the Cel MD products and directed only at people who have already been
28 injured.

1 199. Nowhere on the Cel.MD webpage, in its Youtube video advertisements, in
2 its Facebook advertisements or Facebook page, on its Instagram page, or on its Amazon
3 sales pages do the Cel MD Defendants disclose any kind of risks of side effects to its
4 products or their ingredients.

5 200. A variety of Cel MD customers on Amazon have reported side effects to
6 their products. For example, customers have reported allergic reactions after use—one
7 customer stated that they “[n]oticed red itchy bumps on my forehead after just one use
8 and eyes became red itchy and swollen.”¹⁰²

9  allergic reaction

10 September 17, 2018

11 **Verified Purchase**

12 There products have over 50 ingredients and should not be used by anyone who has sensitive skin. The shampoo made
13 my scalp itchy and hair dry. The conditioner has such a strong perfume smell that after using it once, the scent lingered all
14 day until I rewashed my hair. Noticed red itchy bumps on my forehead after just one use and eyes became red itchy and
15 swollen. Would not recommend this product. contacted seller days ago about allergic reaction and have not heard back.
16 Will probable have to throw the \$54.00 hair products out.

14 147 people found this helpful

15

16 |  2 comments | Report abuse


17 201. One customer reported suffering a life-threatening illness as a result of using
18 the Cel MD Shampoo: “I bought this in high hopes that it would work, so I used it
19 ONCE. It appears that I may be allergic as I had to go to the emergency room via
20 ambulance. Anaphalactic shock (sic).”¹⁰³ One would expect that a company that read a
21 report like this about one’s own product would attempt to warn customers or to
22 investigate whether there was in fact an allergen (or something more serious such as a
23
24

25 ¹⁰² Amazon Review of Cel MD Shampoo & Conditioner,
26 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RNRFHE0I9N6BS/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
27 [reviews/RNRFHE0I9N6BS/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RNRFHE0I9N6BS/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last visited
28 June 25, 2019).

¹⁰³ Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2KBGQKKFH8QTC/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R2KBGQKKFH8QTC/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2KBGQKKFH8QTC/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited Oct. 30, 2019).

1 chemical contamination). But the Cel MD Defendants read this review and responded to
2 it with nothing more than an offer to refund the price of a bottle of shampoo.

3

4  Gayle Nakama

5 ★★★★★ Expensive
July 30, 2019
Size: Duo Pack | **Verified Purchase**

I bought this in high hopes that it would work, so I used it ONCE. It appears that I may be allergic to some of the ingredients as I had to go to the emergency room via ambulance. Anaphalactic shock.

6 All in all might be a good product but sadly I wasn't able to find out if it was or not.
One person found this helpful

7 | [^ 1 comment](#) | [Report abuse](#)

8

9 Showing 1 comments Sort by: **Newest** Oldest

Dawn at Cel MD 2 months ago (Edited) Report abuse

Hello Gayle,

We are sorry to hear that you were rushed to the emergency.

And we are also sorry to hear you're unsatisfied with our product. We've worked our hardest to make our products the best they can be, but we also understand that they don't always have the desired effect for everyone. It is very uncommon, but some people do get adverse reactions. That's why we offer our 30-day, 100% Money Back Guarantee.

Please send us a direct message and we can arrange a refund for you.

Thanks,
Dawn, Cel MD

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15 202. Numerous other customers reported irritation of their scalp or other allergic
16 reactions caused by the Cel MD products: “Dangerous Product. When I ordered this I
17 was more than pleased for the first month, then, my hair started falling out more than
18 usual, my scalp itched and I stopped used it. It is still coming out and scalp still is
19 irritated and I blame it on this product.”¹⁰⁴ “My scalp became irritated and broke out with
20 scabs.”¹⁰⁵ “I only used it once and I’m allergic. I don’t have particularly sensitive skin but
21 this caused irritation.”¹⁰⁶ “Caused me to have severe scalp pain. Must be allergic to

22

23 ¹⁰⁴ Amazon Review of Cel MD Shampoo & Conditioner,
24 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R36XN6WFAD9QWE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
25 [reviews/R36XN6WFAD9QWE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R36XN6WFAD9QWE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
26 visited June 25, 2019).

27 ¹⁰⁵ Amazon Review of Cel MD Shampoo & Conditioner,
28 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R3S7YFGB3Y1FCK/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
29 [reviews/R3S7YFGB3Y1FCK/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R3S7YFGB3Y1FCK/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
30 visited June 25, 2019).

31 ¹⁰⁶ Amazon Review of Cel MD Shampoo & Conditioner,
32 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2UXQ97ENBGG4Q/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
33 [reviews/R2UXQ97ENBGG4Q/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2UXQ97ENBGG4Q/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
34 visited June 25, 2019).

1 something in it.”¹⁰⁷ “Neither pumps worked on the bottles and made my scalp itch
2 awful.”¹⁰⁸ “I used only 3 times and my scalp started burning and is red and my hair looks
3 like it’s falling out even more, anddddthe (sic) conditioner pump doesn’t work.”¹⁰⁹ “I
4 used this product for one week. About midweek I started suffering bad headaches. The
5 headaches stopped when I stopped using the product.”¹¹⁰ “It burned my skin and made
6 my hair dry and brittle.”¹¹¹ “I bought this shampoo and conditioner July 03, 2019. All i
7 am left with is severe burning thruout the scalp, hair follicles became inflamed. I am not
8 sure what is in the shampoo but I am 100% sure, it has lots of chemicals to it. Part of my
9 hair has gone thru bumps thru out the scalp. It hurts when you put your head on the
10 pillow.”¹¹² “The shampoo irritated my scalp. After almost two weeks of using I got red
11 painful bumps and my scalp started to itch. Also, I have noticed dandruff a problem I
12 never had before.”¹¹³

15 ¹⁰⁷ Amazon Review of Cel MD Shampoo & Conditioner,
16 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RFIES700PIJ6U/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
17 [reviews/RFIES700PIJ6U/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RFIES700PIJ6U/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
18 visited June 25, 2019).

17 ¹⁰⁸ Amazon Review of Cel MD Shampoo & Conditioner,
18 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RQUAVPYZEH6P8/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
19 [reviews/RQUAVPYZEH6P8/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RQUAVPYZEH6P8/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
20 visited June 25, 2019).

19 ¹⁰⁹ Amazon Review of Cel MD Shampoo & Conditioner,
20 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2T283T0HPD6ZL/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
21 [reviews/R2T283T0HPD6ZL/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2T283T0HPD6ZL/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
22 visited June 25, 2019).

21 ¹¹⁰ Amazon Review of Cel MD Shampoo & Conditioner,
22 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R1T1XCCX51X9YP/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
23 [reviews/R1T1XCCX51X9YP/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R1T1XCCX51X9YP/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
24 visited June 25, 2019).


23 ¹¹¹ Amazon Review of Cel MD Shampoo & Conditioner,
24 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R80NZDLZWVAX2/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
25 [reviews/R80NZDLZWVAX2/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R80NZDLZWVAX2/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
26 visited Oct. 30, 2019).

25 ¹¹² Amazon Review of Cel MD Shampoo & Conditioner,
26 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R3QJM8MWWHM466/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
27 [reviews/R3QJM8MWWHM466/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R3QJM8MWWHM466/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
28 visited Oct. 30, 2019).

27 ¹¹³ Amazon Review of Cel MD Shampoo & Conditioner,
28 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R18M9J7GXRMI6/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R18M9J7GXRMI6/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R18M9J7GXRMI6/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited Oct. 30, 2019).

1 203. Another customer reported that after using Cel MD Shampoo & Conditioner,
 2 “my hair started falling out 3x more than usual and massive breakage started.... I’m not
 3 exaggerating when I say I’ve lost 1/3 of my hair or more since the beginning of
 4 November. I stopped using it 3 weeks ago and the destruction continues.”¹¹⁴ An
 5 individual named Sheila purporting to be an employee of Cel MD responded, and on
 6 information and belief Cel MD was aware of this complaint. In fact, Cel MD employees
 7 routinely responded to complaints on Amazon of various side effects, and an employee
 8 posting under the name Sheila A. responded to virtually every such complaint to try to
 9 assure consumers that this was a non-issue.

10

11  CocoBitsy

12 ★☆☆☆☆ Cel destroyed my hair
 December 11, 2018
 Verified Purchase

13 My hair was fine but I had a lot of it...coarse and curly/frizzy. I typically lose more hair than I'd like, so I tried Cel which I found in an ad on Facebook. After 2 weeks of using 2-3
 time per week, my hair started falling out 3x more than usual and massive breakage started, which I've never had before. It completely ruined the texture of my hair...it's dry,
 frizzier than ever, the ends are now wiry and break off. I'm not exaggerating when I say I've lost 1/3 of my hair or more since the beginning of November. I stopped using it 3
 weeks ago and the destruction continues. It's devastating. Amazon was wonderful and refunded me in full, but they won't be able to bring my hair back. I just pray it stops
 falling out and breaking and starts to heal and grow back. I went back to using Wen, which I've always had great luck with. I don't recommend this product at all.

14 47 people found this helpful

15 | |

16

17 Showing 1 comments Sort by: **Newest** Oldest

18 Sheila A. 6 months ago Report abuse

19 Hi CocoBitsy,

20 Sorry to hear you're unsatisfied with our product. We've worked our hardest to make our products the best they can be, but we also understand that they don't
 always have the desired effect for everyone. That's why we offer our 30-day, 100% Money Back Guarantee. Thank you for giving our product a try.

21 Thanks,
 Sheila - Cel

22

23 204. Numerous other reviewers report that the Cel MD products cause hair loss.
 24 “Made my hair fall out in clumps during the first use.”¹¹⁵ “HORRIBLE-CAUSED

25 ¹¹⁴ Amazon Review of Cel MD Shampoo & Conditioner,
 26 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
 27 [reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
 visited June 25, 2019).

28 ¹¹⁵ Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2DQ00L8MR6FLG/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
 visited June 25, 2019).

1 MUCH MORE HAIR LOSS-DO NOT BUY THIS TOXIC JUNK!!!”¹¹⁶ “Hair loss got
2 even worse while using this shampoo and this conditioner. Also, it dried out my hair.”¹¹⁷
3 “Made my hair fall like crazy.”¹¹⁸ “It’s destroyed my hair and I’m having to cut 3-5
4 inches off. DO NOT BUY IT!!!”¹¹⁹ “My hair did not grow at all, instead losing more hair
5 from top to middle.”¹²⁰ “This product did not regrow any hair instead my hair thinned and
6 lost more hair.”¹²¹ “My hair fell out more than before.”¹²² “Shed my hair more than
7 previous shampoo that I use, and it was cheaper than this celebrity shampoo, I think too
8 many good but fake reviews.”¹²³ “My hair started falling out more. Made my hair dry and
9 frizzier then ever. My scalp is so itchy as well. It ruined my fine hair.”¹²⁴ “Caused major
10

11 ¹¹⁶ Amazon Review of Cel MD Shampoo & Conditioner,
12 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R18GSPS18ILM33/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
13 [reviews/R18GSPS18ILM33/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R18GSPS18ILM33/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
14 visited June 25, 2019).

15 ¹¹⁷ Amazon Review of Cel MD Shampoo & Conditioner,
16 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2MDR7JTQJHZIF/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
17 [reviews/R2MDR7JTQJHZIF/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2MDR7JTQJHZIF/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
18 visited June 25, 2019).

19 ¹¹⁸ Amazon Review of Cel MD Shampoo & Conditioner,
20 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R12Q8KQHISCL0T/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
21 [reviews/R12Q8KQHISCL0T/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R12Q8KQHISCL0T/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
22 visited June 25, 2019).

23 ¹¹⁹ Amazon Review of Cel MD Shampoo & Conditioner,
24 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RUQ4HYS4SGMFY/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
25 [reviews/RUQ4HYS4SGMFY/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RUQ4HYS4SGMFY/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
26 visited June 25, 2019).

27 ¹²⁰ Amazon Review of Cel MD Shampoo & Conditioner,
28 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R260MYGGNIZRR9/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R260MYGGNIZRR9/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R260MYGGNIZRR9/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited June 25, 2019).

¹²¹ Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RC6RSFZ4NAEXT/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/RC6RSFZ4NAEXT/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RC6RSFZ4NAEXT/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited June 25, 2019).


¹²² Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2BYJL6TWNLF3/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R2BYJL6TWNLF3/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2BYJL6TWNLF3/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited June 25, 2019).

¹²³ Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R2LKY86WFF22J7/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R2LKY86WFF22J7/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R2LKY86WFF22J7/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited June 25, 2019).

¹²⁴ Amazon Review of Cel MD Shampoo & Conditioner,
[https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R32LGUL308TZCU/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
[reviews/R32LGUL308TZCU/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R32LGUL308TZCU/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
visited June 25, 2019).

1 hair loss... Each time I used this shampoo, I would lose over 30 hairs!”¹²⁵ “This shampoo
2 is just another joke. Don’t waste your money! It’s all a scam!”¹²⁶

3 205. The Cel MD Defendants specifically stated that they knew some of their
4 ingredients could cause allergic reactions: “Sorry to hear this. It is very uncommon, but
5 some people do get adverse reactions to one of the ingredients.”¹²⁷

6
7  Debbie A.
8 ★☆☆☆☆ Did not like
December 9, 2018
Verified Purchase
Apparently there is an ingredient in this product that I can't tolerate. After using 3 times, my scalp had multiple sores. After I stopped using, they eventually cleared up.
5 people found this helpful
Helpful | 1 comment | Report abuse
Comment

11 Showing 1 comments Sort by: Newest Oldest

12 Sheila A. 6 months ago Report abuse

13 Hi Debbie,

14 Sorry to hear this. It is very uncommon, but some people do get adverse reactions to one of the ingredients. We've worked our hardest to make our products the best they can be, but we also understand that they don't always have the desired effect for everyone. That's why we offer our 30-day, 100% Money Back Guarantee. Please send us a direct message and we can arrange a refund for you.


15 Thanks,
Sheila - Cel
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¹²⁵ Amazon Review of Cel MD Shampoo & Conditioner, https://www.amazon.com/gp/customer-reviews/R2S36DY8MXBT7K/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL (last visited June 25, 2019).

¹²⁶ Amazon Review of Cel MD Shampoo & Conditioner, https://www.amazon.com/gp/customer-reviews/R1HQKGAK73NNC3/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL (last visited June 25, 2019).

¹²⁷ Amazon Review of Cel MD Shampoo & Conditioner, https://www.amazon.com/gp/customer-reviews/R1OQ0D30Y22A6B/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL (last visited June 25, 2019); see also https://www.amazon.com/gp/customer-reviews/R2UXQ97ENBGG4Q/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL (last visited June 25, 2019).

1 the product, but instead to cut down the number of times per week they used the product
2 and “see if you are still reacting to it!”¹²⁸ This statement constitutes medical advice and
3 on information and belief was made by a Cel MD employee without a medical license.
4 As such these statements are unlawful and constitute the unauthorized practice of
5 medicine in California. Cal. Bus. & Professions Code § 2052.

7  Pamela

8 ★★★★★ Hair is almost too soft!
June 10, 2019
Verified Purchase

9 My hair seems thinner, but it may be that it is so soft it will barely hold curl! Dare I continue using it? It was SO EXPENSIVE I hate not using it up! Suggestions?

10 | [1 comment](#) | [Report abuse](#)

11

12 Showing 1 comments Sort by: **Newest** Oldest

13 [Sheila A.](#) 12 days ago [Report abuse](#)

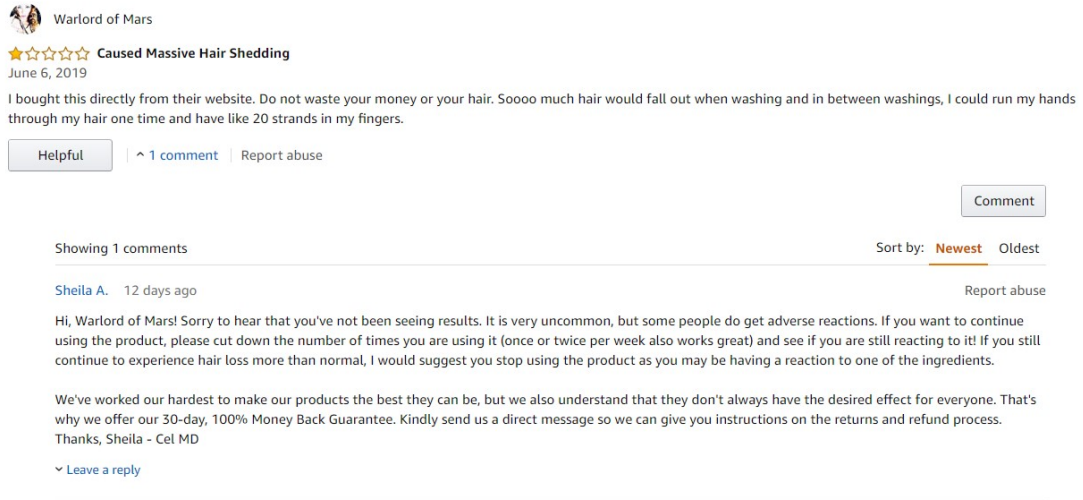
14 Hi, Pamela! Sorry to hear that you've not been seeing results. It is very uncommon, but some people do get adverse reactions. If you want to continue using the product, please cut down the number of times you are using it (once or twice per week also works great) and see if you are still reacting to it! If you still continue to experience hair loss more than normal, I would suggest you stop using the product as you may be having a reaction to one of the ingredients.
Thanks, Sheila - Cel MD

15 [Leave a reply](#)

16
17 207. This language appears to have been form medical advice provided by Cel
18 MD employees to customers who complained of side effects, as it was repeated to others,
19 as was the admission that “some people do get adverse reactions:”¹²⁹

25 ¹²⁸ Amazon Review of Cel MD Shampoo & Conditioner,
26 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/R1V71TR9P0DMZE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
27 [reviews/R1V71TR9P0DMZE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/R1V71TR9P0DMZE/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
28 visited June 25, 2019).

25 ¹²⁹ Amazon Review of Cel MD Shampoo & Conditioner,
26 [https://www.amazon.com/gp/customer-](https://www.amazon.com/gp/customer-reviews/RED4XLEKNX30R/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL)
27 [reviews/RED4XLEKNX30R/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL](https://www.amazon.com/gp/customer-reviews/RED4XLEKNX30R/ref=cm_cr_getr_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL) (last
28 visited June 25, 2019).



208. Additionally, one of the Cel MD employees who repeatedly responded to customer complaints on Amazon was an Amazon user who identified himself as “Jack—Founder of Cel MD.”¹³⁰ The account for “Jack” responded specifically to several complaints that the Cel MD products caused hair loss, and thus the user behind the “Jack” account would have had specific knowledge of these side effects and customer complaints regarding them. “Jack” lists his location as New York, NY.¹³¹

209. Nowhere on the Cel MD website are these known side effects and allergic reactions or chemical reactions disclosed.

210. Nowhere in the Cel MD Facebook advertisements or Youtube videos are these known side effects and allergic reactions or chemical reactions disclosed.

211. Nowhere on the main pages of Cel MD’s Amazon Product pages are these known side effects and allergic reactions or chemical reactions disclosed. The only location any statement regarding this issue was made is in comments responding to reviews reporting to those reactions on Amazon, which are accessible only after multiple

¹³⁰ Amazon Review of Cel MD Shampoo & Conditioner, https://www.amazon.com/gp/customer-reviews/R1T4RDMHO4KAVJ/ref=cm_cr_arp_d_rvw_ttl?ie=UTF8&ASIN=B07D7HRVDL (last visited June 25, 2019).

¹³¹ Profile of Jack—Founder of Cel MD, https://www.amazon.com/gp/profile/amzn1.account.AF3ADZCDBRTZJXVN5D4X3CF2YZTQ/ref=cm_cr_getc_d_pdp?ie=UTF8 (last visited June 25, 2019).

1 clicks away from the purchasing page and only after finding and reading those specific
2 reports from customers.

3 212. Cel MD's products bear a warning label that states the following:
4 "Warnings: Stop using this product if you experience any symptoms on the area this
5 product was applied, including red spots, swelling, itching, or irritation. If the symptoms
6 worsen, consult a dermatologist immediately. If you experience side effects (burning, hair
7 loss, rashes) please stop using the product immediately." The screenshot below is of the
8 warning on Cel MD's shampoo product:



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23 213. This warning is only provided to consumers after they have purchased the
24 Cel MD products. The warning fails to disclose that these are known side effects which
25 have occurred with other customers. And it fails to disclose the specific ingredient which
26 the Cel MD Defendants told certain Amazon customers they knew to cause these allergic
27 reactions.

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1 214. The Cel MD Defendants made material omissions regarding the side effects
2 caused by their products by omitting material information which they were under a duty
3 to disclose relating to those side effects. The Cel MD Defendants failed to disclose to
4 consumers that their products were known to cause side effects including allergic
5 reactions to one or more of the ingredients, reactions, anaphylactic shock, swelling,
6 itching, red skin, scabs, burning, stinging pains, headaches, and hair loss. The Cel MD
7 Defendants further were aware of at least one ingredient in their products that caused
8 allergic reactions, but failed to disclose this knowledge to consumers and failed to
9 disclose which ingredient it was.

10 215. The Cel MD Defendants were under a duty to disclose this information to
11 Plaintiff and the Class Members because the Cel MD Defendants had exclusive
12 knowledge of material facts not known to them, namely that their products caused these
13 side effects and that there is an ingredient in their products which causes allergic
14 reactions.

15 216. Plaintiff and the Class Members did not know this, and given the nature of
16 the side effects, it was difficult to discover because the Plaintiff and Class Members
17 would have to go to Amazon and sift through hundreds of reviews and read their
18 comments.

19 217. The Cel MD Defendants were under a duty to disclose this information to
20 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
21 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
22 this matter. The Cel MD Defendants have hidden or deleted comments on their Facebook
23 ads containing negative material information, as described further herein.

24 218. In aggregate, there are more than 10,000 comments listed across the Cel MD
25 Defendants' various Facebook advertisements, which millions of people have been
26 exposed to. On information and belief, the Cel MD Defendants have actively hidden
27 numerous comments on their Facebook advertisements using the "Hide Comment"
28 feature in order to suppress negative information about their products and to prevent

1 potential customers from discovering it. These hidden comments remain accessible to the
2 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
3 these hidden comments, information material to this matter will be found to have been
4 hidden, concealed, or covered up by the Cel MD Defendants.

5 219. The specific comments alleged to have been hidden herein specifically
6 related to accusations that Cel MD products cause hair loss, one of the reported side
7 effects, and the Cel MD Defendants actively concealed that information from customers
8 at least by hiding those customer comments on Facebook.

9 220. On information and belief, the Cel MD Defendants have further engaged in
10 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
11 order to suppress material negative information about their products and to prevent
12 consumers from discovering it.

13 221. The Cel MD Defendants were further under a duty to Plaintiff and the Class
14 members because they made partial representations—that their products were “safe,” did
15 not have side effects like competing products, and contained no negative or “nasty”
16 ingredients—but also suppressed, concealed, or did not disclose material facts that
17 qualify those representations, namely that there were in fact side effects (even if they
18 differed from those in competing products), were not safe for all consumers, and their
19 products did in fact contain ingredients which could be negative or “nasty” in that they
20 caused allergic reactions.

21 222. For example, in video advertisements on Facebook, the Cel MD Defendants
22 tout their Cel MD Microstem Hair Stimulating Formula product using the tag line “Hair
23 Growth Without The Side Effects” and state that their “Stem-Cell Hair Serum Is
24 Formulated To Stimulate New Growth Without The Harmful Side Effects!”¹³² In touting
25 its product to consumers as having no side effects, Cel MD’s video advertisement hints at
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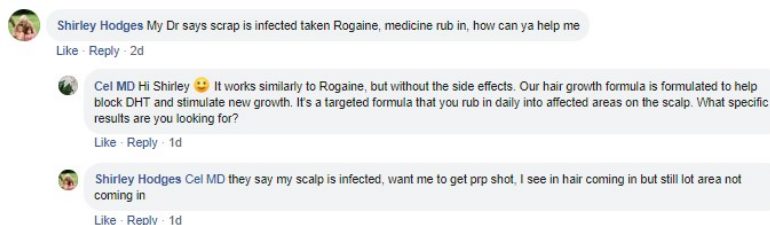
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28 ¹³² Cel MD Facebook Page,
<https://www.facebook.com/stemcellmdtech/videos/302877597273302/?v=302877597273302>
(last visited June 20, 2019).

1 the side effects of competing products with phallic imagery of a melting popsicle next to
2 photographs of an unhappy looking man in a bedroom next to a bored-looking woman
3 lying in bed, presumably to indicate that a side effect of competing products is erectile
4 dysfunction.

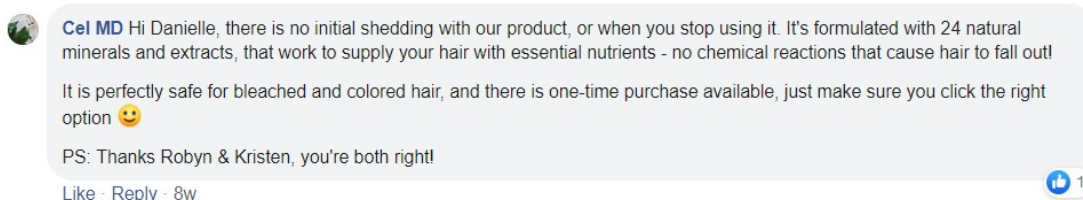


19 223. The Cel MD Defendants represented to various customers on Facebook that
20 their products lacked side effects. In response to one customer asking “Cel MD” for
21 medical advice about an infected scalp, the Defendants began selling their product as a
22 substitute to the Rogaine he had been using, claiming: “It works similarly to Rogaine, but
23 without the side effects.”¹³³

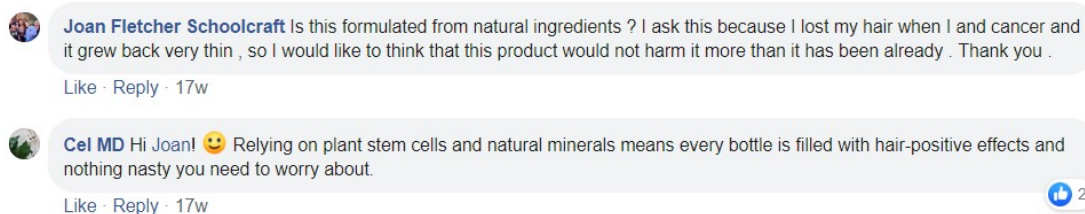
28 ¹³³ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=328821494502181> (last visited June 27, 2019).



224. In another comment, the Cel MD Defendants told customers their products have “no chemical reactions that cause hair to fall out” and that “[i]t is perfectly safe for bleached and colored hair....”¹³⁴



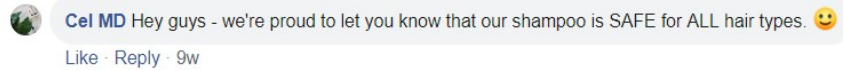
225. Despite knowing and acknowledging in response to negative reviews on Amazon that “some people do get adverse reactions to one of the ingredients,” the Cel MD Defendants gave medical advice to a recovering cancer patient on Facebook that “[r]elying on plant stem cells and natural minerals means every bottle is filled with hair-positive effects and nothing nasty you need to worry about.”¹³⁵



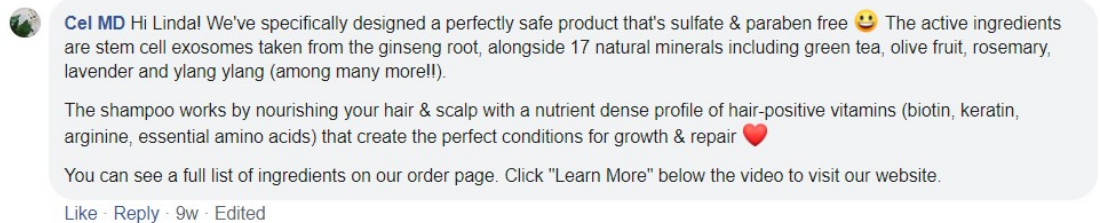
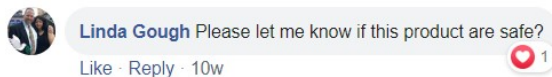
¹³⁴ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=521751705022292> (last visited June 27, 2019).

¹³⁵ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=375481709898653> (last visited June 27, 2019).

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2 226. The Cel MD Defendants told another customer that “our shampoo is SAFE
3 for ALL hair types.”¹³⁶



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8 227. The Cel MD Defendants represented to customers on Facebook asking about
9 whether their shampoo and conditioner were safe that their products were “perfectly
10 safe.”¹³⁷



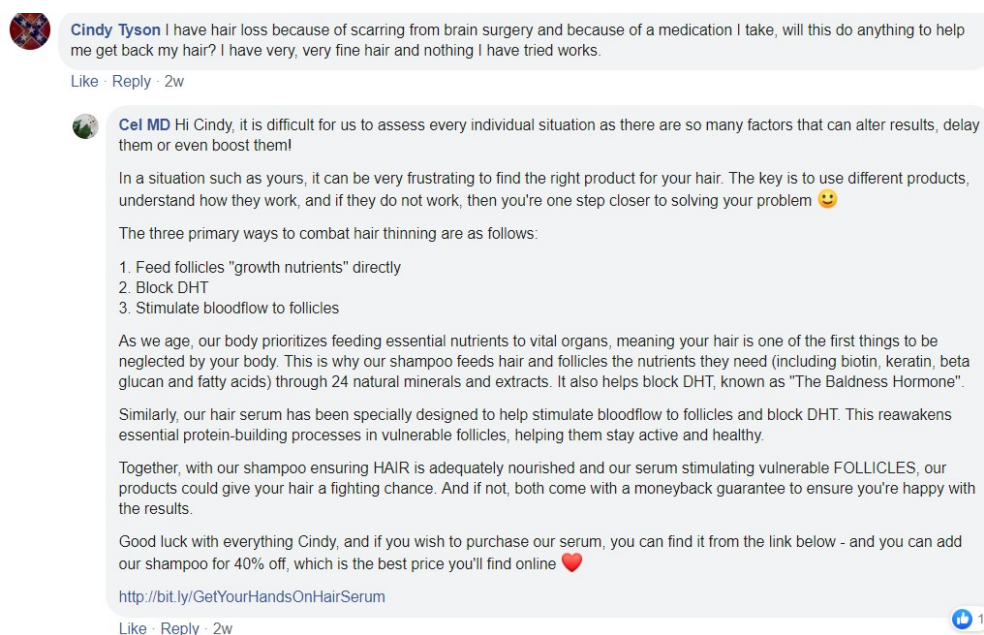
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19 228. Not only did the Cel MD Defendants fail to disclose these side effects, but in
20 their interactions with customers on Facebook and Amazon, the Cel MD Defendants
21 show a despicable lack of concern for their customer’s health that is so vile, base, and
22 contemptible that it would be looked down on and despised by reasonable people.
23 Customers with hair loss from severe health conditions were encouraged to simply try the
24 Cel MD products, even in cases where a doctor’s advice would have been crucial. The
25 Cel MD Defendants did not disclose the known existence of side effects and instead
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27 ¹³⁶ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=412288552680397> (last
visited June 27, 2019).

28 ¹³⁷ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=289061205112777> (last
visited June 27, 2019).

1 played doctor themselves, urging patients with severe medical problems that the solution
2 to their ills was to purchase snake oil. The Cel MD Defendants showed no regard
3 whatsoever for the health issues or emotional stress these customers were facing—all that
4 mattered was closing the sale at any cost.

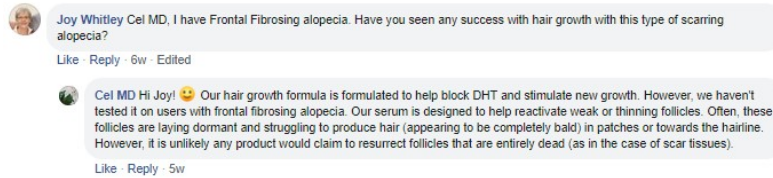
5 229. For example, the Cel MD Defendants told an individual who had “hair loss
6 because of scarring from brain surgery” to simply try their products, giving specific
7 medical advice about a potential method of “solving your problem” (which of course
8 involved buying Cel MD shampoo).¹³⁸



20 230. As might be expected from a company staffed by unqualified marketers
21 posing as doctors under the “MD” banner, the unlicensed medical advice the Cel MD
22 Defendants doled out was not even consistent. While diagnosing brain surgery patients
23 with an urgent need to try the Cel MD products to cure hair loss from surgical scarring,
24 just a few weeks before the Cel MD Defendants had advised another victim of scarring

28 ¹³⁸ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=593499861160717> (last visited May 27, 2019).

1 that “it is unlikely any product would claim to resurrect follicles that are entirely dead (as
2 in the case of scar tissues).”¹³⁹



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7 231. The Cel MD Defendants told a cancer patient who had suffered scarring and
8 hair loss after surgery for melanoma that the Cel MD Shampoo and Conditioner would
9 “give your follicles & hair the best chance of re-stimulation and thicker, healthier
10 growth.”¹⁴⁰ Again, the Cel MD Defendants’ efforts to act as the medical practice they
11 held themselves out to be were inconsistent: this advice contradicted their prior medical
12 advice that hair loss from scarring could not be cured by their products.

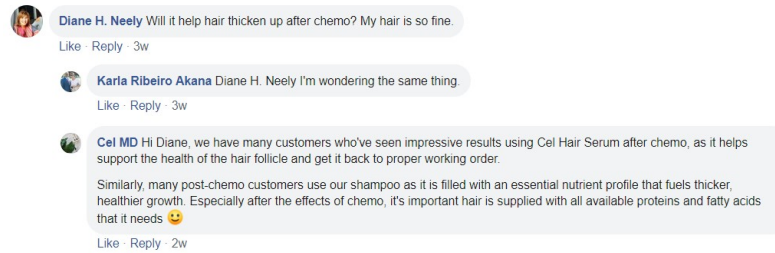


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22 232. The Cel MD Defendants told a cancer patient who had recently undergone
23 chemotherapy that “we have many customers who’ve seen impressive results using Cel
24 Hair Serum after chemo, as it helps support the health of the hair follicle and get it back

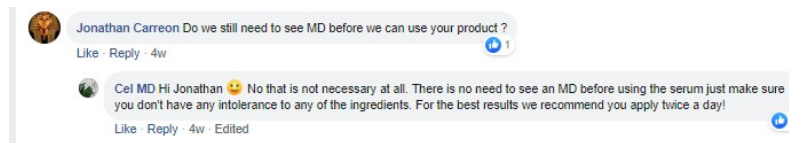
27 ¹³⁹ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=806688903035987> (last
28 visited June 27, 2019).

¹⁴⁰ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=593499861160717> (last
visited May 27, 2019).

1 to proper working order.... Especially after the effects of chemo, it's important hair is
2 supplied with all available proteins and fatty acids that it needs.”¹⁴¹



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233. When asked whether they should speak to a doctor before using the Cel MD
13 products, the Cel MD Defendants specifically advised a customer not to: “No that is not
14 necessary at all. There is no need to see an MD before using the serum just make sure
15 you don’t have any intolerance to any of the ingredients.”¹⁴²



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234. Such statements are among many others the Cel MD Defendants, who lack
24 medical licenses, have made online via Facebook to individuals with serious medical
25 conditions, all under the name “Cel MD.” These statements are unlawful, constitute the
26 unauthorized practice of medicine in California. Cal. Bus. & Professions Code § 2052.
27 They therefore violate the unlawful prong of the California UCL.

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235. The Cel MD Defendants knew, or by the exercise of reasonable care should
36 have known, that their omissions were untrue and misleading, and deliberately made the
37 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
38 other Class Members. Those omissions could have been corrected by including the
39 omitted information in a prominent position on the Cel MD website, by including

¹⁴¹ *Id.*

¹⁴² Cel MD Facebook Page, <https://www.facebook.com/watch/?v=302877597273302> (last visited June 25, 2019).

1 prominent disclaimers in the Cel MD videos, by including a prominent disclaimer on its
2 Amazon product descriptions, and/or by including prominent disclaimers in the text or
3 videos on its Facebook advertisements.

4 236. These omissions are designed to induce consumers to purchase the Cel MD
5 products. As a result of these omissions, Plaintiff and the Class purchased products they
6 would not have or pay more for them than they otherwise would have.

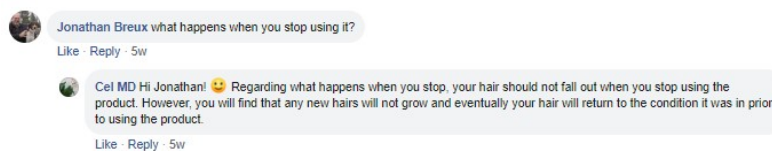
7 237. The Cel MD Defendants' omissions regarding side effects were material to
8 consumers. A reasonable consumer would attach importance to these omissions in
9 deciding whether to purchase the Cel MD products because had they known that the
10 products could cause serious side effects, they would not have paid as much for them or
11 would not have purchased them in the first place.

12 **Omissions Regarding Effects of**
13 **Discontinuing Use of Cel MD Products**

14 238. Plaintiff disagrees that the Cel MD hair loss products have any effect on hair
15 loss. But to the extent they do, it is undisputed that these effects are only temporary, and
16 that any hair growth will be reversed if the customer stops using the Cel MD products.
17 The Cel MD Defendants do not disclose this to their customers generally and did not do
18 so in proximity to their many representations that the products help regrow hair or
19 prevent hair loss.

20 239. In conversations with customers on Facebook, the Cel MD Defendants admit
21 that if a customer discontinues the use of their products, their hair growth will reverse,
22 and their hair “will return to the condition it was in prior to using the product.”¹⁴³
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28 ¹⁴³ Cel MD Facebook Page, <https://www.facebook.com/watch/?v=375653146380450> (last visited June 26, 2019).



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240. But the only place that the Cel MD Defendants deigned to inform their customers of this fact was when individual customers specifically asked about it in Facebook comments—buried among thousands of others.

241. The Cel MD hair growth products (Cel MD Microstem Shampoo, Cel MD Microstem Conditioner, Cel MD Brow & Lash Boosting Serum, Cel MD Microstem Hair Stimulation Formula, Cel MD Microstem Dandruff Cleansing and Hair Thickening Shampoo, Cel MD Advanced Hair Supplement, Cel MD Microstem Hair Thickening Mask) are all promoted with one general purpose: to help reverse hair loss and regrow hair. This is the entire point of buying them. On information and belief, every customer who purchases from the Cel MD website or from Amazon will encounter representations that these products help to regrow hair or prevent hair loss, as the very names of these products suggest.

242. The Cel MD Defendants made material omissions regarding the ability of their hair growth products to regrow hair or prevent hair loss by omitting material information which they were under a duty to disclose relating to their efficacy. The Cel MD Defendants failed to disclose to consumers that any benefits from their hair growth products is temporary, and that if a consumer discontinues the use of these products their hair will return to its original condition.

243. The Cel MD Defendants were under a duty to disclose this information to Plaintiff and the Class Members because the Cel MD Defendants had exclusive knowledge of material facts not known to them, namely that if a consumer discontinues the use of their hair growth products, their hair will return to its original condition.

244. Plaintiff and the Class Members did not know this, and given the nature of the claim, it was difficult to discover because it would require scientific testing of the

1 products or actual use of those products to discover. A consumer would not discover that
2 the products could not provide any permanent benefits without buying it and testing it on
3 themselves.

4 245. The Cel MD Defendants were under a duty to disclose this information to
5 Plaintiff and the Class Members because the Cel MD Defendants engaged in active
6 concealment, and have engaged in affirmative acts of hiding, concealing, or covering up
7 this matter. The Cel MD Defendants have hidden or deleted comments containing
8 negative material information on their Facebook ads, as described further herein.

9 246. In aggregate, there are more than 10,000 comments listed across the Cel MD
10 Defendants' various Facebook advertisements, which millions of people have been
11 exposed to. On information and belief, the Cel MD Defendants have actively hidden
12 numerous comments on their Facebook advertisements using the "Hide Comment"
13 feature in order to suppress negative information about their products and to prevent
14 potential customers from discovering it. These hidden comments remain accessible to the
15 Cel MD Defendants, and Plaintiff expects that during discovery and upon a review of
16 these hidden comments, information material to this matter will be found to have been
17 hidden, concealed, or covered up by the Cel MD Defendants.

18 247. On information and belief, the Cel MD Defendants have further engaged in
19 active concealment by hiding, concealing, or gating negative reviews on TrustPilot in
20 order to suppress material negative information about their products and to prevent
21 consumers from discovering it.

22 248. The Cel MD Defendants were further under a duty to Plaintiff and the Class
23 members because they made partial representations—that their products could help
24 regrow hair or prevent hair loss—but also suppressed, concealed, or did not disclose
25 material facts that qualify those representations, namely that any such benefits were
26 temporary and that if a consumer stopped using the Cel MD hair growth products, their
27 hair would return to its original condition.

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1 249. The Cel MD Defendants knew, or by the exercise of reasonable care should
2 have known, that their omissions were untrue and misleading, and deliberately made the
3 aforementioned omissions in order to deceive reasonable consumers like Plaintiff and
4 other Class Members. Those omissions could have been corrected by including the
5 omitted information in proximity to the representations on the Cel MD website, by
6 including prominent disclaimers in the Cel MD videos, by including a prominent
7 disclaimer on its Amazon product descriptions, and/or by including prominent
8 disclaimers in the text or videos on its Facebook advertisements.

9 250. These omissions are designed to induce consumers to purchase the Cel MD
10 products by promising them hair growth, without informing them that any such growth
11 would be temporary at best. As a result of these omissions, Plaintiff and the Class
12 purchased products they otherwise would not have or paid more for them than they
13 otherwise would have.

14 251. The Cel MD Defendants' omissions regarding their products' ability to
15 regrow hair or stop hair loss were material to consumers. A reasonable consumer would
16 attach importance to the truth or falsity of these omissions in deciding whether to
17 purchase the Cel MD products because if the hair growth was only temporary, the
18 consumer might not be willing to buy the products at all, or might not be able to afford a
19 permanent subscription to the Cel MD hair growth products and thus might not ever buy
20 them in the first place.

21 **Evidence of Malice, Intent, and**
22 **Knowledge of Wrongful Conduct**

23 252. In addition to the misrepresentations, omissions, and other wrongful conduct
24 described herein, the Cel MD Defendants have engaged in pervasive acts of dishonesty
25 throughout their marketing practices. These wrongful acts are relevant to the instant
26 action because they show that the Cel MD Defendants intentionally conspired to commit
27 wrongful acts, intentionally aided and abetted wrongful acts, and the sheer volume of
28 misrepresentations being made by them implies knowledge of the other wrongful acts

1 underlying the causes of action herein. They further constitute predicate acts for the
2 RICO scheme alleged herein.

3 253. This pervasive dishonesty additionally serves as proof that the Cel MD
4 Defendants should be obligated to pay punitive damages because they committed the acts
5 underlying the instant causes of action with malice, oppression, or fraud, and that the Cel
6 MD Defendants intended to cause injury, that their conduct was despicable, and that their
7 behavior underlying the causes of action was so vile, base, and contemptible that it would
8 be looked down on and despised by reasonable people.

9 254. The Cel MD Defendants would say anything to make a buck. And they said
10 various things to various customers—some representations were made to all of their
11 customers, as described above, and some representations were made to only a portion of
12 their customers, but were so outlandishly dishonest that they call into question every
13 word that comes out of the Defendants’ mouths.

14 255. Many of the Cel MD Defendants’ sales pitches read like bad science fiction
15 stories. For example, they told some of their customers that they operate an “advanced
16 human stem cell cloning facility” which was used to make their Nanotech Stem Cell
17 Facemask product: “The one-of-a-kind mask uses a patented stem cell cloning
18 methodology. The process begins with consenting adult volunteers donating stem cells
19 from their own body to a AAA grade stem cell cloning facility. There, the stem cells are
20 cloned into new stem cell peptides, and then inserted into the mask. Upon contact with
21 skin, these stem cell peptides act as a second ‘super-skin’, nourishing it from its deepest
22 layers.”¹⁴⁴

23 256. On information and belief, the Cel MD Defendants do not run, own, or
24 otherwise operate a “stem cell cloning facility,” do not engage in cloning of human stem
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28 ¹⁴⁴ Cel.MD, <https://www.cel.md/products/4x-stem-cell-face-masks-one-month-supply-fbdg>
(last visited July 7, 2019); *see also*
<https://www.cel.md/collections/all/shopifydiscount> (last visited July 7, 2019).

1 cells, do not have or utilize any volunteers who are “donating stem cells from their own
2 body,” and have not developed a “super skin.”

3 257. If the Cel MD Defendants have in fact cloned human stem cells from
4 volunteers in an advanced cloning facility and created a “super skin” based on human
5 stem cells for inclusion in their products, those ingredients are not listed on the labels for
6 the products¹⁴⁵ and the Defendants have violated a variety of state and federal laws by
7 incorporating those cloned human cells without any kind of disclosure. *See* Ex. 1 at 7.

8 258. If the Cel MD Defendants are instead simply making up a ridiculous sci-fi
9 story about “super skin” and a non-existent human stem cell cloning facility in an effort
10 to deceive their customers into purchasing their products, it is proof of their knowledge,
11 intent, and malice for the various causes of action herein.

12 259. “Super skin” is not the only improbable discovery the Cel MD Defendants
13 claim to have made. They also claim to have developed “super bacteria” and “super
14 biotin” at a laboratory they operate in South Korea.

15 260. The Cel MD Defendants’ website claims that Cel MD has a “South Korean
16 lab” staffed by “South Korea beauty specialists.”¹⁴⁶ Those specialists supposedly “spent 2
17 years perfecting this formula with our US Stem Cell Experts.”¹⁴⁷

18 261. Claims about South Korean scientists are repeated throughout the Cel MD
19 Defendants’ website—but with varying descriptions of the supposed scientists and their
20 expertise. The Cel MD website repeatedly invokes the involvement and qualifications of
21 these Korean scientists in varying and often contradictory language regarding its line of
22 products: “working closely with leading Korean ‘plant stem cell’ scientists,” “CREATED
23 BY US & KOREAN STEM CELL SKIN CARE EXPERTS,” “[c]reated by US Stem
24 Cell Experts, and perfected for your own home-use, by Nanotech beauty experts in Seoul,
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26 ¹⁴⁵ See Cel.MD, <https://www.cel.md/pages/ingredients-alti> (last visited July 7,
27 2019).

28 ¹⁴⁶ Cel.Md, <https://www.cel.md/collections/stem-cell-cuticle-oil> (last visited June
17, 2019); Cel.Md, <https://promos.cel.md/dmxchfgift/index.php> (last visited June
18, 2019).

¹⁴⁷ *Id.*

1 South Korea,” “[e]xpertly selected by US & South Korean skin scientists,”
2 “PERFECTED IN OUR SOUTH KOREAN LABORATORY,” “our talented group of
3 Korean scientists,” and “Hundreds of hours of research and development by our Korean
4 beauty experts, combined with our U.S. scientists.”¹⁴⁸

5 262. On information and belief, the Cel MD Defendants do not employ Korean
6 scientists who meet their descriptions of polymath experts in four separate scientific
7 fields: skin scientists, nanotech scientists, beauty experts, and plant stem cell scientists.

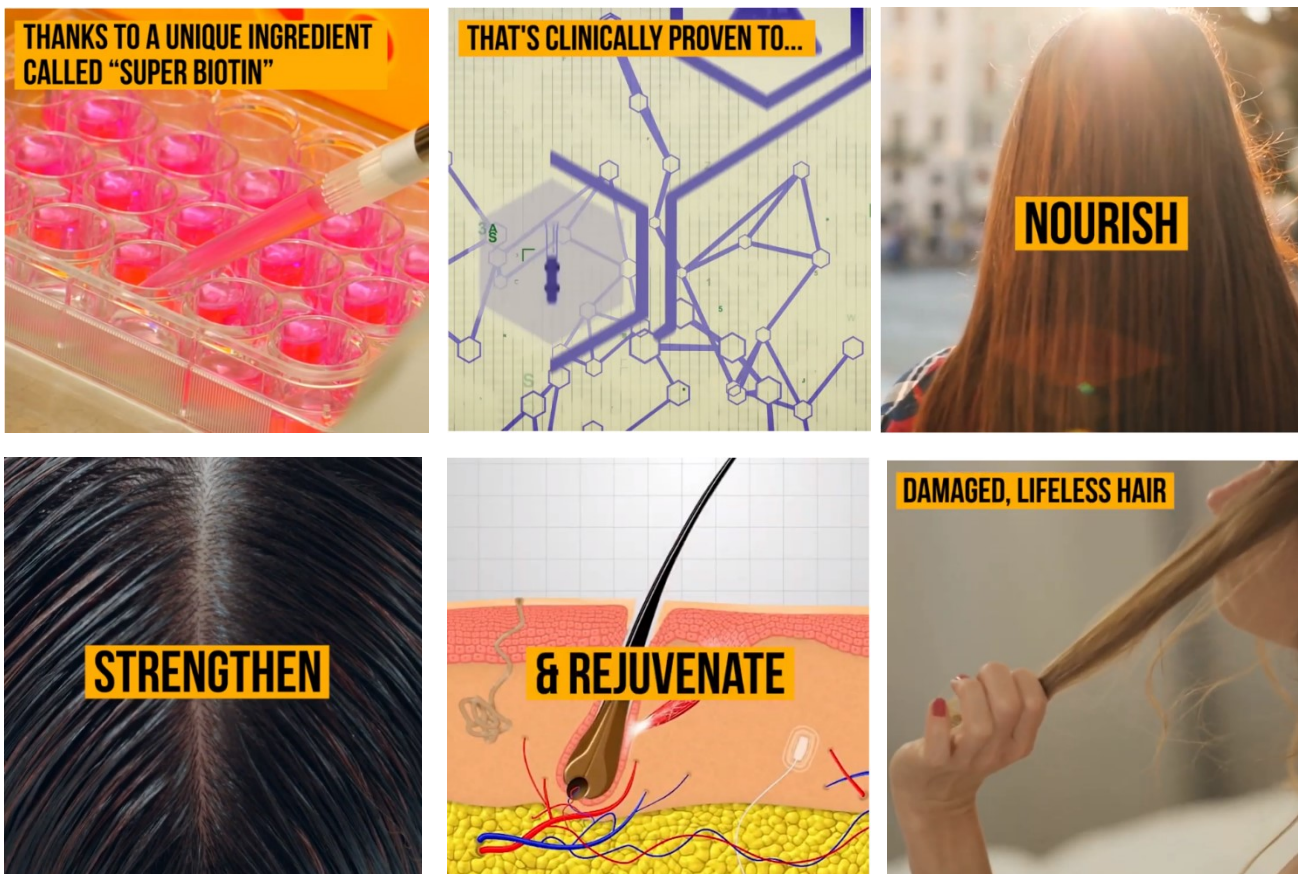
8 263. The Cel MD website also claims that these South Korean scientists created
9 a “super bacteria” which they have combined with ginseng stem cells for use in the Cel
10 MD products: “Scientists in Korea have recently developed new super bacteria that could
11 help restore the natural balance of good bacteria on your skin, promoting stronger,
12 healthier skin. What’s more, they have combined them with ginseng stem cells, which
13 can offer a variety of anti-aging benefits, including hydrating & revitalizing dry and
14 damaged skin... The super bacteria & plant stem cells contained within our 3-step
15 formula could help repair and protect your skin by restoring it’s natural balance of
16 healthy bacteria.”¹⁴⁹

17 264. On information and belief, the Cel MD Defendants have not developed a
18 “super bacteria,” and to the extent there is such a “super bacteria” that Cel MD has
19 combined with ginseng stem cells using its Korean beauty/skin/nanotech/plant stem cell
20 scientists, the Cel MD Defendants have violated various state and federal laws by not
21 getting approval for and then disclosing the existence of this “super bacteria” in its
22 ingredients. *See* Ex. 1 at 7.

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25 ¹⁴⁸ Cel.Md, <https://www.cel.md/pages/wg-shampoo-conditioner-1> (last visited June 18,
26 2019); Cel.Md, <https://www.cel.md/collections/face-packs-alti> (last visited June
27 18, 2019); <https://www.cel.md/collections/eye-serum-alti> (last visited June 18,
2019); <https://www.cel.md/collections/shampoo-and-conditioner> (last visited June
28 18, 2019); <https://promos.cel.md/bwxcspsteps/index.php> (last visited June 18,
2019);

¹⁴⁹ Cel.Md, <https://www.cel.md/pages/microbiome-skincare> (last visited June 18,
2019).

1 265. The Cel MD Defendants also falsely represent that their Advanced Hair
2 Supplement product contains a unique ingredient called “Super Biotin” which has been
3 clinically proven to nourish, strengthen, and rejuvenate damaged, lifeless hair.”¹⁵⁰



20 266. In fact, no such thing as “super biotin” exists—the labels to the Cel MD
21 product page for its Advanced Hair Supplement which supposedly uses the “super biotin”
22 indicates that it contains “Biotin vitamin B7.”¹⁵¹ Vitamin B7 is simply another name for
23 biotin.

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27 ¹⁵⁰ Cel MD Youtube Page, <https://www.youtube.com/watch?v=m0jjdWvfrqs> (last visited June 23, 2019); see also <https://www.youtube.com/watch?v=50XomoujsYA> (last visited June 24, 2019).

28 ¹⁵¹ Cel MD Amazon Page, <https://www.amazon.com/CEL-Advanced-Vitamins-Supplement-Strengthening/dp/B07P65TJ8L> (last visited July 8, 2019).

1 267. The Cel MD Defendants claim that their Nanotech Stem Cell Face Mask “is
2 made from millions of plant-based stem cell peptides that communicate with your own
3 stem cells telling them to produce beautifully clear, glowing skin.”¹⁵² They further tell
4 customers that this product “**actually rewires your skin** to repair and regenerate as if it
5 were young again” (emphasis in original).¹⁵³ Instead of Korean scientists, this page
6 attributes the miracle product to “[a] NY based stem cell expert.”¹⁵⁴ Regardless of who
7 developed this product, as discussed herein in the “Misrepresentations and Omissions
8 Regarding Plant Stem Cells” section, the plant material in Defendants’ products is
9 extract, meaning that it has been treated with solvent, any cells are no longer alive, and it
10 is physically impossible for them to communicate with human stem cells or to “rewire”
11 human skin.

12 268. The Cel MD Defendants cannot stay consistent in their story about who has
13 created the super skin, the super bacteria, the super biotin, and the magical skin rewiring
14 capabilities. On some portions of their website, the Cel MD Defendants abandon their
15 claims about Korean scientists, and instead claim that it was scientists in the United
16 States who created their products: “[o]ur patented, nanotech (sic), plant-based formula
17 was created in the US by a leading Stem Cell expert to effectively combat hair thinning
18 and loss.”¹⁵⁵ Another page claims that the Cel MD shampoo and conditioner products
19 were “MADE BY US HAIR LOSS & STEM CELL EXPERTS.”¹⁵⁶ And another claims
20 that Cel MD’s Nanotech Stem Cell Face Mask was “[d]eveloped by a group of America’s
21 leading stem cell experts.”¹⁵⁷

22 269. Other parts of the Cel MD website refer to its formulas being selected by
23 doctors in the United States: “Our powerful blend of ethically sourced, nutrient-rich
24

25 ¹⁵² Cel.Md, <https://www.cel.md/pages/why-stem-cell-md-decided-to-offer-a-free-trial-on-top-selling-product-1> (last visited July 29, 2019).

26 ¹⁵³ *Id.*

27 ¹⁵⁴ *Id.*

28 ¹⁵⁵ Cel.Md, <https://www.cel.md/collections/shampoo-and-conditioner> (last visited June 18, 2019).

¹⁵⁶ *Id.*

¹⁵⁷ Cel.Md, https://www.cel.md/collections/all/send_to_checkout (last visited June 21, 2019).

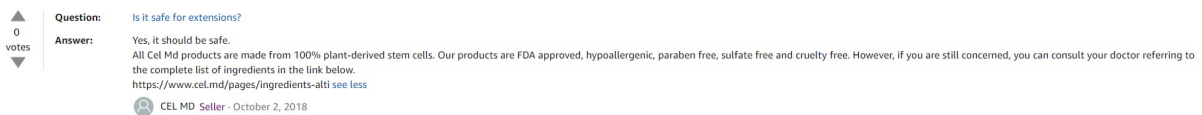
1 ingredients have been carefully selected by US doctors to create a technologically
2 advanced neck & décolletage formula.”¹⁵⁸

3 270. These claims are mutually exclusive: either the Korean
4 beauty/skin/nanotech/plant stem cell scientists or “America’s leading stem cell experts”
5 created their products, but the Cel MD Defendants cannot make up their mind as to
6 which.

7 271. The Cel MD Defendants also claim their products have received approvals
8 from the Food and Drug Administration (“FDA”).

9 272. The Cel MD Defendants stated on their website regarding their Nanotech
10 Stem Cell Face Mask that “the mask was cleared by the FDA this year, confirming that it
11 is 100% safe to use.”¹⁵⁹

12 273. On Amazon, the Cel MD Defendants represent to the customers of their
13 shampoo and conditioner that “[o]ur products are FDA approved....”¹⁶⁰



17 274. The Cel MD Defendants have included a “Frequently Asked Questions”
18 section on their website with the question: “Are Stem Cell products FDA approved?”
19 Their response was: “Yes! In early 2017 Cel MD was granted FDA approval for our
20 masks to sell to consumers and other businesses. The approval board recognized the high
21 quality of ingredients and expedited the process approval.”¹⁶¹

22 275. Prior to the August 2019 redesign of their website, the Cel MD Defendants
23 included a lengthy description of the process of their supposed “Testing & FDA
24

25 ¹⁵⁸ Cel.Md, <https://www.cel.md/collections/cel-neck-decolletage-cream-dtcc> (last
26 visited June 18, 2019).

27 ¹⁵⁹ Cel.Md, https://www.cel.md/collections/all/send_to_checkout (last visited June
28 21, 2019).

¹⁶⁰ CEL MD Stem Cell Hair Growth Thickening Shampoo and Conditioner for Women and
Men, https://www.amazon.com/ask/questions/Tx2XEQE1VP3605W/ref=ask_ql_ql_al_hza
(last visited June 26, 2019).

¹⁶¹ Cel.Md, <https://www.cel.md/pages/ingredients-testing> (last visited Aug. 1, 2019).

1 Approval” which described “[i]nitial tests conducted in late 2016” of their purported stem
2 cell formula, and concluded that “[f]ollowing FDA approval at the start of 2017, we were
3 both proud of Cel’s capabilities, and confident that it was ready for you to try at
4 home.”¹⁶²

5 276. On information and belief, the Cel MD Defendants do not have FDA
6 approvals for their products, and they lied to their customers about the government
7 having approved them in order to make their products seem safer and more reliable.

8 277. Another way the Cel MD Defendants imply government approval of their
9 products to their customers is to represent that they own patents on the formulas used in
10 their products. For example, they claim to their customers that they have created “Cel’s
11 patented and expertly refined plant stem cell formula.”¹⁶³ They claim that “[o]ur
12 powerful, patented healing formula is scientifically proven to promote younger looking
13 skin.”¹⁶⁴ The Cel MD website refers to their “patented absorption technology,”¹⁶⁵ “our
14 patented anti-aging plant stem cell technology,”¹⁶⁶ “[t]he one-of-a-kind mask uses a
15 patented stem cell cloning methodology,”¹⁶⁷ and “[t]he patented nano-technology in our
16 skin care range.”¹⁶⁸ Cel MD Youtube videos contain similar representations.¹⁶⁹

17 278. Patent searches using Google Patents for Christopher Masanto, Andrew
18 Masanto, Cel MD, Amplify Limited, Altitude Ads, and Blooming Investments do not
19 reveal any patents in the name of any of the Cel MD Defendants or relating to any of
20 their products.

21
22 ¹⁶² Cel.Md, <https://www.cel.md/pages/about-alti> (last visited Feb. 25, 2019).

23 ¹⁶³ Cel.Md, <https://www.cel.md/pages/cel-science> (last visited June 17, 2019).

24 ¹⁶⁴ Cel.Md, <https://www.cel.md/collections/skin-care> (last visited June 21, 2019).

25 ¹⁶⁵ Cel.Md, <https://www.cel.md/collections/congratulations-nanotech-stem-cell-face-masks-stem-cell-eye-serum-bundle> (last visited June 21, 2019).

26 ¹⁶⁶ Cel.Md, <https://www.cel.md/collections/neck-cream-alti/promoted> (last visited June 21, 2019).

27 ¹⁶⁷ Cel.Md, https://www.cel.md/collections/all/send_to_checkout (last visited June 21, 2019).

28 ¹⁶⁸ Cel.Md, <https://www.cel.md/blogs/news/should-your-morning-evening-skincare-routine-be-different> (last visited June 21, 2019).

¹⁶⁹ Cel MD Youtube Page, https://www.youtube.com/watch?v=CTpdK-gy_YY (last visited June 24, 2019); <https://www.youtube.com/watch?v=eoEOoZyN3HI> (Cel MD Shampoo and Conditioner) (last visited June 24, 2019).

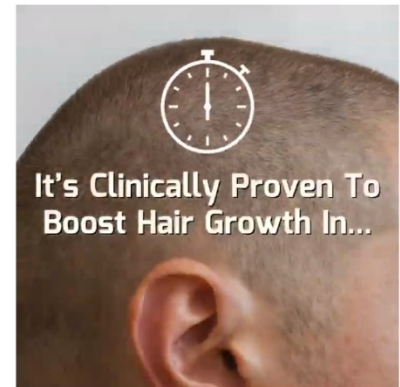
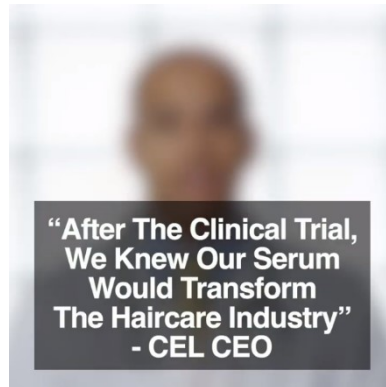
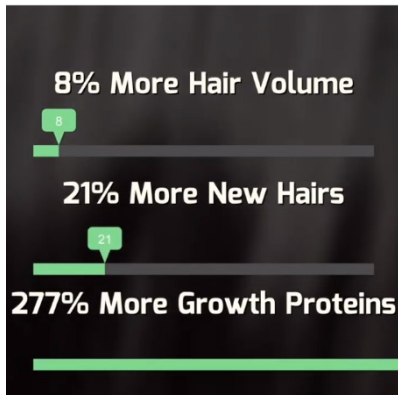
1 279. The Cel MD Shampoo, Conditioner, and Microstem Hair Stimulation
2 Formula are not marked on their packaging with any patent numbers pursuant to 35
3 U.S.C. § 287. On information and belief, none of the other products are marked with
4 patent numbers.

5 280. On information and belief, there are either no patents on the Cel MD
6 products, formulas, and technology, or the Cel MD Defendants have misrepresented the
7 patents of third parties as if they were their own. On information and belief, to the extent
8 the Cel MD Defendants were referring to the patents of third parties, those patents do not
9 cover the technologies that the Cel MD Defendants represent that they do.

10 281. These claims are designed to induce consumers to believe that there has
11 been some level of government review of and approval of the Cel MD products through
12 the patent application and approval process, as well as to believe that because the
13 products or technologies are supposedly patented, they are innovative or function more
14 effectively, and that Cel MD has a monopoly on the technology they are using in their
15 products (which is not true if the patents are owned by another entity).

16 282. In some of their advertisements, the Cel MD Defendants also tout a “clinical
17 trial” that purports to prove the efficacy of their products. These results are referred to in
18 Cel MD’s Youtube videos, which are embedded into its website and are referred to as a
19 “clinical trial” and “clinically proven to boost hair growth in” men and women.¹⁷⁰

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26
27 ¹⁷⁰ Cel MD Youtube page, https://www.youtube.com/watch?v=1DMp__y_MKY (last visited
28 June 23, 2019); see also https://www.youtube.com/watch?v=8t7v_oXnBWE (last visited
June 24, 2019); https://www.youtube.com/watch?v=CTpdK-gy_YY (last visited June 24,
2019); <https://www.youtube.com/watch?v=vo5jru1Ydo0> (last visited June 24, 2019).



283. The Cel MD Defendants' Facebook video advertisements similarly represent the results to be from a "clinical trial."¹⁷¹

284. A "clinical trial" is generally understood by the public to refer to a four-phase process conducted before the FDA in which the safety and efficacy of a product is thoroughly tested, reviewed by the FDA, and ultimately tested on thousands of people to verify that they work and have no side effects.¹⁷²

285. In fact, the results touted by the Cel MD Defendants are from a "clinical study," a privately conducted study with no controls, no involvement by the FDA, no testing for side effects, and conducted on only 88 people for sixteen weeks.¹⁷³ That clinical study was conducted without outside supervision, without disclosure of the underlying data, without peer review, and by the same people who were willing to tell their customers that their products contained super skin, super biotin, and super bacteria. See Ex. 1 at 3-4.

¹⁷¹ Cel MD Facebook page, <https://www.facebook.com/stemcellmdtech/videos/387636158519820/?v=387636158519820> (last visited June 25, 2019); <https://www.facebook.com/watch/?v=302877597273302> (last visited June 25, 2019); <https://www.facebook.com/watch/?v=375653146380450> (last visited June 26, 2019).

¹⁷² See National Institute on Aging Website, <https://www.nia.nih.gov/health/what-are-clinical-trials-and-studies> (comparing clinical trials to clinical studies) (last visited July 8, 2019).

¹⁷³ Cel MD Study One Pager, https://cdn.shopify.com/s/files/1/1847/3469/files/Clinical_trial_1_pager_1.pdf?124222484255251360860 (last visited July 8, 2019).

1 286. The “clinical study” further appears to have been conducted on two separate
2 groups over separate eight-week periods. This fails to account for seasonal hair loss—the
3 likely explanation for any of the Cel MD customers believing that the products work at
4 all. Because hair shedding can vary according to time of year, temperature, humidity, and
5 other factors, a customer who buys Cel MD at a time of year when their hair is naturally
6 shedding may believe that the product has “worked” several months later, when in
7 actuality they are simply shedding less hair because of changes in season, temperature,
8 humidity, or other factors.

9 287. By telling their customers that their products had been through a “clinical
10 trial,” as opposed to a self-conducted private clinical study, the Cel MD Defendants
11 reinforced their representations that the FDA had approved their products with the false
12 suggestion that their products had been reviewed by the government for safety and
13 efficacy.

14 288. Taken together, these representations make it clear that the Defendants’
15 conduct here was knowing and willful. It can be no accident that the Cel MD Defendants
16 made so many false claims about their products—or such outlandish ones. And to call
17 their conduct vile or contemptible would be an understatement. These Defendants sell
18 products that are ingested or applied to human skin. They knew these products were
19 causing allergic reactions, but they did nothing to stop it. They posed as doctors, and they
20 crossed the line into medical practice with people who suffered from cancer or who had
21 undergone serious brain surgeries. They ignored the most basic health regulations
22 governing these kinds of products, which are heavily regulated for a reason. They
23 claimed to have invented non-existent sci-fi technologies, when in fact the snake oil they
24 sell is as old as time. No one should do what the Defendants here have done without a
25 penalty—and it should be a heavy one. The Cel MD Defendants will not be deterred from
26 such conduct by their own good consciences. Only punitive damages can prevent them
27 from engaging in such behavior in the future.

28

CLASS ALLEGATIONS

1
2 289. Plaintiff incorporates all preceding and subsequent paragraphs by reference
3 as if set forth fully herein.

4 290. Plaintiff brings this class action pursuant to Fed. R. Civ. P. Rule 23, seeking
5 certification of Plaintiff’s claims and certain issues in this action on behalf of two
6 different Classes (hereinafter collectively referred to as the “Plaintiff Classes” or
7 “Classes”) consisting of:

8
9 **Nationwide Class:** All consumers in the United States who, within the
10 applicable statute of limitations period until the date notice is disseminated,
11 purchased one of the Cel MD Products.

12
13 **California Class:** All consumers in California who, within the applicable
14 statute of limitations period until the date notice is disseminated, purchased
15 one of the Cel MD Products.

16
17 291. “Cel MD Products” means Cel MD Microstem Shampoo, Cel MD
18 Microstem Conditioner, Cel MD Brow & Lash Boosting Serum, Cel MD Microstem Hair
19 Stimulation Formula, Cel MD Microstem Dandruff Cleansing and Hair Thickening
20 Shampoo, Cel MD Advanced Hair Supplement, Cel MD Microstem Hair Thickening
21 Mask, Cel MD Nanotech Stem Cell Face Mask, Cel MD Eye Serum, Cel MD Neck and
22 Decolletage Cream, Cel MD Stem Cell Rejuvenating Hand Cream, Cel MD Nail
23 Formula, Cel MD Stem Cell Cuticle Formula, and Cel MD Stem Cell Nourishing Hand
24 Wash, as well as any other products purporting to use stem cells or plant stem cells to
25 improve hair and skin, or any of these products sold under different names or under the
26 Cel or Cel MD brands.

27 292. Excluded from the Plaintiff Classes are governmental entities, Defendants,
28 any entity in which Defendants have a controlling interest, and Defendants’ officers,

1 directors, affiliates, legal representatives, employees, co-conspirators, successors,
2 subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial
3 officer presiding over this matter and the members of their immediate families and
4 judicial staff.

5 293. Plaintiff reserves the right to amend or modify the class descriptions by
6 making it more specific or dividing the class members into subclasses or limiting the
7 issues.

8 294. NUMEROSITY: Plaintiff is informed and believe, and on that basis allege,
9 that the Plaintiff Classes are so numerous that individual joinder of all members would be
10 impracticable. Based on the number of Amazon reviews of the Cel MD Products (more
11 than 1000) and the number of views of the Cel MD advertising videos on Facebook
12 (more than 10 million views in aggregate), it is apparent that the number of consumers of
13 the Products would be so large as to make joinder impracticable as the Classes are
14 comprised of thousands of consumers geographically dispersed throughout the United
15 States. While the exact number of Class members is currently unknown, such information
16 can be ascertained through appropriate discovery.

17 295. COMMONALITY: Defendants' practices and omissions were applied
18 uniformly to all members of the Plaintiff Classes, so that the questions of law and fact are
19 common to all members of the Classes. All members of the putative Classes were and are
20 similarly affected by having purchased and used the Products, and the relief sought herein
21 is for the benefit of Plaintiff and members of the putative Classes.

22 296. PREDOMINANCE: Questions of law and fact common to the Plaintiff
23 Classes exist that predominate over questions affecting only individual members,
24 including but not limited to:

- 25 a) whether Defendants' representations discussed above are misleading, or
26 objectively reasonably likely to deceive;

- b) whether Defendants' omissions discussed above involve facts the Defendants were obliged to disclose or facts contrary to representations by the Defendants;
- c) whether the Defendants' owed consumers a duty to disclose the omitted material facts;
- d) whether Defendants' alleged conduct is unlawful;
- e) whether the alleged conduct constitutes violations of the laws asserted;
- f) whether the Defendants' wrongful conduct was intentional or knowing;
- g) whether the Defendants' wrongful conduct warrants punitive damages;
- h) whether Defendants engaged in false or misleading advertising; and
- i) whether Plaintiff and Class members are entitled to appropriate remedies, including restitution, damages, and injunctive relief.

297. TYPICALITY: The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Classes, as the claims arise from the same course of conduct by Defendants, all members of the Classes have been similarly affected by Defendants' course of conduct, and the relief sought is common.

298. ADEQUACY: Plaintiff will fairly and adequately represent and protect the interests of the members of the Plaintiff Classes. Plaintiff has no interest adverse to the interests of the other Class members. Plaintiff has retained competent counsel with substantial experience in complex litigation and litigation involving scientific issues, who are committed to vigorously prosecuting this action on behalf of the Classes.

299. SUPERIORITY: A class action is superior to other available methods for the fair and efficient adjudication of the present controversy, in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the prosecution of numerous individual actions and the duplication of discovery, effort, expense and burden on the courts that individual actions would engender. The benefits of proceeding as a class

1 action, including providing a method for obtaining redress for claims that would not be
2 practical to pursue individually, are far superior than any difficulties that might be argued
3 with regard to the management of this class action. This superiority makes class litigation
4 superior to any other method available for the fair and efficient adjudication of these
5 claims. Absent a class action, it would be highly unlikely that the representative Plaintiff
6 or any other members of the Classes would be able to protect their own interests because
7 the cost of litigation through individual lawsuits might exceed expected recovery.

8 300. Certification of this class action is appropriate because the questions of law
9 or fact common to the respective members of the Plaintiff Classes predominate over
10 questions of law or fact affecting only individual members. Certification also is
11 appropriate because Defendants acted, or refused to act, on grounds generally applicable
12 to the Classes, thereby making appropriate the relief sought on behalf of the Class as a
13 whole. Further, given the large number of consumers of the Products, allowing individual
14 actions to proceed in lieu of a class action would run the risk of yielding inconsistent and
15 conflicting adjudications. Certification of Plaintiff's claims for class-wide treatment is
16 also appropriate because Plaintiff and the Class Members can prove the elements of their
17 claims on a class-wide basis using the same evidence as would be used to prove those
18 elements in individual actions alleging the same claims.

19 301. Notice to the members of the Plaintiff Classes may be accomplished
20 inexpensively, efficiently, and in a manner best designed to protect the rights of all Class
21 members. Class notice can likely be directly sent to individual members of the Classes
22 because Defendants' own records and documents will likely identify most members of
23 the Classes and contain their contact information.

24
25 **CAUSES OF ACTION**

26 **FIRST CAUSE OF ACTION**

27 **Violation of the Consumer Legal Remedies Act**

28 **Cal. Civ. Code § 1750, *et seq.***

1 302. Plaintiff incorporates all preceding and subsequent paragraphs by reference
2 as if set forth fully herein.

3 303. Plaintiff brings this claim individually and on behalf of the Class.

4 304. The CLRA prohibits deceptive practices in connection with the conduct of a
5 business that provides goods, property, or services primarily for personal, family, or
6 household purposes.

7 305. Defendants' false and misleading labeling and other policies, acts, and
8 practices were designed to, and did, induce the purchase and use of Defendants' Products
9 for personal, family, or household purposes by Plaintiff and Class Members, and violated
10 and continue to violate the following sections of the CLRA:

- 11 a. § 1770(a)(2): misrepresenting the source, sponsorship, approval, or
12 certification of goods or services, in particular as described herein in
13 the section titled "Omissions Regarding Reviews and Endorsements;"
- 14 b. § 1770(a)(3): misrepresenting the affiliation, connection, or
15 association with, or certification by, another, in particular as described
16 herein in the section titled "Omissions Regarding Reviews and
17 Endorsements;"
- 18 c. § 1770(a)(5): representing that goods have sponsorship, approval,
19 characteristics, ingredients, uses, benefits, or quantities that they do
20 not have, in particular as described herein in the sections titled
21 "Omissions Regarding Reviews and Endorsements;" "Deceptive
22 Brand Name and Omissions Regarding the Cel MD Brand Name;"
23 "Misrepresentations and Omissions Regarding Plant Stem Cells;"
24 "Representations Regarding Limited Supply;" "Omissions Regarding
25 Side Effects;" and "Omissions Regarding Effects of Discontinuing
26 Use of Cel MD Products;"
- 27 d. § 1770(a)(7): representing that goods are of a particular standard,
28 quality, or grade if they are of another, in particular as described

1 herein in the sections titled “Misrepresentations and Omissions
2 Regarding Plant Stem Cells;” “Omissions Regarding Side Effects;”
3 and “Omissions Regarding Effects of Discontinuing Use of Cel MD
4 Products;”

5 e. § 1770(a)(13): making false or misleading statements of fact
6 concerning reasons for, existence of, or amounts of, price reductions,
7 in particular as described herein in the sections titled “Omissions
8 Regarding Deceptive Timers;” and “Representations Regarding
9 Limited Supply;”

10 f. § 1770(a)(19): by inserting an unconscionable provision in a contract,
11 in particular the one-sided and unconscionable provisions of the terms
12 of service on the Cel MD Website. This unconscionability permeates
13 any purported terms of service, and these unconscionable terms have
14 injured the Plaintiff and the Class by deterring them from enforcing
15 their rights, and because the Defendants have relied on these illegal,
16 unenforceable, and unassented-to terms of service in denying requests
17 for refunds by members of the Class.

18 306. Defendants profited from their sales of the falsely, deceptively, and
19 unlawfully advertised Product to unwary consumers.

20 307. Plaintiff and members of the Class purchased the Products for personal use,
21 in reliance on Defendants’ false and misleading material claims described herein.

22 308. Pursuant to Cal. Civ. Code § 1780(d), Plaintiff has attached an affidavit of
23 venue hereto as Exhibit 2.

24 309. As a result of Defendants’ violations of the CLRA, Plaintiff and the Class
25 have suffered irreparable harm and seek injunctive relief prohibiting further violations of
26 the CLRA. Plaintiff and the Class also seek to recover their attorneys’ fees and costs.
27 Absent injunctive relief, Plaintiff may be injured by further deceptive practices by the
28 Defendants. It is a common practice in the direct marketing industry to rename products

1 or sell similar or identical formulas under different brand names, meaning that the
2 Plaintiff and the Class Members may purchase other products from Defendants without
3 knowing the source. Indeed, the Defendants have launched dozens of products under the
4 Cel MD brand name, often referring to them by varying names, and have further
5 launched a second skincare line already under a different name (Organica) as well as pet
6 products and potentially others. Absent an injunction against these practices, the
7 Defendants here are likely to attempt to deceive the Plaintiff and the Class again with
8 similar methods using other products or brand names.

9 310. Under Cal. Civ. Code § 1782(d), a plaintiff may without prior notification
10 file a complaint alleging violations of the CLRA that seeks injunctive relief only. If the
11 plaintiff later sends a CLRA notification letter and the defendant does not remedy the
12 CLRA violations within 30 days of notification, the plaintiff may amend its CLRA causes
13 of action without leave of court to add claims for damages.

14 311. Pursuant to §1782 of the CLRA and concurrently with the filing of this
15 complaint, Plaintiff has notified Defendants in writing of the particular violations of
16 §1770 of the CLRA and demanded Defendants rectify the actions described above by
17 providing complete monetary relief, agreeing to be bound by their legal obligations and
18 to give notice to all affected customers of their intent to do so.

19 312. If Defendants fail to adequately respond to Plaintiff's demand within 30
20 days of the letter pursuant to §1782 of the CLRA, Plaintiff will amend this claim to add
21 additional claims for relief, including claims for compensatory and punitive damages.

22 **SECOND CAUSE OF ACTION**

23 **Violation of the California False Advertising Law**

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

25 313. Plaintiff incorporates all preceding and subsequent paragraphs by reference
26 as if set forth fully herein.

27 314. Plaintiff brings this claim individually and on behalf of the Class.
28

1 315. Pursuant to California Business and Professions Code § 17500, *et seq.*, it is
2 unlawful to engage in advertising “which is untrue or misleading, and which is known, or
3 which by the exercise of reasonable care should be known, to be untrue or misleading . . .
4 [or] to so make or disseminate or cause to be so made or disseminated any such statement
5 as part of a plan or scheme with the intent not to sell that personal property or those
6 services, professional or otherwise, so advertised at the price stated therein, or as so
7 advertised.”

8 316. Defendants have violated § 17500, *et seq.*, in particular as described herein
9 in the sections titled “Omissions Regarding Reviews and Endorsements;” “Deceptive
10 Brand Name and Omissions Regarding the Cel MD Brand Name;” “Misrepresentations
11 and Omissions Regarding Plant Stem Cells;” “Representations Regarding Limited
12 Supply;” “Omissions Regarding Side Effects;” “Omissions Regarding Deceptive
13 Timers;” and “Omissions Regarding Effects of Discontinuing Use of Cel MD Products.”

14 317. Pursuant to California Business and Professions Code § 17505, “No person
15 shall state, in an advertisement of his goods, that he is a producer, manufacturer,
16 processor, wholesaler, or importer, or that he owns or controls a factory or other source of
17 supply of goods, when such is not the fact, and no person shall in any other manner
18 misrepresent the character, extent, volume, or type of his business.”

19 318. Defendants have violated § 17505, in particular as described herein in the
20 sections titled “Deceptive Brand Name and Omissions Regarding the Cel MD Brand
21 Name” and “Representations Regarding Limited Supply.”

22 319. Defendants misled consumers by making misrepresentations and untrue
23 statements about their products as described herein.

24 320. Defendants misled consumers by omitting material information which they
25 were under a duty to disclose as described herein. Defendants were under a duty to
26 disclose this material information to Plaintiff and the Class Members.

27 321. Defendants knew, or by the exercise of reasonable care should have known,
28 that their representations and omissions were untrue and misleading, and deliberately

1 made the aforementioned representations and omissions in order to deceive reasonable
2 consumers like Plaintiff and other Class Members. In particular and *inter alia*, this is
3 evidenced by the outlandishness of the conduct described in the section titled “Evidence
4 of Malice, Intent, and Knowledge of Wrongful Conduct,” as well as by the fake reviews
5 and photos of customers described in the section titled “Omissions Regarding Reviews
6 and Endorsements” and by the conduct by the Cel MD Defendants described in the
7 section titled “Deceptive Brand Name and Omissions Regarding the Cel MD Brand
8 Name” and elsewhere in this complaint.

9 322. As a direct and proximate result of Defendants’ misleading and false
10 advertising, Plaintiff and the other Class Members have suffered injury in fact and have
11 lost money or property, time, and attention. Plaintiff reasonably relied upon Defendants’
12 representations regarding their products. In reasonable reliance on Defendants’ false
13 representations, Plaintiff and other Class Members purchased the products at issue and
14 paid more for those products than they would have had they been aware that Defendants’
15 representations were false. Plaintiff and other Class Members ended up with Products
16 that were overpriced, inaccurately marketed, and did not have the characteristics,
17 qualities, or value promised by Defendants, and therefore Plaintiff and other Class
18 Members have suffered injury in fact.

19 323. Defendant’s representations were material to the decision of Plaintiff and the
20 Class Members to purchase Defendant’s products, and a reasonable person would have
21 attached importance to the truth or falsity of the representations made by Defendant in
22 determining whether to purchase Defendant’s products. With respect to the omissions by
23 Defendant as described herein, those omissions were material and Plaintiff and the Class
24 Members would have behaved differently if the information had been disclosed. Had
25 Defendants disclosed the omitted information, Plaintiff and the Class Members would
26 have been aware of it and would not have purchased the products from Defendant or
27 would not have paid the same price for those products.

1 and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of
2 Division 7 of the Business and Professions Code.”

3 330. Defendants committed “unfair” business acts or practices by, among other
4 things: (1) engaging in conduct where the utility of such conduct, if any, is outweighed
5 by the gravity of the consequences to Plaintiffs and members of the Classes; (2) engaging
6 in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious
7 to Plaintiffs and members of the Classes; and (3) engaging in conduct that undermines or
8 violates the spirit or intent of the consumer protection laws alleged in this Class Action
9 Complaint.

10 331. The utility of the conduct committed by Defendants and as described herein
11 is nonexistent. There is no utility to falsely suggesting to customers that an advertising
12 agency is a medical practice, to pretending to be doctors, to making misrepresentations
13 about and omitting crucial facts about how products applied to the human body work, to
14 omitting easily provided warnings about side effects, to using fake customer reviews or
15 photos, or to making misrepresentations about limited supplies or times in which
16 customers can purchase those products. The harm to consumers caused by this conduct,
17 by contrast, is significant. The Cel MD Defendants’ conduct described herein not only
18 deprived the consumers of the value they were expecting to receive, it also risked their
19 health and caused them to treat health conditions with ineffective products rather than
20 alternative options.

21 332. Defendants’ conduct as described in this Complaint offends established
22 public policies. The Defendants’ conduct violated numerous statutes, as described further
23 herein and in detail in the Fourth Cause of Action. Those statutes exist for a reason: to
24 protect consumers from unfair marketing practices, and in many cases to protect
25 consumers’ health. It is a particularly important public policy issue to avoid these kinds
26 of violations in products that relate to health care or that are applied to the human body
27 given the risks of such violations.

1 333. Defendants’ conduct as described in this Complaint is immoral, unethical,
2 oppressive, and unscrupulous, as well as substantially injurious to Plaintiff and the Class.
3 In particular and *inter alia*, this is evidenced by the conduct described in the section titled
4 “Evidence of Malice, Intent, and Knowledge of Wrongful Conduct,” as well as by the
5 fake reviews and photos of customers described in the section titled “Omissions
6 Regarding Reviews and Endorsements,” by the conduct by the Cel MD Defendants
7 described in the section titled “Deceptive Brand Name and Omissions Regarding the Cel
8 MD Brand Name” and elsewhere herein, and by the disregard for their customer’s health
9 and well-being, for example in the sections “Misrepresentations and Omissions
10 Regarding Plant Stem Cells;” “Omissions Regarding Side Effects;” and “Omissions
11 Regarding Effects of Discontinuing Use of Cel MD Products,” and by the widespread
12 dishonesty present in the Cel MD Defendants’ marketing materials.

13 334. Defendants’ conduct as described in this Complaint violates the letter, spirit,
14 and intent of the consumer protection laws. Their products amount to snake oil, marketed
15 dishonestly and in violation of various consumer protection laws, as described herein and
16 in the Causes of Action of this complaint.

17 335. As detailed herein, Defendants’ unfair and/or fraudulent practices include
18 disseminating false and/or misleading representations through their marketing and
19 advertising.

20 336. Defendants are aware that the claims or omissions they have made about the
21 Products were and continue to be false and misleading.

22 337. Defendants had an improper motive—profit before accurate marketing—in
23 their practices related to their deceptive practices, as set forth herein.

24 338. There were reasonably available alternatives to further Defendants’
25 legitimate business interests other than the conduct described herein. For example,
26 Defendants could have removed the false and misleading representations from their
27 advertisements, provided omitted information the Plaintiffs’ to avoid any deception, and
28

1 could have complied with the law rather than violating the statutes as described in
2 Plaintiff's Fourth Cause of Action.

3 339. As a direct and proximate result of Defendants' unfair or fraudulent business
4 acts and practices and misleading and false advertising, Plaintiff and the other Class
5 Members have suffered injury in fact and have lost money or property, time, and
6 attention. Plaintiff reasonably relied upon Defendants' representations regarding their
7 products. In reasonable reliance on Defendants' false representations, Plaintiff and other
8 Class Members purchased the products at issue and paid more for those products than
9 they would have had they been aware that Defendants' representations were false.
10 Plaintiff and other Class Members ended up with Products that were overpriced,
11 inaccurately marketed, and did not have the characteristics, qualities, or value promised
12 by Defendants, and therefore Plaintiff and other Class Members have suffered injury in
13 fact.

14 340. Defendants' representations were material to the decision of Plaintiff and the
15 Class Members to purchase Defendants' products, and a reasonable person would have
16 attached importance to the truth or falsity of the representations made by Defendants in
17 determining whether to purchase Defendants' products, as described in detail herein.
18 With respect to the omissions by the Defendants as described herein, those omissions
19 were material and Plaintiff and the Class Members would have behaved differently if the
20 information had been disclosed. Had Defendants disclosed the omitted information,
21 Plaintiff and the Class Members would have been aware of it and would not have
22 purchased the products from Defendants or would not have paid the same price for those
23 products. Similarly, had Defendants not engaged in the unfair and fraudulent business
24 acts or practices described in this Complaint, Plaintiff and the Class Members would not
25 have purchased the products from the Defendants or would not have paid the same price
26 for those products.

27 341. As purchasers and consumers of Defendants' Products, and as members of
28 the general public who purchased and used the Products and have suffered injury in fact

1 and lost money and property as a result of this unfair competition and unlawful conduct,
2 Plaintiff and the Class are entitled to and bring this class action seeking all available
3 remedies under the UCL.

4 342. The unfair and unlawful competitive practices described herein presents a
5 continuing threat to Plaintiff and the Class Members in that Defendants persist and
6 continue to engage in these practices, and will not cease doing so unless and until forced
7 to do so by this Court. Defendants' conduct will continue to cause irreparable injury to
8 consumers unless enjoined or restrained. Under Business & Professions Code § 17203,
9 Plaintiff is entitled to injunctive relief ordering Defendants to cease their unfair
10 competitive practices, and Plaintiff and all Class Members are entitled to restitution of the
11 entirety of the Defendants' revenues associated with their unlawful acts and practices, or
12 such portion of those revenues as the Court may find equitable.

13
14 **FOURTH CAUSE OF ACTION**
15 **Violation of the Unlawful Prong**
16 **of the California Unfair Competition Law**
17 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

18 343. Plaintiff incorporates all preceding and subsequent paragraphs by reference
19 as if set forth fully herein.

20 344. Plaintiff brings this claim under the "unlawful" prong of California's Unfair
21 Competition Law, Business and Professions Code section 17200, *et seq.*, individually and
22 on behalf of the Class against the Cel MD Defendants.

23 345. The Unfair Competition Law, Business & Professions Code §17200, *et seq.*
24 ("UCL") prohibits "unfair competition," which includes "any unlawful, unfair or
25 fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising
26 and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of
27 Division 7 of the Business and Professions Code."
28

1 352. Pursuant to 18 U.S. Code § 1343, “[w]hoever, having devised or intending to
2 devise any scheme or artifice to defraud, or for obtaining money or property by means of
3 false or fraudulent pretenses, representations, or promises, transmits or causes to be
4 transmitted by means of wire, radio, or television communication in interstate or foreign
5 commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing
6 such scheme or artifice” has violated the statute.

7 353. Pursuant to 18 U.S. Code § 1349, “[a]ny person who attempts or conspires to
8 commit any offense under this chapter shall be subject to the same penalties as those
9 prescribed for the offense, the commission of which was the object of the attempt or
10 conspiracy.”

11 354. The Defendants here conspired to commit wire fraud and to receive money
12 obtained from wire fraud in violation of federal law.

13 355. The Defendants transmitted written communications by means of wire as
14 part of their scheme to defraud, in particular through Facebook ads, Youtube videos, their
15 websites, on Amazon, and through e-mail. Those transmissions included writings, signs,
16 signals, pictures, and sounds. Those transmissions were made in interstate commerce,
17 having originated in the Altitude Ads offices in the United Kingdom or New York and
18 having been transmitted throughout the United States.

19 356. The money obtained by the Cel MD Defendants from their customers was
20 obtained fraudulently. As described in this complaint, the Cel MD Defendants
21 intentionally used the “MD” abbreviation in their brand name to falsely or fraudulently
22 suggest to their customers that they were doctors, and they illegally provided medical
23 advice on Facebook. The Cel MD Defendants intentionally made false or fraudulent
24 representations that their products contained plant stem cells or a plant stem cell formula
25 or technology. The Cel MD Defendants intentionally made false or fraudulent
26 representations that their products had been purchased and endorsed by individuals who
27 were not actual customers, including journalists, models, their paid employees, and
28 others. The Cel MD Defendants intentionally transmitted false or fraudulent “customer

1 reviews” of their products which on information and belief they wrote themselves. The
2 Cel MD Defendants intentionally made false or fraudulent representations of limited
3 supply to their customers, which they transmitted through Youtube and through their
4 website. The Cel MD Defendants made numerous other misrepresentations and
5 omissions as described throughout this complaint, including claims that their products
6 were approved by the FDA, that they had performed a “clinical trial,” that they had
7 developed super skin, super bacteria, and super biotin, that they could rewire human skin,
8 that they operated a human stem cell cloning facility, that they owned patents on their
9 products, and that their products contained living plant stem cells or a plant stem cell
10 formula. These false or fraudulent representations and omissions were made for the
11 purpose of obtaining money, namely the purchase price of their products. The Cel MD
12 Defendants knowingly conspired together to commit these violations and to benefit
13 financially from this scheme.

14 357. The Cel MD Defendants’ actions with respect to their products as described
15 above are in violation of 18 U.S. Code § 1343 and thus constitute unlawful business acts
16 or practices under the UCL.

17 **Mail Fraud**
18 **In Violation Of**
19 **18 U.S. Code § 1341**

20 358. The Cel MD Defendants’ conduct here is unlawful because they have
21 committed mail fraud and conspired to commit mail fraud in violation of 18 U.S. Code
22 § 1341.

23 359. Pursuant to 18 U.S. Code § 1341, “[w]hoever, having devised or intending to
24 devise any scheme or artifice to defraud, or for obtaining money or property by means of
25 false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan,
26 exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any
27 counterfeit or spurious coin, obligation, security, or other article, or anything represented
28 to be or intimated or held out to be such counterfeit or spurious article, for the purpose of

1 executing such scheme or artifice or attempting so to do, places in any post office or
2 authorized depository for mail matter, any matter or thing whatever to be sent or
3 delivered by the Postal Service, or deposits or causes to be deposited any matter or thing
4 whatever to be sent or delivered by any private or commercial interstate carrier, or takes
5 or receives therefrom, any such matter or thing, or knowingly causes to be delivered by
6 mail or such carrier according to the direction thereon, or at the place at which it is
7 directed to be delivered by the person to whom it is addressed, any such matter or thing”
8 is in violation of this statute.

9 360. Pursuant to 18 U.S. Code § 1349, “[a]ny person who attempts or conspires to
10 commit any offense under this chapter shall be subject to the same penalties as those
11 prescribed for the offense, the commission of which was the object of the attempt or
12 conspiracy.”

13 361. The Cel MD Defendants here conspired to commit mail fraud and to receive
14 money obtained from mail fraud in violation of federal law.

15 362. The money obtained by the Cel MD Defendants from their customers was
16 obtained fraudulently. As described in this complaint, the Cel MD Defendants
17 intentionally used the “MD” abbreviation in their brand name to falsely or fraudulently
18 suggest to their customers that they were doctors, and they illegally provided medical
19 advice on Facebook. The Cel MD Defendants intentionally made false or fraudulent
20 representations that their products contained plant stem cells or a plant stem cell formula
21 or technology. The Cel MD Defendants intentionally made false or fraudulent
22 representations that their products had been purchased and endorsed by individuals who
23 were not actual customers, including journalists, models, their paid employees, and
24 others. The Cel MD Defendants intentionally transmitted false or fraudulent “customer
25 reviews” of their products which on information and belief they wrote themselves. The
26 Cel MD Defendants intentionally made false or fraudulent representations of limited
27 supply to their customers, which they transmitted through Youtube and through their
28 website. The Cel MD Defendants made numerous other misrepresentations and

1 omissions as described throughout this complaint, including claims that their products
2 were approved by the FDA, that they had performed a “clinical trial,” that they had
3 developed super skin, super bacteria, and super biotin, that they could rewire human skin,
4 that they operated a human stem cell cloning facility, that they owned patents on their
5 products, and that their products contained living plant stem cells or a plant stem cell
6 formula. These false or fraudulent representations were made for the purpose of obtaining
7 money, namely the purchase price of their products. The Cel MD Defendants knowingly
8 conspired together to commit these violations and to benefit financially from this scheme.

9 363. The Cel MD Defendants transmitted matter or things and took or received
10 matter or things via the Postal Service or private or commercial interstate carriers as part
11 of their scheme to defraud, in particular by accepting return packages shipped across state
12 lines from other states (including from the state of California), and by shipping products
13 through the mail system to customers who had been defrauded.

14 364. The Cel MD Defendants’ actions with respect to their products as described
15 above are in violation of 18 U.S. Code § 1341 and thus constitute unlawful business acts
16 or practices under the UCL.

17 **Unlawful Violations of Federal Trade Commission Regulations**
18 **Concerning Use of Endorsements and Testimonials in Advertising**
19 **16 C.F.R. pt. 255, et seq.**

20 365. The Cel MD Defendants’ acts and practices are unlawful under the
21 California UCL because they violate Federal regulations governing the use of
22 endorsements and testimonials in advertising.

23 366. Pursuant to 16 C.F.R. pt. 255.1(a), “an endorsement may not convey any
24 express or implied representation that would be deceptive if made directly by the
25 advertiser.” Under 16 C.F.R. pt. 255(1)(c), “[a]dvertisers are subject to liability for false
26 or unsubstantiated statements made through endorsements....”

27 367. The term “endorsement” means “any advertising message (including verbal
28 statements, demonstrations, or depictions of the name, signature, likeness or other

1 identifying personal characteristics of an individual or the name or seal of an
2 organization) that consumers are likely to believe reflects the opinions, beliefs, findings,
3 or experiences of a party other than the sponsoring advertiser, even if the views expressed
4 by that party are identical to those of the sponsoring advertiser.” 16 C.F.R. pt. 255(b).
5 “Endorsement” as used by the regulation means both endorsements and testimonials. *Id.*
6 at 255(c).

7 368. Endorsers include consumers who receive free products from advertisers
8 through their marketing programs. 16 C.F.R. pt. 255, Example 8. Endorsers also include
9 third party bloggers who are compensated in any way by advertisers, and advertisers are
10 subject to liability for misleading or unsubstantiated representations made by paid
11 endorsers on their websites. 16 C.F.R. pt. 255.1, Example 5.

12 369. Under the regulations, advertisers have a duty to train endorsers and to
13 monitor their statements, and to take necessary steps to halt continued publication of
14 deceptive representations by endorsers: “In order to limit its potential liability, the
15 advertiser should ensure that the advertising service provides guidance and training to its
16 bloggers concerning the need to ensure that statements they make are truthful and
17 substantiated. The advertiser should also monitor bloggers who are being paid to promote
18 its products and take steps necessary to halt the continued publication of deceptive
19 representations when they are discovered.” 16 C.F.R. pt. 255.1, Example 5.

20 370. Plaintiff incorporates by reference the Factual Allegations section of this
21 Complaint, and in particular refers to the section relating to “Omissions Regarding
22 Reviews and Endorsements.”

23 371. As that section describes, on information and belief certain unknown third-
24 party endorsers were compensated by Defendants as part of their reviews or appearances
25 in Cel MD video advertisements, whether via free products or direct financial
26 compensation. Neither the Cel MD Defendants nor these endorsers disclosed this
27 compensation in proximity to their endorsements. These individuals were endorsers
28

1 under 16 C.F.R. pt. 255, *et seq.* and the Cel MD Defendants are liable for these
2 omissions.

3 372. Defendants knew or should have known that those third-party endorsers had
4 not disclosed such compensation in proximity to their reviews and endorsements.

5 373. On information and belief, Defendants failed to provide training or guidance
6 to these third-party endorsers to ensure that the endorsements did not include deceptive
7 representations. On information and belief, Defendants failed to monitor these
8 endorsements and took no steps to halt the continued publication of these deceptive
9 representations.

10 374. Under 16 C.F.R. pt. 255.5, certain material connections between sellers of an
11 advertised product and endorsers must be fully disclosed.

12 375. 16 C.F.R. pt. 255.5 states that: “When there exists a connection between the
13 endorser and the seller of the advertised product that might materially affect the weight or
14 credibility of the endorsement (i.e., the connection is not reasonably expected by the
15 audience), such connection must be fully disclosed. For example, when an endorser who
16 appears in a television commercial is neither represented in the advertisement as an
17 expert nor is known to a significant portion of the viewing public, then the advertiser
18 should clearly and conspicuously disclose either the payment or promise of compensation
19 prior to and in exchange for the endorsement or the fact that the endorser knew or had
20 reason to know or to believe that if the endorsement favored the advertised product some
21 benefit, such as an appearance on television, would be extended to the endorser.”

22 376. The requirement to disclose material connections between advertisers and
23 endorsers particularly applies reviews posted on websites or blogs where there is no
24 “inherently obvious” relationship between the advertiser and the endorser. 16 C.F.R. pt.
25 255.5, Example 7. To comply with the regulations, advertisers must require clear and
26 conspicuous disclosure of material connections to endorsers on such third party websites,
27 and must have procedures in place to monitor compliance by the endorser. *Id.*

1 377. As described further in the “Omissions Regarding Reviews and
2 Endorsements” section of this Complaint, reviews and advertisements on the Cel MD
3 website, on Amazon, on Facebook, and on Youtube contained or constituted third-party
4 endorsements for the Cel MD products, or were written by or made by employees of the
5 Cel MD Defendants themselves.

6 378. On information and belief, and as described in the factual background
7 section of this Complaint, the Cel MD Defendants had a connection to these third party
8 endorsers that might materially affect the credibility of their endorsements. The Cel MD
9 website states as much, but buries this disclosure far away from the actual endorsements.
10 The Cel MD Defendants further have material connections to the employees of Altitude
11 Ads, who posed as customers and who were being compensated as employees.

12 379. This material connection was not disclosed in proximity to any of the
13 endorsements, and on information and belief was not fully disclosed even on the Cel MD
14 website.

15 380. On information and belief, the Cel MD Defendants failed to require a clear
16 and conspicuous disclosure of this material connection and had no procedures in place to
17 monitor compliance by the third-party endorsers.

18 381. Under 16 C.F.R. pt. 255.2(c), “[a]dvertisements presenting endorsements by
19 what are represented, directly or by implication, to be ‘actual consumers’ should utilize
20 actual consumers in both the audio and video, or clearly and conspicuously disclose that
21 the persons in such advertisements are not actual consumers of the advertised product.”

22 382. The Cel MD Defendants presented endorsements appearing to be from
23 actual consumers on their website, including photographs of those purported consumers.
24 Similarly, the Cel MD Defendants included footage in video advertisements of
25 endorsements from individuals who purported to be actual consumers of their products.

26 383. In fact, the photographs of consumers on the Cel MD website are stock
27 photos of models, stolen photos, or in some instances are employees of Altitude Ads.
28

1 And on information and belief, the individuals in the video advertisements are paid actors
2 and actresses and not actual consumers.

3 384. Defendants failed to clearly and conspicuously disclose that these
4 photographs and videos were not actual consumers, as described in the “Omissions
5 Regarding Reviews and Endorsements” section of this Complaint.

6 385. Such failure to clearly and conspicuously disclose as required by 16 C.F.R.
7 pt. 255.2(c) was deceptive because the individuals featured in those photographs and
8 video advertisements had healthy hair and skin which Cel MD customers would aspire to
9 and which do not reflect the actual effects of the Cel MD products.

10 386. Under 16 C.F.R. pt. 255.3(a), “[w]henver an advertisement represents,
11 directly or by implication, that the endorser is an expert with respect to the endorsement
12 message, then the endorser's qualifications must in fact give the endorser the expertise
13 that he or she is represented as possessing with respect to the endorsement.”

14 387. The regulations make clear that an endorsement is deceptive and unlawful if
15 it misrepresents the applicability and scope of an endorser’s professional training and
16 experience. 16 C.F.R. pt. 255.3, Example 1 (it is deceptive if a chemical engineer is
17 described as an “engineer” in an endorsement of an automobile).

18 388. The regulations also require that an advertiser “must make clear the nature
19 and limits of the endorser's expertise” if the endorser does not have “substantial
20 experience” in the area. 16 C.F.R. pt. 255.3, Example 2 (a PhD or a physician without
21 substantial experience in the area of hearing may not be referred to as a “doctor” without
22 clarification in an endorsement of a hearing aid).

23 389. As described in the “Deceptive Brand Name and Omissions Regarding the
24 Cel MD Brand Name” section of this Complaint, the Cel MD Defendants portrayed
25 themselves as doctors by using the “MD” designation without disclosing that they did not
26 have such expertise. They portrayed an employee writing an “article” under the name
27 “Ryan Connor” as a “Stem Cell MD” when that person does not appear to exist and on
28 information and belief, is not a doctor to the extent he does exist.

1 390. As described in the “Evidence of Malice, Intent, and Knowledge of
2 Wrongful Conduct” section of the complaint, the Cel MD Defendants make a wide
3 variety of inconsistent claims as to the expertise of their endorsers, claiming that their
4 products were created by Korean individuals with varying fields of expertise, or by
5 individuals from New York or the United States who were either doctors or stem cell
6 experts.

7 391. Members of the Class were injured by this unlawful conduct and the
8 violations of these regulations, as described in the “Omissions Regarding Reviews and
9 Endorsements” and “Deceptive Brand Name and Omissions Regarding the Cel MD
10 Brand Name” sections of this Complaint.

11 392. Defendants’ actions with respect to its endorsers as described above are in
12 violation of 16 C.F.R. pt. 255, *et seq.* and thus constitute unlawful business acts or
13 practices under the UCL.

14 **Unlawful Violations of the**
15 **Sherman Food, Drug, & Cosmetic Law**
16 **Cal. Health & Safety Code, §§ 109875, *et seq.***

17 393. The Cel MD Defendants’ acts and practices are unlawful under the
18 California UCL because they violate the Sherman Food, Drug, & Cosmetic Law.

19 394. The Cel MD Defendants’ products constitute cosmetics under the Sherman
20 Food, Drug, & Cosmetic Law. Pursuant to Cal. Health & Safety Code § 109900, a
21 “cosmetic” is “any article, or its components, intended to be rubbed, poured, sprinkled, or
22 sprayed on, introduced into, or otherwise applied to, the human body, or any part of the
23 human body, for cleansing, beautifying, promoting attractiveness, or altering the
24 appearance.” The Cel MD Defendants’ products are cosmetics under this definition
25 because every product sold by them is applied to the human body in some form, and
26 every product sold by them is designed to beautify, promote the attractiveness of, or alter
27 the appearance of skin or hair.

1 395. The Cel MD Defendants’ products also constitute drugs under the Sherman
2 Food, Drug, & Cosmetic Law. Pursuant to Cal. Health & Safety Code § 109925, a “drug”
3 includes “[a]n article used or intended for use in the diagnosis, cure, mitigation,
4 treatment, or prevention of disease in human beings or any other animal” and “[a]n article
5 other than food, that is used or intended to affect the structure or any function of the body
6 of human beings or any other animal.” The Cel MD Defendants’ products are drugs
7 under this definition because they are not food and because they are intended to affect the
8 structure or function of hair or skin, and claim to affect such structure or function.

9 396. The Cel MD Defendants’ products also constitute new drugs under the
10 Sherman Food, Drug, & Cosmetic Law. Pursuant to Cal. Health & Safety Code §
11 109980, a “new drug” includes “[a]ny drug the composition of which is such that the
12 drug is not generally recognized, among experts qualified by scientific training and
13 experience to evaluate the safety and effectiveness of drugs, as safe and effective for use
14 under the conditions prescribed, recommended, or suggested in the labeling or
15 advertising thereof,” or one that “has become so recognized, but that has not, otherwise
16 than in the investigations, been used to a material extent or for a material time under the
17 conditions.” The Cel MD Defendants’ products are not generally recognized among
18 experts as being safe and effective for the conditions they are advertised to treat. The
19 effectiveness of the individual ingredients in the Cel MD Defendants’ products is not
20 generally recognized, including ginseng and asparagus stem cells, plant stem cells
21 generally, biotin, arginine, glycerin, and other ingredients advertised as treating hair or
22 skin.

23 397. The Cel MD Defendants’ representations as described in this Complaint
24 constitute advertisements under the Sherman Food, Drug, & Cosmetic Law. Pursuant to
25 Cal. Health & Safety Code § 109885, an “advertisement” means “any representations,
26 including, but not limited to, statements upon the products, its packages, cartons, and any
27 other container, disseminated in any manner or by any means, for the purpose of
28 inducing, or that is likely to induce, directly or indirectly, the purchase or use of any food,

1 drug, device, or cosmetic.” The representations as described herein were likely to induce,
2 directly or indirectly, the purchase of the Cel MD Defendants’ products, which constitute
3 drugs and cosmetics, and they did in fact induce such purchases as described in this
4 Complaint. The representations were disseminated to the Plaintiffs and the Class using
5 various means, including advertisements on Facebook, Youtube, Instagram, Amazon, and
6 on the Cel MD website.

7 398. Pursuant to Cal. Health & Safety Code § 110390, “[i]t is unlawful for any
8 person to disseminate any false advertisement of any food, drug, device, or cosmetic. An
9 advertisement is false if it is false or misleading in any particular.”

10 399. Pursuant to Cal. Health & Safety Code § 110395, “[i]t is unlawful for any
11 person to manufacture, sell, deliver, hold, or offer for sale any food, drug, device, or
12 cosmetic that is falsely advertised.”

13 400. The Cel MD Defendants violated Cal. Health & Safety Code § 110390 and §
14 110395 by disseminating false and misleading advertisements, as described in detail
15 throughout this Complaint, and by selling, delivering, and offering for sale their products
16 which were falsely advertised.

17 401. Pursuant to Cal. Health & Safety Code § 110403, “[e]xcept as otherwise
18 provided in Section 110405, it is unlawful for a person to advertise a drug or device
19 represented to have an effect in any of the following conditions, disorders, or diseases...
20 (u) Conditions of the scalp, affecting hair loss, or baldness.”

21 402. The Cel MD Defendant’s products are drugs, and thus it is unlawful for
22 them to make representations that their products would have an effect on hair loss or
23 baldness unless they fall within an exception. Cal. Health & Safety Code § 110405
24 provides a limited set of exceptions to this prohibition on such representations. Only
25 “[a]n advertisement that is not unlawful under Section 110390” may qualify for those
26 exceptions. As explained above, the Cel MD Defendants’ representations are false or
27 misleading in at least some particulars under Section 110390, and as such it was unlawful
28

1 for Defendants to make **any** representations on their website, their product labels, or third
2 party websites claiming that any of their products have an effect on hair loss or baldness.

3 403. Even if Defendants' representations were not false or misleading in any
4 particular at all, on information and belief Defendants do not meet any of the itemized
5 exceptions under Cal. Health & Safety Code § 110405 and thus it was unlawful for them
6 to advertise their products or to represent that their products have an effect on hair loss or
7 baldness even if those representations had been true.

8 404. The California Legislature has required, through Cal. Health & Safety Code
9 § 110403 and Cal. Health & Safety Code § 110405(b), that hair loss or baldness products
10 should not be advertised to the general public unless their efficacy and safety have been
11 "approved or cleared for marketing for that specific curative or therapeutic effect"
12 through at least one of an enumerated list of potential means of review of those products.
13 Defendants' products are marketed to the general public, and as such cannot qualify for
14 the exception under Cal. Health & Safety Code § 110405(a), which applies where the
15 advertisements are only disseminated to medical professionals or for educational
16 purposes.

17 405. Cal. Health & Safety Code § 110405(b) provides a list of alternate means to
18 allow hair loss or baldness products to be advertised to the general public. As with §
19 110405(a), false advertisements cannot qualify under any of these means.

20 406. § 110405(b) provides that: "An advertisement that a drug or device has a
21 specific curative or therapeutic effect on a condition, disorder, or disease listed in Section
22 110403 if the drug or device is approved or cleared for marketing for that specific
23 curative or therapeutic effect through any of the following means: (1) A new drug
24 application approved pursuant to Section 111500, or Section 505 of the federal act (21
25 U.S.C. Sec. 355); (2) An abbreviated new drug application approved pursuant to Section
26 505 of the federal act (21 U.S.C. Sec. 355); (3) A licensed biological product pursuant to
27 Section 351 of the Public Health Service Act (42 U.S.C. Sec. 262); (4) A nonprescription
28 drug that meets the requirements of Part 330 of Title 21 of the Code of Federal

1 Regulations; (5) A new animal drug application approved under Section 512 of the
2 federal act (21 U.S.C. Sec. 360b); (6) An abbreviated new animal drug application
3 approved pursuant to Section 512 of the federal act (21 U.S.C. Sec. 360b); (7) A new
4 device application approved pursuant to Section 111550; (8) A device premarket
5 approval application approved under Section 515 of the federal act (21 U.S.C. Sec. 360e);
6 (9) A determination of substantial equivalence for a device pursuant to Section 513(f)(1)
7 of the federal act (21 U.S.C. Sec. 360c(i)).

8 407. Only subsections (1), (2), and (4) could even potentially apply to the Cel
9 MD Defendants' hair loss products, which are not licensed biological products, are not
10 animal drugs, and are not devices. On information and belief, the Cel MD Defendants
11 have not received approval for their products pursuant to a new drug application. The Cel
12 MD Defendants cannot qualify under subsection (4) because their products are not
13 generally recognized as safe and effective, and because they do not comply with the
14 labeling requirements under Part 330 of Title 21 of the Code of Federal Regulations.

15 408. These provisions were designed by the California Legislature to protect
16 consumers from advertisements of unsafe or ineffective products for a list of serious
17 health conditions by requiring at least some form of government review of those
18 products. This failure to comply means that **all** of Defendants' advertisements and
19 representations suggesting that the products at issue have an effect on hair loss or
20 baldness are unlawful regardless of their truth or falsity.

21 409. As stated above, Defendants' products are new drugs under the Sherman
22 Food, Drug, & Cosmetic Law. *See* Cal. Health & Safety Code § 109980. New drugs are
23 subject to specific approval requirements, and “[n]o person shall sell, deliver, or give
24 away any new drug” unless the statutory requirements are satisfied. Cal. Health & Safety
25 Code § 111550. One way to satisfy the requirements is that the product is a “new drug,
26 and a new drug application has been approved for it and that approval has not been
27 withdrawn, terminated, or suspended under Section 505 of the federal act (21 U.S.C. Sec.
28 355).” Cal. Health & Safety Code § 111550(a)(1). Another is that “[t]he department has

1 approved a new drug or device application for that new drug or new device and that
2 approval has not been withdrawn, terminated, or suspended.” Cal. Health & Safety Code
3 § 111550(b). The remaining methods are inapplicable to the Defendants’ products, and
4 on information and belief, Defendants have failed to satisfy the approval requirements for
5 a new drug under the Sherman Food, Drug, & Cosmetic Law.

6 410. In addition to the various forms of harm alleged throughout this complaint,
7 which Plaintiff incorporates here by reference, this particular violation specifically
8 harmed Plaintiff and the Class by depriving them of the important and valuable
9 protections of this statutory scheme, by causing them to purchase products whose
10 efficacy and safety had not been verified, and by causing them to purchase the products at
11 issue and pay more for those products than they were worth in the absence of statutory
12 compliance.

13 411. Defendants’ actions with respect to its products as described above are in
14 violation of Cal. Health & Safety Code, §§ 109875, *et seq.* and thus constitute unlawful
15 business acts or practices under the UCL.

16 **Unlawful Violations of the**
17 **Federal Food, Drug, and Cosmetic Act**
18 **21 U.S.C. § 301, *et seq.***

19 412. The Cel MD Defendants’ acts and practices are unlawful under the
20 California UCL because they violate the Federal Food, Drug, and Cosmetic Act.

21 413. The Cel MD Defendants’ products constitute drugs under the Federal Food,
22 Drug, and Cosmetic Act. Pursuant to 21 U.S.C. § 321(g)(1), a “drug” includes “(C)
23 articles (other than food) intended to affect the structure or any function of the body of
24 man or other animals....”

25 414. The Cel MD Defendants’ products are advertised as affecting the structure
26 or function of the human body, and are intended to affect the structure or function of the
27 human body. The Cel MD Defendants advertise that their products “stimulate hair
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1 follicles” and “promote hair growth at a cellular level.”¹⁷⁴ They claim the ginseng stem
2 cells in their products “[b]oost cell regeneration & stimulate collagen growth.”¹⁷⁵ They
3 claim that plant stem cells “[n]ourish the scalp and stimulate dormant follicles for
4 optimum growth.”¹⁷⁶ As described herein, they have claimed among other things that
5 their products can rewire human skin, that they can function as a second “super skin,”
6 that the plant stem cells in their products can communicate with human cells to alter their
7 functionality to improve hair or skin, and that they can increase the lifespan of hair
8 follicles and cause hair to stay in the anogen phase for longer than it otherwise would.

9 415. The Cel MD Defendants’ products constitute new drugs under the Federal
10 Food, Drug, and Cosmetic Act. Pursuant to 21 U.S.C. § 321(p)(1), a “new drug” includes
11 “[a]ny drug (except a new animal drug or an animal feed bearing or containing a new
12 animal drug) the composition of which is such that such drug is not generally recognized,
13 among experts qualified by scientific training and experience to evaluate the safety and
14 effectiveness of drugs, as safe and effective for use under the conditions prescribed,
15 recommended, or suggested in the labeling thereof, except that such a drug not so
16 recognized shall not be deemed to be a “new drug” if at any time prior to June 25, 1938,
17 it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such
18 time its labeling contained the same representations concerning the conditions of its
19 use....”

20 416. The Cel MD Defendants’ products are not generally recognized among
21 experts as being safe and effective for the conditions they are advertised to treat. The
22 effectiveness of the individual ingredients in the Cel MD Defendants’ products is not
23 generally recognized. The FDA has previously made determinations that products
24 constitute drugs when advertising biotin and arginine claiming the product can “prevent
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27 ¹⁷⁴ Cel.md, <https://promos.cel.md/dmxcspsub2/index.php> (last visited Nov. 18, 2019).

28 ¹⁷⁵ Cel.md, <https://promos.cel.md/emailcesflow/index.php> (last visited Nov. 18,
2019).

¹⁷⁶ Cel.md, <https://promos.cel.md/emailchm/index.php> (last visited Nov. 18, 2019).

1 hair thinning and hair loss and promotes healthy hair.”¹⁷⁷ The Cel MD Defendants have
2 made the same claims about biotin and arginine in their products. The FDA has also
3 previously made determinations that products claiming to include plant stem cells for
4 improving skin constitute drugs.¹⁷⁸

5 417. Pursuant to 21 U.S.C. § 355(a), “No person shall introduce or deliver for
6 introduction into interstate commerce any new drug, unless an approval of an application
7 filed pursuant to subsection (b) or (j) is effective with respect to such drug.”

8 418. On information and belief, the Cel MD Defendants have not filed a new
9 drug application or obtained approval of any of their products from the Food and Drug
10 Administration. As such, it was unlawful for them to introduce or deliver their products
11 into interstate commerce, and **all** sales of their products in the United States were
12 unlawful.

13 419. In addition to the various forms of harm alleged throughout this complaint,
14 which Plaintiff incorporates here by reference, this particular violation specifically
15 harmed Plaintiff and the Class by depriving them of the important and valuable
16 protections of this statutory scheme, by causing them to purchase products whose
17 efficacy and safety had not been verified, and by causing them to purchase the products at
18 issue and pay more for those products than they were worth in the absence of statutory
19 compliance.

20 420. Defendants’ actions with respect to its products as described above are in
21 violation of 21 U.S.C. § 301, *et seq.* and thus constitute unlawful business acts or
22 practices under the UCL.

23 ¹⁷⁷ Warning Letter to Orgen Nutraceuticals, Oct. 28, 2015, available at
24 [https://www.fda.gov/inspections-compliance-enforcement-and-criminal-](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/orgen-nutraceuticals-10282015)
25 [investigations/warning-letters/orgen-nutraceuticals-10282015](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/orgen-nutraceuticals-10282015) (last visited Mar. 12,
2020).

26 ¹⁷⁸ Warning Letter to Circuit Skin, July 19, 2016, available at
27 [https://www.fda.gov/inspections-compliance-enforcement-and-criminal-](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/circuit-skin-07192016)
28 [investigations/warning-letters/circuit-skin-07192016](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/circuit-skin-07192016) (last visited Mar. 12, 2020);
Warning Letter to Annemarie Gianni Skin Care LLC, July 15, 2016, available at
[https://www.fda.gov/inspections-compliance-enforcement-and-criminal-](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/annemarie-gianni-skin-care-llc-07152016)
[investigations/warning-letters/annemarie-gianni-skin-care-llc-07152016](https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/annemarie-gianni-skin-care-llc-07152016) (last
visited Mar. 12, 2020).

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**Unlawful Violations of the
Federal Trade Commission Act
15 U.S.C. § 41, *et seq.***

421. Pursuant to 15 U.S.C. § 45(a)(1), “[u]nfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful.”

422. Pursuant to 15 U.S.C. § 52(a), “[i]t shall be unlawful for any person, partnership, or corporation to disseminate, or cause to be disseminated, any false advertisement—(1) By United States mails, or in or having an effect upon commerce, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly the purchase of food, drugs, devices, services, or cosmetics; or (2) By any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in or having an effect upon commerce, of food, drugs, devices, services, or cosmetics.”

423. Defendant’s products are both drugs and cosmetics.

424. As described throughout this Complaint and in the First, Second, and Third Causes of Action, Defendants engaged in unfair methods of competition in or affecting commerce, as well as unfair or deceptive acts or practices in or affecting commerce. The act of selling their products online satisfies the requirement of “in or affecting commerce.”

425. As described throughout this Complaint and in the First, Second, and Third Causes of Action, Defendants disseminated false advertisements online and sold their products online, which satisfies the requirement of “in or affecting commerce.” Those advertisements were intended to induce and did in fact induce the purchase of Defendants’ products.

426. Defendants’ actions with respect to its products as described herein are in violation of the Federal Trade Commission Act, 15 U.S.C. § 41, *et seq.* and thus constitute unlawful business acts or practices under the UCL.

Injury from Defendants' Unlawful Actions

1
2 427. To extend that the unlawful conduct described above was based on
3 misrepresentations, deception, or omission, Defendants knew, or by the exercise of
4 reasonable care should have known, that their representations and omissions were untrue
5 and misleading, and deliberately made the aforementioned representations and omissions
6 in order to deceive reasonable consumers like Plaintiff and other Class Members.

7 428. As a direct and proximate result of Defendants' unlawful conduct and unfair
8 competition, Plaintiff and the other Class Members have suffered injury in fact and have
9 lost money or property, time, and attention. Plaintiff reasonably relied upon Defendants'
10 representations regarding their products. In reasonable reliance on Defendants' false
11 representations, and as a result of Defendants' unlawful conduct and unfair competition,
12 Plaintiff and other Class Members purchased the products at issue and paid more for
13 those products than they would have had they been aware that Defendants'
14 representations were false or had the Defendants not engaged in the unlawful and unfair
15 conduct described herein. Plaintiff and other Class Members ended up with Products that
16 were overpriced, inaccurately marketed, and did not have the characteristics, qualities, or
17 value promised by Defendants, and therefore Plaintiff and other Class Members have
18 suffered injury in fact.

19 429. As purchasers and consumers of Defendants' Products, and as members of
20 the general public who purchased and used the Products and have suffered injury in fact
21 and lost money and property as a result of this unfair competition and unlawful conduct,
22 Plaintiff and the Class are entitled to and bring this class action seeking all available
23 remedies under the UCL.

24 430. The unfair and unlawful competitive practices described herein presents a
25 continuing threat to Plaintiff and the Class Members in that Defendants persist and
26 continue to engage in these practices, and will not cease doing so unless and until forced
27 to do so by this Court. Defendants' conduct will continue to cause irreparable injury to
28 consumers unless enjoined or restrained. Under Business & Professions Code § 17203,

1 Plaintiff is entitled to injunctive relief ordering Defendants to cease their unfair
2 competitive practices, and Plaintiff and all Class Members are entitled to restitution of the
3 entirety of the Defendants' revenues associated with their unlawful acts and practices, or
4 such portion of those revenues as the Court may find equitable. Plaintiff and the Class are
5 further entitled to declaratory relief that any terms of service on the Cel MD Defendants'
6 website is void and unenforceable because of the illegality of the Defendants' conduct
7 and because of the illegality of the consideration provided by the Cel MD Defendants.

8 **FIFTH CAUSE OF ACTION**

9 **Violation of the Racketeer Influenced and**

10 **Corrupt Organizations Act**

11 **("RICO")**

12 **18 U.S.C. §§ 1961, *et seq.***

13 **(Defendants Christopher Masanto and Andrew Masanto)**

14 431. Plaintiff incorporates all preceding and subsequent paragraphs by reference
15 as if set forth fully herein.

16 432. Plaintiff brings this claim individually and on behalf of the Class under the
17 Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961, *et*
18 *seq.*, on behalf of themselves and the Classes against Defendants Christopher Masanto
19 and Andrew Masanto.

20 433. 18 U.S.C. § 1962(c) provides that "[i]t shall be unlawful for any person
21 employed by or associated with any enterprise engaged in, or the activities of which
22 affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in
23 the conduct of such enterprise's affairs through a pattern of racketeering activity or
24 collection of unlawful debt."

25 434. 18 U.S.C. § 1962(d) provides that "[i]t shall be unlawful for any person to
26 conspire to violate any of the provisions of subsection (a), (b), or (c) of this section."

27 435. Defendants Christopher and Andrew Masanto have committed violations of
28 these sections, as described in further detail below.

1 436. Defendants Christopher and Andrew Masanto are “persons” within the
2 meaning of 18 U.S.C. § 1961(3), which defines a person as “any individual or entity
3 capable of holding a legal or beneficial interest in property.”

4 437. Altitude Ads Limited, Blooming Investments Limited, Amplify Limited, and
5 Starky Enterprises Limited constitute an “enterprise” within the meaning of 18 U.S.C. §
6 1961(4), which defines an enterprise as “any individual, partnership, corporation,
7 association, or other legal entity, and any union or group of individuals associated in fact
8 although not a legal entity.” The legal structure of these entities is such that Amplify
9 Limited is a wholly owned subsidiary of Altitude Ads Limited, which is a wholly owned
10 subsidiary of Blooming Investments Limited. Starky Enterprises Limited is now
11 dissolved, but was a predecessor entity to Altitude Ads Limited.

12 438. Defendants Christopher Masanto and Andrew Masanto operated this
13 enterprise and these corporate entities in violation of RICO, and conducted the affairs of
14 these corporations through illegal acts, namely the mail fraud and wire fraud described
15 herein. On information and belief, after the formation of Altitude Ads in 2016,
16 Christopher Masanto was the leader of the enterprise, with advice and financial assistance
17 in operating the enterprise provided by Andrew Masanto, who had led the enterprise
18 under its incarnation as Starky Enterprises Limited. Altitude Ads Limited created the
19 fraudulent advertising under Christopher Masanto’s direction, transmitting it via wire to
20 the United States where Amplify Limited was the corporate entity under which Cel MD’s
21 U.S. activities were run by Andrew Masanto as the “New York branch.”

22 439. Andrew and Christopher Masanto agreed to facilitate the operation of an
23 enterprise through a pattern of racketeering activity, and they did so knowingly and
24 intentionally. The fraudulent representations and omissions are so outlandish and so
25 prevalent in the Cel MD advertising (and in its very brand name) that it would have been
26 impossible for either Christopher Masanto or Andrew Masanto not to have been aware of
27 them and to have agreed to them. Indeed, Christopher Masanto has personally posed as a
28 customer in some of the advertisements without disclosing this fact. Christopher Masanto

1 is the nominal head of each of the corporate entities involved, and Andrew Masanto has
2 publicly described himself as being the co-founder of the “New York branch” of Altitude
3 Ads.

4 440. Andrew Masanto and Christopher Masanto conspired to commit and agreed
5 to the commission of at least two predicate acts. There are at least two fraudulent
6 advertisements in which Christopher Masanto poses as a customer, meaning he directly
7 committed two predicate acts. Both Christopher and Andrew Masanto would have been
8 aware of the repeated use of the Cel MD brand name on Amazon, on Facebook, on
9 Youtube, and on the Cel.MD website. On information and belief, they were aware of and
10 agreed to the commission of the numerous other predicate acts of mail and wire fraud as
11 well, which is implied by the small number of employees in the company meaning that
12 Christopher Masanto as CEO would necessarily have been aware of the details of their
13 activities, by the close relationship between Andrew and Christopher Masanto as
14 brothers, and by the descriptions of their responsibilities on their LinkedIn profiles and
15 elsewhere.

16 441. 18 U.S.C. § 1961(1) defines racketeering activity to include “any act which
17 is indictable under any of the following provisions of title 18, United States Code...
18 section 1341 (relating to mail fraud), section 1343 (relating to wire fraud)....”

19 442. The Cel MD Defendants have committed both wire and mail fraud, as
20 explained further herein in the Fourth Cause of Action. These predicate acts occurred
21 from at least September 27, 2017 through the present, and were reflected in the
22 Defendants’ website, through e-mail marketing, through their numerous Facebook and
23 Youtube videos and advertisements uploaded throughout this period (whose specific
24 dates are referenced on each video or page cited herein, and whose period of advertising
25 on Facebook can be determined from the Cel MD Defendants’ internal Facebook
26 accounts or the dates of the user comments and are incorporated here by reference), on
27 their Amazon pages which have been operative since at least July 5, 2018 based on
28 customer reviews, and elsewhere. The specific dates for statements on the Defendants’

1 websites and their date of publication is expected to be contained within the metadata of
2 internal documents available to the Cel MD Defendants. The Defendants first launched
3 their Facebook page publicly under the fraudulent name “Stem Cell MD” on September
4 27, 2017, which is the earliest currently known predicate act. The labels and packaging of
5 the Cel MD Products have contained fraudulent statements about containing a plant stem
6 cell formula from at least April 2018 to the present, and each shipment of products
7 containing these statements constitutes a predicate act. These acts of wire and mail fraud
8 were committed willfully and intentionally as described further herein, and were made in
9 furtherance of the scheme and common course of conduct in that they were designed to
10 defraud Cel MD customers of money and property.

11 443. These predicate acts further include the acts described in the “Evidence of
12 Malice, Intent, and Knowledge of Wrongful Conduct” section of this complaint.

13 444. The predicate acts include:

- 14 • Fraudulent representations that the Cel MD Defendants used a plant stem
15 cell formula or plant stem cell technology in their product, or that their
16 products contained ginseng or asparagus stem cells, which were
17 communicated by both wire and mail;
 - 18 • Fraudulent representations that the Cel MD Defendants had created super
19 skin, which were communicated by wire;
 - 20 • Fraudulent representations that the Cel MD Defendants had created super
21 biotin, which were communicated by wire;
 - 22 • Fraudulent representations that the Cel MD Defendants had created super
23 bacteria, which were communicated by wire;
 - 24 • Fraudulent representations that the Cel MD Defendants were operating a
25 human stem cell cloning facility, which were communicated by wire;
 - 26 • Fraudulent representations that there was a limited supply of their products,
27 which were communicated by wire;
- 28

- 1 • Fraudulent representations about the nature or qualifications of the doctors
2 or experts who created the products, which were communicated by wire and
3 by mail;
- 4 • Fraudulent representations about government approvals of the products by
5 the FDA or through patents or clinical trials, which were communicated by
6 wire;
- 7 • Fraudulent representations about the biological and scientific nature of plant
8 stem cells, peptides, exosomes, and the functionality of the Cel MD
9 products, which were communicated by wire and by mail;
- 10 • Fraudulent claims that their products could regrow hair, rewire or rejuvenate
11 skin, or otherwise alter the functionality of the human body, which were
12 communicated by wire and by mail;
- 13 • Fraudulent use of the letters “MD” to suggest that the products were being
14 sold by doctors or a medical practice, which were communicated by wire
15 and by mail;
- 16 • Fraudulent use of stock photos or employees labeled as customers, which
17 were communicated by wire;
- 18 • Fraudulent representations about the strength of customer reviews, which
19 were communicated by wire;
- 20 • Fraudulent countdown timers, which were communicated by wire;
- 21 • Fraudulent statements that their products utilized nanotechnology or a
22 nanotech formula, which were communicated by wire;
- 23 • Fraudulent statements about the lack of side effects of their products, which
24 were communicated by wire;
- 25 • The act of mailing the Cel MD products to customers which occurred from
26 late 2017 to the present by third party vendors at the direction of the Cel MD
27 Defendants as part of an artifice or scheme to defraud.
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1 445. These acts constitute a pattern of racketeering activity, defined in 18 U.S.C.
2 § 1961(1) as “at least two acts of racketeering activity, one of which occurred after the
3 effective date of this chapter and the last of which occurred within ten years (excluding
4 any period of imprisonment) after the commission of a prior act of racketeering activity.”
5 There are countless acts individual acts of wire and mail fraud identified here which
6 occurred from at least September 27, 2017 to the present, including likely hundreds of
7 separate advertisements, hundreds of separate pages on the Cel MD website, dozens of
8 products, and mail fraud committed by the shipment of fraudulently advertised snake oil
9 products to thousands upon thousands of customers all across the United States. These
10 acts were related to one another in that all had a common purpose to defraud potential
11 customers of Cel MD, that the victims were directed to the Cel.MD website or to
12 Amazon, that the participants were the same, and that the methods were the same or
13 similar. These acts occurred over a period of more than two years, and they are currently
14 ongoing in that on information and belief, many individuals are still being billed and
15 shipped products on a monthly basis for products they purchased based on past acts of
16 fraud, the products are still available for sale on Amazon and the Cel.md website under
17 the deceptive brand name, and many of the misrepresentations are actively being made to
18 new customers.

19 446. On information and belief, additional predicate acts may have occurred far
20 earlier and may be uncovered in discovery, particularly through Andrew Masanto’s
21 earlier cosmetics company, his other internet marketing activities as a “super affiliate,”
22 and the earlier activities of Altitude Ads. Christopher Masanto has been the CEO of
23 Altitude Ads since April 2016, and Andrew Masanto has been involved in internet
24 marketing continuously since at least November 2008, and their use of the practices
25 described herein likely began well before Cel MD was launched.

26 447. In addition, Altitude Ads appears to be a continuation of a racketeering
27 enterprise operated by Andrew Masanto under a now-defunct corporation called Starky
28 Enterprises Limited, formed in 2008 and dissolved by Andrew Masanto on July 5, 2016.

1 This occurred shortly after the formation of Altitude Ads Limited and Blooming
2 Investments Limited by Christopher Masanto on June 8, 2016. The application to strike
3 Starky Enterprises Limited from the corporate registry was made on April 9, 2016, just
4 before the registration for the domain altitudeads.com which occurred on April 26, 2016.

5 448. Starky Enterprises Limited described itself as specializing in “in online
6 internet and affiliate marketing.”¹⁷⁹ It claimed to be involved in promoting “health
7 products.”¹⁸⁰ Among the means by which it promoted these products included “less
8 traditional and innovative online solutions (disclosed only upon meeting).”¹⁸¹ On
9 information and belief, Christopher Masanto was involved in Starky Enterprises Limited
10 along with Andrew Masanto. On information and belief, Starky Enterprises Limited was
11 a predecessor entity to Altitude Ads Limited, and was involved in the fraudulent creation,
12 promotion, and advertising of similar hair, skin, and other health products. Plaintiff
13 expects that additional predicate acts may be uncovered in discovery.

14 449. These acts affected interstate commerce, in that the shipments crossed state
15 lines and the advertisements were sent from the United Kingdom to the United States
16 and transmitted via wire across the country, resulting in purchases of the Cel MD
17 products through interstate commerce which were sent via United States mail.

18 450. Andrew Masanto is a resident of New York, and at least some of his actions
19 took place within the territorial limits of the United States.

20 451. Christopher Masanto is a resident of the United Kingdom. He is the CEO
21 and Secretary of Amplify Limited, a Delaware Corporation, and he registered that
22 company to do business specifically in California and Florida. Along with Andrew
23 Masanto, he directed the United States operations of the enterprise.

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27 ¹⁷⁹ Archive.org copy of starkyenterprises.com,
<https://web.archive.org/web/20160307042649/http://starkyenterprises.com/> (last
visited Mar. 12, 2020).

28 ¹⁸⁰ *Id.*

¹⁸¹ *Id.*

1 452. The RICO enterprise at issue here consists of two corporations based in the
2 United Kingdom, a predecessor UK company, and one corporation based in the United
3 States. The enterprise engaged in, or affected in a significant way, commerce in the
4 United States, namely because the mail and wire fraud was directed at United States
5 residents, was committed in the United States, was designed to defraud individuals within
6 the United States, and the fraudulent advertising and other materials were intentionally
7 circulated specifically in the United States as the target market. The Cel MD Defendants
8 further claim online that their products are “Made in the USA.”

9 453. The predicate acts took place in the United States because the mail and wire
10 fraud involved transmission into the United States and targeted victims in the United
11 States, who were defrauded within the territorial limits of the United States.

12 454. The injuries took place entirely within the United States, where the products
13 were sold, manufactured, and shipped, and where the fraudulent advertising and other
14 materials were viewed and relied upon.

15 455. The RICO violations alleged here have caused harm to a specific business or
16 property interest. In particular, as a result of the misrepresentations and omissions
17 described herein, Plaintiff reasonably relied upon Defendants’ representations regarding
18 their products. In reasonable reliance on Defendants’ false representations, and as a result
19 of the RICO violations, Plaintiff and other Class Members purchased the products at
20 issue and paid more for those products than they would have had they been aware that
21 Defendants’ representations were false or had the Defendants not engaged in the unlawful
22 conduct described herein. Plaintiff and other Class Members ended up with Products that
23 were overpriced, inaccurately marketed, and did not have the characteristics, qualities, or
24 value promised by Defendants, and therefore Plaintiff and other Class Members have
25 suffered specific harm to a property interest, the money they paid to the Cel MD
26 Defendants.

27 456. The RICO violations here have caused concrete financial loss. In particular,
28 as described above, money was paid by Plaintiff and members of the Classes to the Cel

1 MD Defendants in reliance on their misrepresentations and omissions. Plaintiff and the
2 Class Members were overcharged for those products relative to their actual value, and the
3 value was substantially inflated by the various misrepresentations and omissions as
4 described further herein.

5 457. The RICO violations were both the but-for cause and the proximate cause of
6 these injuries. But for the violations, as described herein, Plaintiff and the Class Members
7 would not have purchased the products or would not have paid an inflated price for them.
8 The violations were the proximate cause of these injuries because the violations led
9 directly to the injuries—the fraudulent representations and omissions were designed to
10 induce customers to purchase the Cel MD products, and it was because of these
11 representations and omissions that the customers made their purchases.

12 458. Because of these violations and pursuant to 18 U.S.C. § 1964(c) and
13 1964(d), Defendants Andrew Masanto and Christopher Masanto are liable to Plaintiff and
14 the Class Members for three times the damages Plaintiff and the Class Members have
15 sustained, plus the cost of this suit, including reasonable attorneys' fees.

16
17 **SIXTH CAUSE OF ACTION**

18 **Violation of Various State Consumer Protection Laws**

19 **On Behalf of the Nationwide Class**

20 459. Plaintiff incorporates all preceding and subsequent paragraphs by reference
21 as if set forth fully herein.

22 460. Plaintiff brings this claim for deceptive acts and practices in violation of
23 various states' consumer protection statutes against the Cel MD Defendants on behalf of
24 the Nationwide Class.

25 461. The Cel MD Defendants have engaged in deceptive acts and unfair practices
26 that have caused actual damages to Plaintiff and the Nationwide Class, as described
27 herein, including the misrepresentations and omissions described with respect to the
28 marketing, advertising, promotion, packaging, and sale of the Cel MD products.

1 462. The Cel MD Defendants’ deceptive and unfair trade practices have been
2 carried out in the course of conducting the Cel MD Defendants’ business, trade, and
3 commerce.

4 463. The Cel MD Defendants’ acts—including their intentional efforts to mislead
5 consumers regarding the benefits and effectiveness of the Cel MD Products—are willful,
6 unfair, unconscionable, deceptive, contrary to public policy and injurious to consumers.

7 464. The Cel MD Defendants’ false, deceptive and misleading statements and
8 omissions would be material to any reasonable consumer’s decision whether to buy a Cel
9 MD product.

10 465. Any objectively reasonable consumer acting reasonably in the circumstances
11 would have been deceived by the Cel MD Defendants’ acts and practices.

12 466. The Cel MD Defendants’ acts are unconscionable and actuated by bad faith,
13 lack of fair dealing, actual malice, are accompanied by a wanton and willful disregard for
14 consumers’ well-being, and are motivated solely by the desire for financial gain.

15 467. As a direct and proximate result of the Cel MD Defendants’ deceptive
16 practices, Plaintiff and the Nationwide Class have sustained actual damages.

17 468. Plaintiff and the Nationwide Class demand damages, attorneys’ fees and
18 costs, and any other relief to which they may be entitled.

19 469. Plaintiff’s claims are representative of similar claims available to non-
20 California Nationwide Class members under the laws of other states, which also are
21 amenable to further subclass treatment. Such laws may include, but are not limited to:
22 Ala. Code § 8-19-1 *et seq.*; Alaska Stat. § 45.50.471 *et seq.*; Ariz. Rev. Stat. Ann. § 44-
23 1521 *et seq.*; Ark. Code Ann. § 4-88-101 *et seq.*; Cal. Civil Code § 1750 *et seq.* and Cal.
24 Bus. & Prof. Code § 17200 *et seq.* & 17500 *et seq.*; Colo. Rev. Stat. § 6-1-101 *et seq.*;
25 Conn. Gen. Stat. § 42-110a *et seq.*; Del. Code Ann. tit. 6 § 2511 *et seq.* & 2580 *et seq.*;
26 D.C. Code Ann. § 28-3901 *et seq.*; Fla. Stat. § 501.201 *et seq.*; Ga. Code Ann. § 10-1-390
27 *et seq.*; Haw. Rev. Stat. § 480-1 *et seq.*; Idaho Code Ann. § 48-601 *et seq.*; 815 Ill. Comp.
28 Stat. 505/1 *et seq.*; Ind. Code Ann. § 24-5-0.5-1 *et seq.*; Iowa Code § 714.16 *et seq.*; Kan.

1 Stat. Ann. § 50-623 *et seq.*; Ky. Rev. Stat. Ann. § 367.110 *et seq.*; La. Rev. Stat. Ann. §
2 51:1401 *et seq.*; Me. Rev. Stat. Ann tit. 5, § 205-A *et seq.*; Md. Code Ann., Com. Law §
3 13-101 *et seq.*; Mass. Gen. Laws ch. 93A, § 1 *et seq.*; Mich. Comp. Laws § 445.901 *et*
4 *seq.*; Minn. Stat. § 831 and § 325F.67 *et seq.*; Miss. Code Ann. § 75-24-1 *et seq.*; Mo.
5 Ann. Stat. § 407.010 *et seq.*; Mont. Code Ann. § 30-14-101 *et seq.*; Neb. Rev. Stat. Ann. §
6 59-1601 *et seq.*; Nev. Rev. Stat. Ann. § 598.0903 *et seq.*; N.H. Rev. Stat. Ann. § 358-A:1
7 *et seq.*; N.J. Stat. Ann. § 56:8-1 *et seq.*; N.M. Stat. § 57-12-1 *et seq.*; N.Y. Gen. Bus. Law
8 § 349 *et seq.* and § 350 *et seq.*; N.C. Gen. Stat. § 75-1.1 *et seq.*; N.D. Cent. Code § 51-12-
9 01 *et seq.* and § 51-15-01 *et seq.*; Ohio Rev. Code Ann. § 1345.01 *et seq.*; Okla. Stat. tit.
10 15, § 751 *et seq.*; Or. Rev. Stat. § 646.605 *et seq.*; 73 Pa. Stat. Ann. §§ 201-1 *et seq.*; R.I.
11 Gen. Laws §§ 6-13.1-1 *et seq.*; S.C. Code Ann. § 39-5-10 *et seq.*; S.D. Codified Laws §
12 37-24-1 *et seq.*; Tenn. Code Ann. § 47-18-1091 *et seq.*; Tex. Bus. & Com. Code Ann. §
13 17.41 *et seq.*; Utah Code Ann. § 13-11-1 *et seq.*; Vt. Stat. Ann. tit. 9, § 2451 *et seq.*; Va.
14 Code Ann. §§ 59.1-196 *et seq.*; Wash Rev. Code § 19.86.010 *et seq.*; W. Va. Code § 46A-
15 6-101 *et seq.*; Wis. Stat. § 100.18 *et seq.*; and Wyo. Stat. Ann. §§ 40-12-101 *et seq.*

SEVENTH CAUSE OF ACTION

Aiding and Abetting

19 470. Plaintiff incorporates all preceding and subsequent paragraphs by reference
20 as if set forth fully herein.

21 471. To the extent the tortious conduct alleged was not personally committed by
22 him, Defendant Andrew Masanto aided and abetted the tortious conduct alleged in this
23 complaint to have been committed by the other Defendants, including Causes of Action
24 One through Five.

25 472. Defendant Andrew Masanto knew that the tortious conduct alleged in this
26 complaint constituted a breach of duties to Plaintiffs. He was aware at a minimum that
27 Christopher Masanto and the employees of Altitude Ads, a company he co-founded, were
28 not medical doctors. Given his self-professed knowledge of cosmetics and Internet

1 marketing, on information and belief Andrew Masanto participated in and was fully
2 aware of the conduct by the other Defendants, and was aware that they were lying to their
3 customers and omitting crucial information. Defendant Andrew Masanto thus had actual
4 knowledge of the wrongful conduct described herein.

5 473. Defendant Andrew Masanto gave substantial assistance or encouragement to
6 the other Defendants in their actions, on information and belief at least by providing his
7 expertise in Internet marketing and in cosmetics. Defendant Andrew Masanto further
8 assisted in founding Altitude Ads and was in charge of the New York branch of the
9 company during the period of the Cel MD launch.

10 474. Defendant Andrew Masanto participated in this conduct for personal gain or
11 in furtherance of his own financial advantage. On information and belief, Defendant
12 Andrew Masanto benefited financially either as an investor or through other
13 compensation, or by financially benefiting his family members.

14 475. Defendant Andrew Masanto is thus jointly and severally liable for the
15 conduct alleged herein by Defendants Christopher Masanto, Altitude Ads Limited,
16 Blooming Investments Limited, and Amplify Limited.

17
18 **EIGHTH CAUSE OF ACTION**

19 **Civil Conspiracy**

20 476. Plaintiff incorporates all preceding and subsequent paragraphs by reference
21 as if set forth fully herein.

22 477. For the purposes of this cause of action, Defendant Andrew Masanto is
23 alleged to have conspired with the other defendants (Defendants Christopher Masanto,
24 Altitude Ads Limited, Blooming Investments Limited, and Amplify Limited) and
25 participated in the conspiracy as a group.

26 478. Defendants Christopher Masanto, Andrew Masanto, Altitude Ads Limited,
27 Blooming Investments Limited, and Amplify Limited (“the Conspirators”) formed a
28 conspiracy to commit the torts described herein.

1 479. On information and belief, there was an agreement among the Conspirators
2 to commit those wrongful acts and to cooperate in furtherance of the commission of those
3 wrongful acts. This agreement is implied by the conduct of the conspirators. The nature
4 of the acts of the Cel MD Defendants implies a conspiracy because as described herein,
5 the conduct is so outrageous that it could only have been done intentionally, as well as
6 because the misrepresentations and omissions could not have been made without
7 knowledge and an intent to deceive the Class. Andrew Masanto's background and
8 knowledge of both cosmetics and Internet marketing further implies that his conduct in
9 co-founding Altitude Ads was part of a plan to utilize that background to deceive the Cel
10 MD customers. The relationship between the parties, namely that Andrew Masanto and
11 Christopher Masanto are brothers and that they co-founded Altitude Ads further implies
12 this conspiracy. The interests of Andrew Masanto and Christopher Masanto, namely the
13 financial benefits obtained from deceiving the Cel MD customers, further imply a
14 conspiracy.

15 480. Defendant Andrew Masanto was aware of the conduct of the other
16 Conspirators, specifically because he was in charge of the New York branch of Altitude
17 Ads which was responsible for their business in the United States, and which in the time
18 period he is known to have been managing that business appears to have consisted
19 primarily or only of Cel MD. Defendant Andrew Masanto agreed with the other
20 Conspirators that this conduct would be committed and intended that it be committed. It
21 was in Defendant Andrew Masanto's interests that this conduct be committed because on
22 information and belief, he financially benefited, and because if Christopher Masanto is a
23 family member, then the conduct benefited Andrew Masanto's family. Defendant
24 Andrew Masanto acted in furtherance of his own financial gain because on information
25 and belief, as a co-founder of Altitude Ads he was entitled to some form of financial
26 compensation.

27 481. On information and belief, Defendant Andrew Masanto was not an
28 employee of the other Defendants, but acted in furtherance of the conspiracy by

1 managing the New York branch of Altitude Ads as it was ramping up its sales of Cel
2 MD, by hiring employees on behalf of Altitude Ads, by operating and accessing the
3 Altitude Ads LinkedIn account for that purpose, and, on information and belief, by
4 providing Christopher Masanto and the other Defendants his expertise in cosmetics and
5 Internet marketing for the purpose of creating and marketing Cel MD.

6 482. The remaining Conspirators acted in furtherance of the conspiracy by
7 creating, marketing, and selling Cel MD, and by committing the torts described herein.

8 483. Plaintiff and the Class were harmed by the wrongful conducted committed
9 by the Conspirators as part of the conspiracy, as described throughout this Complaint in
10 the Causes of Action underlying the Conspiracy claim. As a direct and proximate result
11 of the Conspirators' wrongful conduct, Plaintiff and the other Class Members have
12 suffered injury in fact and have lost money or property, time, and attention. In reasonable
13 reliance on the Conspirators' misrepresentations, Plaintiff and other Class Members
14 purchased the products at issue and paid more for those products than they otherwise
15 would have. In turn, Plaintiff and other Class Members ended up with Products that were
16 overpriced, inaccurately marketed, and did not have the characteristics, qualities, or value
17 promised by Defendants, and therefore Plaintiff and other Class Members have suffered
18 injury in fact. Defendant's representations were material to the decision of Plaintiffs and
19 the Class Members to purchase Defendant's products, and a reasonable person would
20 have attached importance to the truth or falsity of the representations made by Defendant
21 in determining whether to purchase Defendant's products.

22 484. Each of the Conspirators listed in this Cause of Action is thus jointly and
23 severally liable for the conduct committed by the conspiracy.

24 **PRAYER FOR RELIEF**

25 Wherefore, Plaintiff demands judgment as follows:

26 A. An order declaring that this action may be maintained as a class action
27 pursuant to Fed. R. Civ. Proc. 23, certifying this case as a class action, appointing
28 Plaintiff as representative of the Class, and designating their attorneys as Class Counsel;

1 B. Declaratory judgment that Defendants' actions are unfair and unlawful, and
2 that any terms of service agreement on the Defendants' website is invalid and
3 unenforceable;

4 C. An award of injunctive relief as permitted by law or equity including an
5 order prohibiting Defendants from engaging in the unlawful and tortious acts described
6 above, as well as prohibiting Defendants from selling the Cel MD products, prohibiting
7 them from charging any further subscription payments to members of the Class, and
8 ordering Defendants to remove any ingredients from products they sell that may cause an
9 allergic reaction;

10 D. A finding that such injunction constitutes public injunctive relief, has
11 resulted in the enforcement of an important right affecting the public interest and
12 otherwise meets the requirements of California Code of Civil Procedure § 1021.5, and an
13 award of attorney's fees and costs pursuant to § 1021.5;

14 E. For judgment for Plaintiff and the Class on their claims in an amount to be
15 proven at trial, for economic, monetary, consequential, compensatory or statutory
16 damages caused by Defendants' practices, along with punitive damages;

17 F. For restitution and/or other equitable relief, including without limitation
18 disgorgement of all revenues, profits, and unjust enrichment that Defendants obtained
19 from Plaintiff and the Class as a result of its unlawful, unfair, and deceptive business
20 practices described herein;

21 G. As to Defendants Andrew Masanto and Christopher Masanto, for damages
22 of three times the damages Plaintiff and the Class Members have sustained, plus the cost
23 of this suit, including reasonable attorneys' fees pursuant to 18 U.S.C. § 1964(c) and (d);

24 H. An award of attorney's fees and costs;

25 I. For pre-judgment and post-judgment interest as provided for by law or
26 allowed in equity; and

27 J. Such other and further relief as is necessary and appropriate.

28 **DEMAND FOR JURY TRIAL**

1 Pursuant to Fed. R. Civ. Proc. 38(b), Plaintiff demands a trial by jury on all issues
2 so triable.

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4 DATED this 17th day of March, 2020.
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15 Dated this 17th Day of March, 2020

16 /s/ Kevin Kneupper /s/

17 Kevin Kneupper
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [RICO Class Action Claims Cel MD Hair Loss, Skin Care Products 'Nothing More than Modern Snake Oil'](#)
