



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

April 19, 2013

DMS NOTICE
QC - 13 - 06
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: **L'Oreal USA S/D Inc.**

Enclosed is a copy of the final judgment, stipulation for entry of final judgment, and complaint against L'Oreal USA S/D, Inc. The case was filed by the District Attorney's Office of Fresno County in conjunction with the District Attorneys of Sacramento, Los Angeles, and Shasta Counties on January 24, 2013 for deceptive packaging/non-functional slack fill of L'Oreal products in violation of California Business and Professions Code Section 12606.

The California Department of Food and Agriculture, Division of Measurement Standards worked with the Sacramento County Office of Weights and Measures. The total settlement was for \$509,700. Civil penalties amounted to \$461,409 and agency costs were \$49,291.

Fresno County should be sure to report these penalties on the County Monthly Report. All participating counties should separately record their individual investigative cost reimbursements in the appropriate columns on the report.

We appreciate the fine work done by the District Attorney's Offices along with the state and county investigators that documented and caused to be prosecuted these violations. If you have any questions, please contact Kathy de Contreras, Supervising Special Investigator, Quantity and Weighmaster Programs, Enforcement Branch at (916) 229-3047, or katherine.decontreras@cdfa.ca.gov.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



1 ELIZABETH A. EGAN
District Attorney, County of Fresno
2 EDWARD T. BROWNE, State Bar No. 167638
Deputy District Attorney
3 929 L Street
Fresno, California 93721
4 Telephone: (559) 600-3156

5 JAN SCULLY
District Attorney, County of Sacramento
6 RUTH YOUNG, State Bar No. 133606
Deputy District Attorney
7 906 G Street, Suite 700
8 Sacramento, CA 95814
Telephone: (916) 874-6174

9 JACKIE LACEY
District Attorney, County of Los Angeles
10 STUART C. LYTTON, State Bar No. 114241
Deputy District Attorney
11 201 N. Figueroa Street, 12th Floor
12 Los Angeles, CA 90012
Telephone: (213) 580-3234

13 STEPHEN S. CARLTON
District Attorney, County of Shasta
14 EARL LOWERY, State Bar No. 190384
Deputy District Attorney
15 1355 West Street
16 Redding, CA 96001
17 Telephone: (530) 245-6300

18 Attorney's for Plaintiff
The People of the State of California
19
20

21 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO**

22
23 THE PEOPLE OF THE STATE OF CALIFORNIA,
24 Plaintiff,
25 vs.
26 L'OREAL USA S/D, INC.,
27 Defendant.

FILED
JAN 24 2013
FRESNO COUNTY SUPERIOR COURT
By _____ DEPT. 402

NO. **13 CE CG 00 235**
FINAL JUDGMENT

1 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, having filed its complaint
2 herein, through their attorneys, ELIZABETH A. EGAN, District Attorney of Fresno County, by
3 EDWARD T. BROWNE, Deputy District Attorney; JAN SCULLY, District Attorney of
4 Sacramento County, by RUTH YOUNG, Deputy District Attorney; JACKIE LACEY, District
5 Attorney of Los Angeles County, by STUART C. LYTTON, Deputy District Attorney;
6 STEPHEN S. CARLTON, District Attorney of Shasta County, by EARL LOWERY, Chief
7 Deputy District Attorney and defendant L'OREAL USA S/D INC., (hereafter "L'OREAL,") a
8 Delaware corporation, through its attorney, JAMES M. MATTESICH, a member of the
9 California State Bar, having stipulated that this Final Judgment can be entered without the taking
10 of proof, without this stipulated Final Judgment constituting evidence or an admission of liability
11 by defendant, with defendant having waived its right of appeal and good cause appearing
12 therefore;

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

14 1. This court has jurisdiction over the subject matter hereof and the parties hereto.

15 2. Pursuant to Business and Professions Code sections 17203 and 17535, L'OREAL,
16 its successor(s), officers, employees, agents, representatives, and all persons acting in concert or
17 participation with any of them, with actual or constructive notice of this Final Judgment, are
18 permanently enjoined and restrained from directly or indirectly packaging products in violation of
19 California Business and Professions Code §§ 17200 and 17500, which includes, but is not
20 limited to, the following:

21 (A) Packaging products in violation of California Business and Professions
22 Code § 12606(a),

23 (B) Packaging products in violation of California Business & Professions
24 Code §12606(b),

25 (C) Packaging products in violation of Health and Safety Code § 110375(a),
26 and

27 (D) Packaging products in violation of Health and Safety Code § 110375(b).
28

1
2 3. Defendant shall comply with the provisions of this Final judgment in the
3 packaging of its products. Defendant L'Oreal shall have twenty (24) months from the entry of
4 judgment to bring its current packaging into compliance with the terms of this judgment.

5 4. Defendant shall use its good faith efforts to make available and fully and clearly
6 explain the injunctive language of this Final Judgment, including the terms and conditions
7 thereof, to its management involved in supervising packaging designs for packages which will
8 contain defendant's products offered for sale to California consumers.

9 5. Defendant shall pay \$509,700.00 in settlement of this matter as set forth below and
10 pursuant to Business and Professions Code sections 12015.5, 17206 and 17536. Delivery shall be
11 made, on or before the expiration of sixty (60) days following Entry of Judgment, to the Office of
12 the Sacramento County District Attorney, 906 G Street, Suite 700, Sacramento CA 95814, attention
13 Ruth Young.

14 (A) A check for \$125,352.25 payable to the Sacramento County District
15 Attorney's Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

16 (B) A check for \$125,352.25 payable to the Fresno County District Attorney's
17 Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

18 (C) A check for \$125,352.25 payable to the Los Angeles County District
19 Attorney's Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

20 (D) A check for \$125,352.25 payable to the Shasta County District Attorney's
21 Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

22 (E) As reimbursement for the costs of investigation, defendant will make checks
23 payable to the following agencies in the following amounts which total eight thousand two hundred
24 and ninety one dollars (\$8,291.00):

Sacramento County Department of Weights & Measures	\$8,000.00
Fresno County Department of Weights & Measures	\$291.00

27 6. Except as otherwise expressly provided herein, each party shall bear its own
28 attorney's fees and costs.

1 7. The language used for the obligations set forth in the Final Judgment are solely
2 for the purposes of settlement and compromise and are in no way intended to be an alteration of
3 California law in any other action.

4 8. Jurisdiction is retained for the purpose of enabling any party to the Stipulated
5 Final Judgment to apply to the Court for such further orders and directions as may be necessary
6 and appropriate for the construction and carrying out of the Stipulated Final Judgment, for the
7 modification or dissolution of any injunctive provisions hereof, for enforcement of compliance
8 herewith, or for the punishment of violations hereof.

9 9. This Judgment has been reviewed by the Court, and based upon the
10 representations of the parties, the Court finds that it has been entered in good faith and is, in all
11 respects, fair, just, and equitable to protect the public and the individuals who may have been
12 affected by the issues related as more fully described in the Complaint.

13 10. The parties waive the right to appeal this Judgment both as to form and content
14 and the serving and filing of a notice of Entry of Judgment.

15 11. The clerk is directed to enter this Stipulated Final Judgment forthwith.

16
17 DATED: 1/24/2013

JEFFREY Y. HAMILTON JR.

18
19 _____
JUDGE OF THE SUPERIOR COURT

1 ELIZABETH A. EGAN
District Attorney, County of Fresno
2 EDWARD T. BROWNE, State Bar No. 167638
Deputy District Attorney
3 929 L Street
Fresno, California 93721
4 Telephone: (559) 600-3156

5 JAN SCULLY
District Attorney, County of Sacramento
6 RUTH YOUNG, State Bar No. 133606
Deputy District Attorney
7 906 G Street, Suite 700
Sacramento, CA 95814
8 Telephone: (916) 874-6174

9 JACKIE LACEY
District Attorney, County of Los Angeles
10 STUART C. LYTTON, State Bar No. 114241
Deputy District Attorney
11 201 N. Figueroa Street, 12th Floor
Los Angeles, CA 90012
12 Telephone: (213) 580-3234

13 STEPHEN S. CARLTON
District Attorney, County of Shasta
14 EARL LOWERY, State Bar No. 190384
Chief Deputy District Attorney
15 1355 West Street
Redding, CA 96001
16 Telephone: (530) 245-6300

17
18 Attorney's for Plaintiff
The People of the State of California
19
20

21 SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

22
23 THE PEOPLE OF THE STATE OF CALIFORNIA,

24 Plaintiff,

25 vs.

26 L'OREAL USA S/D, INC.,

27 Defendant.
28

FILED

JAN 23 2013

FRESNO COUNTY SUPERIOR COURT

By _____ - DEPUTY

NO.

13 CE CG 00 235

STIPULATION FOR ENTRY
OF FINAL JUDGEMENT

1 IT IS HEREBY STIPULATED BETWEEN plaintiff, THE PEOPLE OF THE STATE
2 OF CALIFORNIA, having filed its complaint herein, through their attorneys, ELIZABETH A.
3 EGAN, District Attorney of Fresno County, by EDWARD T. BROWNE Deputy District
4 Attorney; JAN SCULLY, District Attorney of Sacramento County, by RUTH YOUNG, Deputy
5 District Attorney; JACKIE LACEY, District Attorney of Los Angeles County, by STUART C.
6 LYTTON, Deputy District Attorney; STEPHEN S. CARLTON, District Attorney of Shasta
7 County, by EARL LOWERY, Chief Deputy District Attorney and defendant L'OREAL USA
8 S/D INC., (hereafter "L'OREAL,") a Delaware corporation, through its attorney, JAMES M.
9 MATTESICH, a member of the California State Bar, that the proposed judgment, a copy of
10 which is attached hereto and incorporated by this reference as Exhibit A, may be signed by the
11 Court and entered as the Final Judgment in the above-entitled matter.

12 IT IS FURTHER STIPULATED that the Final Judgment may be signed by the Court
13 without the taking of proof, without this Stipulated Final Judgment constituting evidence or an
14 admission of any liability by defendant L'Oreal, with defendant having waived its right of appeal
15 and having approved the final judgment as to form and content.


16 It is further stipulated that the final judgment entered into by the parties is entered into in
17 good faith, upon the representations presented to plaintiff in this matter.

18 Defendant has received notice that it must pay the four hundred thirty-five dollars
19 (\$435.00) filing fee to the "Fresno Superior Court," to present this proposed Final Judgment to
20 the Court.

21 DATED: 1/23/2013

22 Respectfully submitted,

23 ELIZABETH A. EGAN
24 DISTRICT ATTORNEY

25 
26 By: EDWARD T. BROWNE
27 Deputy District Attorney
28 Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 1-7-13

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

By: Ruth Young
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

By: _____
STUART C. LYTON
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY

By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

DATED: _____

L'OREAL USA, INC.,

By: _____
Officer Authorized to Act on Behalf
Of Aforementioned Corporation

Print Name: Christopher J. Corbett, Vice President
Title: L'Oreal USA, Inc.

1 DATED: _____

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

2
3
4
5 By: _____
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

6
7
8 DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

9
10
11
12 By: Stuart C. Lytton
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

13
14
15 DATED: _____

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY

16
17
18
19
20 By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

21
22
23 DATED: _____

L'OREAL USA, INC.,

24
25 By: _____
Officer Authorized to Act on Behalf
Of Aforementioned Corporation

26
27 Print Name: Christopher J. Corbett, Vice President
Title: L'Oreal USA, Inc.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

By: _____
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

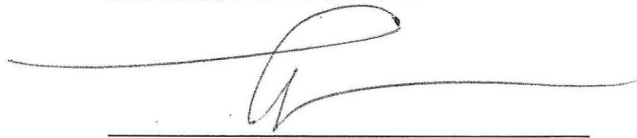
DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

By: _____
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

DATED: 1-7-13

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY



By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

DATED: _____

L'OREAL USA, INC.,

By: _____
Officer Authorized to Act on Behalf
Of Aforementioned Corporation

Print Name: Christopher J. Corbett, Vice President
Title: L'Oreal USA, Inc.

1 DATED: _____

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

2

3

4

5

By: _____
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

6

7

8

9 DATED: _____

Respectfully submitted,
STEVE COOLEY
DISTRICT ATTORNEY

10

11

12

By: _____
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

13

14

15

16 DATED: _____

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY

17

18

19

20

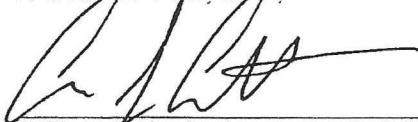
By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

21

22

23 DATED: 12/19/12

L'OREAL USA, INC.,

By: 

Officer Authorized to Act on Behalf
Of Aforementioned Corporation

24

25

26

Print Name: Christopher J. Corbett, Vice President
Title: L'Oreal USA, Inc.

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 12/24/12

By: James M. Mattesich
JAMES M. MATTESICH
Attorney for Defendant, Bar No. 54069
Greenberg Traurig, LLP
1202 K Street, Suite 1100
Sacramento, CA 95814-3938
(916) 442-1111

1 ELIZABETH A. EGAN
District Attorney, County of Fresno
2 EDWARD T. BROWNE, State Bar No. 167638
Deputy District Attorney
3 929 L Street
Fresno, California 93721
4 Telephone: (559) 600-3156

5 JAN SCULLY
District Attorney, County of Sacramento
6 RUTH YOUNG, State Bar No. 133606
Deputy District Attorney
7 906 G Street, Suite 700
Sacramento, CA 95814
8 Telephone: (916) 874-6174

9 JACKIE LACEY
District Attorney, County of Los Angeles
10 STUART C. LYTTON, State Bar No. 114241
Deputy District Attorney
11 201 N. Figueroa Street, 12th Floor
Los Angeles, CA 90012
12 Telephone: (213) 580-3234

13 STEPHEN S. CARLTON
District Attorney, County of Shasta
14 EARL LOWERY, State Bar No. 190384
Deputy District Attorney
15 1355 West Street
Redding, CA 96001
16 Telephone: (530) 245-6300

17
18 Attorney's for Plaintiff
The People of the State of California
19

20
21 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO**

22
23 THE PEOPLE OF THE STATE OF CALIFORNIA,

24 Plaintiff,

25 vs.

26 L'OREAL USA S/D, INC.,

27 Defendant.

NO.

FINAL JUDGMENT

28 **EXHIBIT A**

1 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, having filed its complaint
2 herein, through their attorneys, ELIZABETH A. EGAN, District Attorney of Fresno County, by
3 EDWARD T. BROWNE, Deputy District Attorney; JAN SCULLY, District Attorney of
4 Sacramento County, by RUTH YOUNG, Deputy District Attorney; JACKIE LACEY, District
5 Attorney of Los Angeles County, by STUART C. LYTTON, Deputy District Attorney;
6 STEPHEN S. CARLTON, District Attorney of Shasta County, by EARL LOWERY, Chief
7 Deputy District Attorney and defendant L'OREAL USA S/D INC., (hereafter "L'OREAL,") a
8 Delaware corporation, through its attorney, JAMES M. MATTESICH, a member of the
9 California State Bar, having stipulated that this Final Judgment can be entered without the taking
10 of proof, without this stipulated Final Judgment constituting evidence or an admission of liability
11 by defendant, with defendant having waived its right of appeal and good cause appearing
12 therefore;

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

14 1. This court has jurisdiction over the subject matter hereof and the parties hereto.

15 2. Pursuant to Business and Professions Code sections 17203 and 17535, L'OREAL,
16 its successor(s), officers, employees, agents, representatives, and all persons acting in concert or
17 participation with any of them, with actual or constructive notice of this Final Judgment, are
18 permanently enjoined and restrained from directly or indirectly packaging products in violation of
19 California Business and Professions Code §§ 17200 and 17500, which includes, but is not
20 limited to, the following:

21 (A) Packaging products in violation of California Business and Professions
22 Code § 12606(a),

23 (B) Packaging products in violation of California Business & Professions
24 Code §12606(b),

25 (C) Packaging products in violation of Health and Safety Code § 110375(a),
26 and

27 (D) Packaging products in violation of Health and Safety Code § 110375(b).
28

1
2 3. Defendant shall comply with the provisions of this Final judgment in the
3 packaging of its products. Defendant L'Oreal shall have twenty (24) months from the entry of
4 judgment to bring its current packaging into compliance with the terms of this judgment.

5 4. Defendant shall use its good faith efforts to make available and fully and clearly
6 explain the injunctive language of this Final Judgment, including the terms and conditions
7 thereof, to its management involved in supervising packaging designs for packages which will
8 contain defendant's products offered for sale to California consumers.

9 5. Defendant shall pay \$509,700.00 in settlement of this matter as set forth below and
10 pursuant to Business and Professions Code sections 12015.5, 17206 and 17536. Delivery shall be
11 made, on or before the expiration of sixty (60) days following Entry of Judgment, to the Office of
12 the Sacramento County District Attorney, 906 G Street, Suite 700, Sacramento CA 95814, attention
13 Ruth Young.

14 (A) A check for \$125,352.25 payable to the Sacramento County District
15 Attorney's Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

16 (B) A check for \$125,352.25 payable to the Fresno County District Attorney's
17 Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

18 (C) A check for \$125,352.25 payable to the Los Angeles County District
19 Attorney's Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

20 (D) A check for \$125,352.25 payable to the Shasta County District Attorney's
21 Office of which \$115,352.25 is for civil penalties and \$10,000 is for costs.

22 (E) As reimbursement for the costs of investigation, defendant will make checks
23 payable to the following agencies in the following amounts which total eight thousand two hundred
24 and ninety one dollars (\$8,291.00):

Sacramento County Department of Weights & Measures	\$8,000.00
Fresno County Department of Weights & Measures	\$291.00

27 6. Except as otherwise expressly provided herein, each party shall bear its own
28 attorney's fees and costs.

1 7. The language used for the obligations set forth in the Final Judgment are solely
2 for the purposes of settlement and compromise and are in no way intended to be an alteration of
3 California law in any other action.

4 8. Jurisdiction is retained for the purpose of enabling any party to the Stipulated
5 Final Judgment to apply to the Court for such further orders and directions as may be necessary
6 and appropriate for the construction and carrying out of the Stipulated Final Judgment, for the
7 modification or dissolution of any injunctive provisions hereof, for enforcement of compliance
8 herewith, or for the punishment of violations hereof.

9 9. This Judgment has been reviewed by the Court, and based upon the
10 representations of the parties, the Court finds that it has been entered in good faith and is, in all
11 respects, fair, just, and equitable to protect the public and the individuals who may have been
12 affected by the issues related as more fully described in the Complaint.

13 10. The parties waive the right to appeal this Judgment both as to form and content
14 and the serving and filing of a notice of Entry of Judgment.

15 11. The clerk is directed to enter this Stipulated Final Judgment forthwith.

16
17 DATED: _____

18
19 _____
20 JUDGE OF THE SUPERIOR COURT
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ELIZABETH A. EGAN
District Attorney, County of Fresno
EDWARD T. BROWNE, State Bar No. 167638
Deputy District Attorney
929 L Street
Fresno, California 93721
Telephone: (559) 600-3156

JAN SCULLY
District Attorney, County of Sacramento
RUTH YOUNG, State Bar No. 133606
Deputy District Attorney
906 G Street, Suite 700
Sacramento, CA 95814
Telephone: (916) 874-6174

JACKIE LACEY
District Attorney, County of Los Angeles
STUART C. LYTTON, State Bar No. 114241
Deputy District Attorney
201 N. Figueroa Street, 12th Floor
Los Angeles, CA 90012
Telephone: (213) 580-3234

STEPHEN S. CARLTON
District Attorney, County of Shasta
EARL LOWERY, State Bar No. 190384
Chief Deputy District Attorney
1355 West Street
Redding, CA 96001
Telephone: (530) 245-6300

Attorney's for Plaintiff
The People of the State of California

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

L'OREAL USA S/D, INC.,

Defendant.

FILED
JAN 23 2013
FRESNO COUNTY SUPERIOR COURT
By _____ - DEPUTY

JYH
NO. **13 CECG 00 235**
**COMPLAINT FOR CIVIL
PENALTIES, INJUNCTION,
RESTITUTION AND OTHER
RELIEF**

///
///

1 THE PEOPLE OF THE STATE OF CALIFORNIA, by and through ELIZABETH A.
2 EGAN, District Attorney for the County of Fresno; JAN SCULLY, District Attorney for the
3 County of Sacramento, JACKIE LACEY, District Attorney for the County of Los Angeles; and
4 STEPHEN S. CARLTON, District Attorney for the County of Shasta, acting on information
5 and belief allege the following:

6 **PLAINTIFF'S AUTHORITY**

7 1. Plaintiff's authority to bring this action is derived from Business and Professions
8 Code sections 17204, 17206, 17206.1, 17535 and 17536.

9 2. The Plaintiff's bring this action in the name of The People of the State of
10 California to protect the public from fraud, deception, and misleading, unlawful, unfair, and
11 fraudulent business practices.

12 **JURISDICTION AND VENUE**

13 3. At all times mentioned herein, defendant has transacted business within the
14 Counties of Sacramento, Fresno, Los Angeles, Shasta, and elsewhere throughout the State of
15 California. The violations of law hereinafter described have been committed in the Counties of
16 Sacramento, Fresno, Los Angeles, Shasta, and elsewhere throughout the State of California.

17 **THE PARTIES AND THEIR RELATIONSHIPS**

18 4. Defendant L'OREAL USA S/D, INC. was at all times mentioned herein, a
19 Delaware Corporation, with its principal place of business is 575 Fifth Avenue, New York
20 City, New York 10017.

21 5. Defendant is engaged in the manufacturing and distribution of cosmetics and
22 skin treatment products which are sold in retail locations and over the internet to California
23 consumers.

24 6. Whenever reference is made in this Complaint to any representation, act,
25 omission, or transaction of the corporate defendant L'OREAL USA S/D, INC., such
26 allegation(s) shall be deemed to mean that the principals, officers, directors, managers,
27 employees, agents, or representatives of said corporate defendants, while acting within the
28

1 actual or ostensible scope of their employment, did or authorized such representations, acts,
2 omissions or transactions on behalf of said corporate defendant.

3
4 **FIRST CAUSE OF ACTION**

5 **UNTRUE OR MISLEADING ADVERTISING**
6 **BUSINESS AND PROFESSIONS CODE §17500**

7 7. Plaintiff hereby incorporates all of paragraphs 1 through 6, inclusive, of this
8 Complaint as though they were set forth here.

9 8. Plaintiff is informed and believes, and thereupon alleges that within the past
10 three (3) years from the date of the filing of this Complaint, defendant, with the intent to induce
11 members of the public to purchase the defendant's products, made or caused to be made
12 representations to the public which were untrue and/or misleading. Said untrue and/or
13 misleading statements, which are unlawful under Business and Professions Code section
14 17500, include but are not limited to misrepresentations of product size or quantity by use of
15 oversized and empty and non-functional interim space. The slack-fill and oversized packaging,
16 when displayed for sale to the public of the State of California, constitute false representations
17 to the public by implying that defendant's products fill the entire package.

18 9. The representations and statements made by defendant, as set forth in paragraph
19 8 above, were untrue or misleading when made, and were known, or should have been known,
20 by defendant to be untrue or misleading.

21 **SECOND CAUSE OF ACTION**

22 **UNFAIR COMPETITION**
23 **BUSINESS AND PROFESSIONS CODE §17200**

24 10. Plaintiff hereby incorporates all of paragraphs 1 through 9, inclusive, of this
25 Complaint as though they were set forth here.

26 11. Plaintiff is informed and believes, and thereupon alleges that within the past four
27 (4) years from the date of the filing of this Complaint, defendant committed unfair competition
28

1 as defined in Business and Professions Code section 17200, by engaging in acts or practices
2 which include, but are not necessarily limited to the following:

3 A. Defendant has made, or caused to be made, untrue or misleading representations
4 regarding the packaging of its products, in violation of Business and Professions Code section
5 17500.

6 B. Defendant has violated section 12606(a) of the California Business and
7 Professions Code, by placing its products in packages made, formed, or filled to mislead
8 consumer as to the actual size of defendant's products.

9 C. Defendant has violated section 12606(b) of the California Business and
10 Professions Code, by placing its products in packages that are made, formed or filled to mislead
11 consumers by using packaging which contains false sidewalls and/or extra space that create a
12 void space not filled with defendant's product. These products of the defendant are not
13 viewable or discernable by consumers. The packaging of the defendant's products serves no
14 legitimate function and misleads the consumer.

15 **THIRD CAUSE OF ACTION**

16 **Injunctive Relief**

17 (Business and Professions Code §§ 17203, 17204 and 17205)

18 12. Plaintiff hereby incorporates all of paragraphs 1 through 11, inclusive, of this
19 Complaint as though fully set forth at length herein.

20 13. Plaintiff is informed and believes and thereupon alleges that unless enjoined and
21 restrained by order of this Court, said defendants will continue to engage in the aforementioned
22 described unlawful conduct in derogation of the rights and interests of the general public as
23 consumers and competitors of defendants.

24 **PRAYER**

25 **WHEREFORE**, plaintiff prays that:

26 1. Pursuant to Business and Professions Code sections 17203 and 17535 and the
27 Court's inherent equity powers, that defendants, their directors, officers, employees, agents and
28

1 representatives, and any and all persons who are acting in concert or participating in any
2 manner with them, or any of them, be permanently enjoined and restrained, directly or
3 indirectly, from engaging in the acts of unlawful business acts or practices as set forth in this
4 complaint.

5 2. Pursuant to the Business and Professions Code section 17536, the court assess a
6 civil penalty of two thousand five hundred dollars (\$2,500.00) against defendant for each
7 violation of Business and professions code section 17500 alleged in the First Cause of Action.
8 Plaintiff request that a civil penalty of no less than three hundred thousand dollars
9 (\$300,000.00) be imposed against each defendant.

10 3. Pursuant to the Business and Professions Code section 17206, the court assess a
11 civil penalty of two thousand five hundred dollars (\$2,500.00) against defendant for each
12 violation of Business and professions code section 17200 alleged in the Second Cause of
13 Action. Plaintiff request that a civil penalty of no less than three hundred thousand dollars
14 (\$300,000.00) be imposed against each defendant.

15 4. Plaintiff recovers costs of suit, including but not limited to, costs of investigation
16 pursuant to Business and Professions Code section 12051.5.

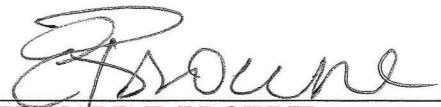
17 5. Defendant be ordered to make full restitution of all money or other property that
18 may have been acquired by their violations of Business and Professions Code sections 17200
19 and 17500.

20 6. Plaintiff has such other and further relief as the nature of the case may require
21 and the court deems appropriate.

22
23 DATED: 1/23/2013

Respectfully submitted

ELIZABETH A. EGAN
DISTRICT ATTORNEY

24
25
26 By: 
27 EDWARD T. BROWNE
28 Deputy District Attorney
Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 1/7/13

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

By: Ruth Young
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

By: _____
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY

By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


DATED: _____

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

By: _____
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

By: 
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY

By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: _____

Respectfully submitted,
JAN SCULLY
DISTRICT ATTORNEY

By: _____
RUTH YOUNG
Deputy District Attorney
Attorney for Plaintiff

DATED: _____

Respectfully submitted,
JACKIE LACEY
DISTRICT ATTORNEY

By: _____
STUART C. LYTTON
Deputy District Attorney
Attorney for Plaintiff

DATED: 1-3-13

Respectfully submitted,
STEPHEN S. CARLTON
DISTRICT ATTORNEY


By: _____
EARL LOWERY
Chief Deputy District Attorney
Attorney for Plaintiff