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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW LOPEZ, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

STAGES OF BEAUTY, LLC , a Delaware
limited liability company; and DOES 1 –
10, inclusive,

Defendants.

Case No. '17CV1888 MMAKSC

CLASS ACTION COMPLAINT FOR:

1. VIOLATIONS OF CALIFORNIA'S.
AUTOMATIC RENEWAL LAW
(BUSINESS AND PROFESSIONS
CODE §§ 17600-17604); and
2. VIOLATIONS OF CALIFORNIA'S
UNFAIR COMPETITION LAW
(BUSINESS AND PROFESSIONS
CODE §§ 17200-17204).

1 Plaintiff Matthew Lopez (“Plaintiff”), on behalf of himself and all others similarly
2 situated, complains and alleges as follows:

3 INTRODUCTION & OVERVIEW OF CLAIMS

4 1. Plaintiff brings this class action on behalf of himself and a class of others
5 similarly situated consisting of all persons in the United States who, within the
6 applicable statute of limitations period up to and including the date of judgment in this
7 action, purchased subscriptions for any products (such as cosmetics and related
8 products) from Stages of Beauty, LLC (“Defendant”). The class of others similarly
9 situated to Plaintiff is referred to herein as “Class Members.” The claims for damages,
10 restitution, injunctive and/or other equitable relief, and reasonable attorneys’ fees and
11 costs arise under California Business and Professions Code (hereinafter “Cal. Bus. &
12 Prof. Code”) §§ 17602, 17603, 17604) and 17200, et seq., and California Code of Civil
13 Procedure § 1021.5. Plaintiff and Class Members are consumers for purposes of Cal.
14 Bus. & Prof. Code §§ 17600-17606.

15 2. During the Class Period, Defendant made automatic renewal or continuous
16 service offers to consumers in and throughout the United States and (a) at the time of
17 making the automatic renewal or continuous service offers, failed to present the
18 automatic renewal offer terms or continuous service offer terms, in a clear and
19 conspicuous manner and in visual proximity to the request for consent to the offer
20 before the subscription or purchasing agreement was fulfilled in violation of Cal. Bus.
21 & Prof. Code § 17602(a)(1); (b) charged Plaintiff’s and Class Members’ credit or debit
22 cards, or third-party account (hereinafter “Payment Method”) without first obtaining
23 Plaintiff’s and Class Members’ affirmative consent to the agreement containing the
24 automatic renewal offer terms or continuous service offer terms in violation of Cal.
25 Bus. & Prof. Code § 17602(a)(2); and (c) failed to provide an acknowledgment that
26 includes the automatic renewal or continuous service offer terms, cancellation policy,
27 and information regarding how to cancel in a manner that is capable of being retained
28 by the consumer in violation of Cal. Bus. & Prof. Code §§ 17602(a)(3) and 17602(b).

1 As a result, all goods, wares, merchandise, or products sent to Plaintiff and Class
2 Members under the automatic renewal of continuous service agreements are deemed to
3 be an unconditional gift pursuant to Cal. Bus. & Prof. Code § 17603.

4 3. As a result of the above, Plaintiff, on behalf of himself and Class
5 Members, seeks damages, restitution, declaratory relief, injunctive relief and reasonable
6 attorneys' fees and costs pursuant to Cal. Bus. & Prof. Code, §§ 17603, 17203, and
7 17204, and Code of Civil Procedure § 1021.5.

8 **JURISDICTION AND VENUE**

9 4. This Court has diversity jurisdiction over this class action pursuant to 28
10 U.S.C. § 1332 as amended by the Class Action Fairness Act of 2005 because the
11 amount in controversy exceeds five million dollars (\$5,000,000.00), exclusive of
12 interest and costs, and is a class action in which some members of the class are citizens
13 of different states than Defendant. *See* 28 U.S.C. § 1332(d)(2)(A).

14 5. This Court also has personal jurisdiction over Defendant because
15 Defendant currently does business in this state.

16 6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because
17 Defendant is subject to personal jurisdiction in this District and a substantial portion of
18 the conduct complained of herein occurred in this District.

19 **PARTIES**

20 7. Plaintiff purchased a subscription plan from Defendant in California
21 during the Class Period. Plaintiff and Class Members are consumers as defined under
22 Cal. Bus. & Prof. Code § 17601(d).

23 8. Plaintiff is informed and believes, and upon such information and belief
24 alleges, that Defendant Stages of Beauty, LLC is a Delaware limited liability company
25 with its principal place of business located in Boston, Massachusetts. Defendant
26 operates in California and has done business throughout California and throughout the
27 United States at all times during the Class Period. Also during the Class Period,
28 Defendant made automatic renewal or continuous service offers to consumers in

1 California and throughout the United States. Defendant operates a website which
2 markets subscriptions for cosmetics and related products.

3 9. The true names and capacities of the Defendants sued herein as DOES 1
4 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such
5 Defendants by fictitious names. Each of the Defendants designated herein as a DOE is
6 legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
7 Court to amend this Complaint to reflect the true names and capacities of the DOE
8 Defendants when such identities become known.

9 10. At all relevant times, each and every Defendant was acting as an agent
10 and/or employee of each of the other Defendants and was acting within the course
11 and/or scope of said agency and/or employment with the full knowledge and consent of
12 each of the Defendants. Each of the acts and/or omissions complained of herein were
13 alleged and made known to, and ratified by, each of the other Defendants (Stages of
14 Beauty, LLC and DOE Defendants will hereafter collectively be referred to as
15 “Defendant”).

16 **FACTUAL BACKGROUND**

17 **California Business Professions Code §§ 17600-17606**

18 11. On December 1, 2010, sections 17600-17606 of the Cal. Bus. & Prof.
19 Code came into effect. The Legislature’s stated intent for this Article was to end the
20 practice of ongoing charges to consumers’ Payment Methods without consumers’
21 explicit consent for ongoing shipments of a product or ongoing deliveries of service.
22 *See* Cal. Bus. & Prof. Code § 17600.

23 12. Cal. Bus. & Prof. Code § 17602(a) makes it unlawful for any business
24 making an automatic renewal or continuous service offer to a consumer in this state to
25 do any of the following:

- 26 i) Fail to present the automatic renewal offer terms or continuous
27 service offer terms in a clear and conspicuous manner before the
28 subscription or purchasing agreement is fulfilled and in visual

proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.

- ii) Charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.
- iii) Fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the business shall also disclose in the acknowledgment how to cancel and allow the consumer to cancel before the consumer pays for the goods or services.

13. Cal. Bus. & Prof. Code § 17601(a) defines the term "Automatic renewal" as a "plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term."

14. Cal. Bus. & Prof. Code § 17601(b) defines the term "Automatic renewal offer terms" as "the following clear and conspicuous disclosures: (1) That the subscription or purchasing agreement will continue until the consumer cancels. (2) The description of the cancellation policy that applies to the offer. (3) The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known. (4) The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer. (5) The minimum purchase obligation, if any."

15. Pursuant to Cal. Bus. & Prof. Code § 17601(c), "clear and conspicuous" or "clearly and conspicuously" means "in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbol ls or other marks, in a manner that clearly calls attention to the language."

1 16. Section 17603 of Cal. Bus. & Prof. Code provides: “In any case in which a
2 business sends any goods, wares, merchandise, or products to a consumer, under a
3 continuous service agreement or automatic renewal of a purchase, without first
4 obtaining the consumer’s affirmative consent as described in Section 17602, the goods,
5 wares, merchandise, or products shall for all purposes be deemed an unconditional gift
6 to the consumer, who may use or dispose of the same in any manner he or she sees fit
7 without any obligation whatsoever on the consumer’s part to the business, including,
8 but not limited to, bearing the cost of, or responsibility for, shipping any goods, wares,
9 merchandise, or products to the business.”

10 **Defendant’s Business**

11 17. At all relevant times, Defendant provided, among other things, weekly
12 subscription programs for cosmetics, beauty aids and related products. Defendant’s
13 services plan constitutes an automatic renewal and/or continuous service plan or
14 arrangement for the purposes of Cal. Bus. & Prof. Code § 17601.

15 **Defendant Failed to Present the Automatic Renewal Offer Terms or Continuous** 16 **Service Offer Terms in a Clear and Conspicuous Manner Before the Subscription** 17 **or Purchasing Agreement was Fulfilled and in Visual Proximity to the Request for** 18 **Consent to the Offer in Violation of Cal. Bus. & Prof. Code § 17602(a)(1).**

19 18. During the Class Period, Defendant made an automatic renewal offer for
20 its subscriptions plans to Consumers in California and throughout the United States,
21 including Plaintiff and Class Members. On the pages on the website where a
22 prospective subscriber is invited to complete a purchase, the pages did not contain
23 automatic renewal offer terms or continuous service offer terms as defined by Cal. Bus.
24 & Prof. Code § 17601(b). Specifically, although the page references cancellation and
25 gives a phone number for cancellation, it does not specify, as do terms set forth later in
26 the website, that that number must be called at least one day prior to the date the
27 subscriber’s next monthly delivery ships, and thus does not contain a full description of
28

the cancellation policy in visual proximity to the request for consent to the offer, as required by the statute.

Step 2: Billing Information (2/2)

FREE BOOK WITH YOUR SAMPLE

BEAUTY BOOK (PDF)

For a limited time, get the acclaimed Beauty Book for free when you claim your free sample. The Beauty Book contains 45 pages of tips, tricks, and secrets such as:

- Beauty's biggest myths – solved!
- Dermatologists' anti-aging secrets
- Recipes that benefit your skin
- Anti-aging make-up tips
- And much more!

Subtotal: \$0.00
S&H: \$4.99
Sales Tax: \$0.00
Today's Total: \$4.99

FINAL STEP

All information entered in the form below is secured using industry-standard 256-bit SSL encryption. Please fill out all the required fields to complete your order.

S&H for Stages of Beauty's Adaptive Tripeptide Serum will appear as FCF*STAGES OF BEAUTY on your statement

Monthly VIP Membership of \$79.99 + \$4.99 S&H and applicable sales tax, charged after the trial, until you cancel

18-Day Free Trial
Ends May 7, 2017

To cancel, simply call
1-855-295-7325

Credit Card Number
The digits on the front of your card

Expiration Date
The date your credit card expires

Security Code
(or "CVC" or "CVV") What is this?

☐ I understand that unless I cancel within 18 days, I will be sent a one-month supply of Adaptive Tripeptide Serum for just \$79.99 + \$4.99 S&H and applicable sales tax beginning 18 days from now and every 30 days thereafter.

RUSH MY SAMPLE

You must act now to claim your 14-day trial of Adaptive Tripeptide Serum. If you qualify for this exclusive online offer, your order will be shipped in 24-48 hours. Sign up now to start seeing the Adaptive Tripeptide Serum difference in just a few days!

[TERMS](#) [REFUND & RETURN POLICY](#) [PRIVACY POLICY](#) [COPYRIGHT INFO](#) [CONTACT US](#)

19. As a result, prior to charging Plaintiff and Class Members, Defendant failed to obtain Plaintiff and Class Members' affirmative consent to language containing the automatic renewal offer terms or continuous service offer terms.

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1 20. Because of Defendant's failure to gather affirmative consent to the
2 automatic renewal terms, all goods, wares, merchandise, or products, sent to Plaintiff
3 and Class Members under the automatic renewal or continuous service agreement are
4 deemed to be an unconditional gift pursuant to Cal. Bus. & Prof. Code § 17603, and
5 Plaintiff and Class Members may use or dispose of the same in any manner they see fit
6 without any obligation whatsoever on their part to Defendant, including, but not limited
7 to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise or
8 products.

9 **Defendant Failed to Provide an Acknowledgment as Required by Cal. Bus. &**
10 **Prof. Code § 17602(a)(3)**

11 21. Furthermore, and in addition to the above, after Plaintiff and Class
12 Members subscribed to one of Defendant's subscription plans, Defendant sent to
13 Plaintiff and Class Members email follow-ups to their purchases that failed, and
14 continue to fail, to provide an acknowledgement that includes the automatic renewal or
15 continuous service offer terms and cancellation policy in violation of Cal. Bus. & Prof.
16 Code § 17602(a)(3). Additionally, a purchase confirmation contains language
17 regarding cancellation like that on the website, including the telephone number, but also
18 does not specify that that number must be called at least one day prior to the date the
19 subscriber's next monthly delivery ships.

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From: Stages of Beauty <noreply@e.stagesofbeauty.com>
Date:
Subject: Your Stages of Beauty Order Confirmation -
To:

If you are unable to see the message below, [click here to view](#).

STAGES *of* BEAUTY



SHOP | OUR PHILOSOPHY | THE SCIENCE | RESULTS

QUESTIONS?

Call us at 1-877-869-3162

[» Download the Beauty Manual eBook Now «](#)

Your Order Confirmation

Order: #

Dear

Thank you for ordering Stages of Beauty's groundbreaking Adaptive Tripeptide Serum. You've selected the skin treatment solution that can help you look years younger with more beautiful and radiant skin!

A summary of your order is below. Please allow 2-5 business days for delivery.

We're here to help! If you have questions about your sample or the full line of Stages of Beauty skincare products, please contact our representatives at 1-877-869-3162. They are available Monday through Friday from 9am to 9pm Eastern Time and Saturdays from 12pm to 5pm Eastern Time. You can also check out our [FAQs](#) online.

For more information about Stages of Beauty products, visit our web site at www.StagesofBeauty.com.

Sincerely,
Stages of Beauty Customer Service

SHIPPING INFORMATION

PAYMENT METHOD

Billed to your Master Card
Processed Amount: \$4.99

ORDER SUMMARY		
ITEM	QTY	PRICE
Adaptive Tripeptide Serum 15 mL	1	\$0.00
Beauty Manual eBook	1	\$0.00
	Subtotal:	\$0.00
	Shipping & Handling:	\$4.99
	Discount:	
	Tax:	\$0.00
	Total:	\$4.99

You are receiving this email in regards to your Stages of Beauty purchase.

Stages of Beauty | 105 Commerce Drive | Aston, PA 19014
©2017 Stages of Beauty, LLC. All Rights Reserved.



From: Stages of Beauty <noreply@e.stagesofbeauty.com>
Date:
Subject: Your Order Has Shipped
To:

If you are unable to see the message below, [click here to view](#).

STAGES *of* BEAUTY



SHOP | OUR PHILOSOPHY | THE SCIENCE | RESULTS

QUESTIONS?

Call us at 1-877-869-3162

Dear ,

Your order is on the way! In just 1-5 business days, your purchase from Stages of Beauty will arrive at your door.

If this is your first experience with our line of groundbreaking skincare products, welcome! The thousands of women who depend upon Stages of Beauty know that our products are nothing short of spectacular. Based on the latest developments in dermatological science, our products are designed to be superior in every way... the very best anti-wrinkle, anti-aging, cleansers, toners, scrubs, treatment creams, and specialty serums available.

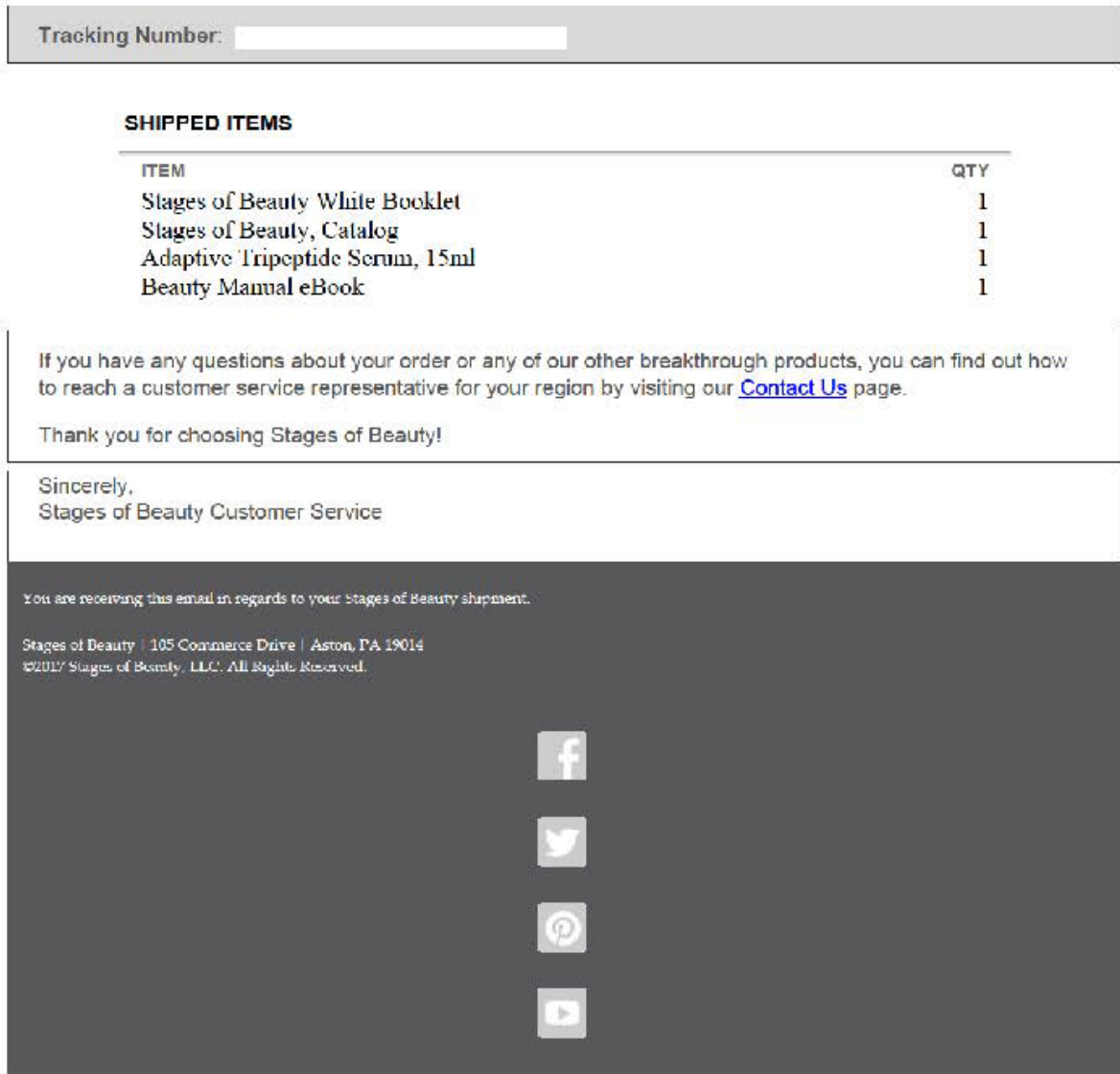
If you're already using one of our products, you know what it's like to have the best looking skin of your life, no matter your age. Remember, uninterrupted use ensures consistent, improving, remarkable results!

Below is your tracking number and purchase information. Just click the link below for full details.

Order Number:

Email Address:

Ship Date:



CLASS ACTION ALLEGATIONS

22. Plaintiff brings this action, on behalf of himself and all others similarly situated, as a class action pursuant to Rule 23(a) of the Federal Rules of Civil Procedure. The proposed Class (the “Class”) that Plaintiff seeks to represent is composed of and defined as:

“All persons within California who, within the applicable statute of limitations period, up to and including the date of final judgment in this action, purchased any product or service in response to an offer

1 **constituting an “Automatic Renewal” as defined by § 17601(a) from**
 2 **Stages of Beauty, LLC, its predecessors, or its affiliates.”**

3 23. This action is brought and may be properly maintained as a class action
 4 pursuant to the provisions of Federal Rule of Civil Procedure 23(a)(1)-(4) and 23(b)(1)-
 5 (3). This action satisfies the numerosity, typicality, adequacy, predominance and
 6 superiority requirements of those provisions.

7 24. [Fed. R. Civ. P. 23(a)(1)] The Class is so numerous that the individual
 8 joinder of all of its members is impractical. While the exact number and identities of
 9 Class members are unknown to Plaintiff at this time and can only be ascertained
 10 through appropriate discovery, Plaintiff is informed and believes the Class includes
 11 hundreds of thousands of members. Plaintiff alleges that the Class may be ascertained
 12 by the records maintained by Defendant.

13 25. [Fed. R. Civ. P. 23(a)(2)] Common questions of fact and law exist as to all
 14 members of the Class which predominate over any questions affecting only individual
 15 members of the Class. These common legal and factual questions, which do not vary
 16 from class member to class member, and which may be determined without reference to
 17 the individual circumstances of any class member, include, but are not limited to, the
 18 following:

- 19 i) Whether at all relevant times Defendant failed to present the
 20 automatic renewal offer terms, or continuous service offer terms, in
 21 a clear and conspicuous manner before the subscription or
 22 purchasing agreement was fulfilled and in visual proximity to the
 23 request for consent to the offer in violation of Cal. Bus. & Prof.
 24 Code § 17602(a)(1);
- 25 ii) Whether at all relevant times Defendant charged Plaintiff’s and
 26 Class Members’ Payment Method for an automatic renewal or
 27 continuous service without first obtaining the Plaintiff’s and Class
 28 Members’ affirmative consent to the Terms & Conditions containing

the automatic renewal offer terms or continuous service offer terms in violation of Cal. Bus. & Prof. Code § 17602(a)(2);

- iii) Whether Defendant failed to provide an acknowledgement that included the automatic renewal or continuous service offer terms, cancellation policy, and information on how to cancel in a manner that is capable of being retained by Plaintiff and Class Members, in violation of Cal. Bus. & Prof. Code § 17602(a)(3);
- iv) Whether Plaintiff and the Class Members are entitled to restitution of money paid in circumstances where the goods and services provided by Defendant are deemed an unconditional gift in accordance with Cal. Bus. & Prof. Code § 17603;
- v) Whether Plaintiff and Class Members are entitled to restitution in accordance with Cal. Bus. & Prof. Code §§ 17200, 17203;
- vi) Whether Plaintiff and Class Members are entitled to injunctive relief under Cal. Bus. & Prof. Code § 17203;
- vii) Whether Plaintiff and Class Members are entitled to attorneys' fees and costs under California Code of Civil Procedure § 1021.5; and
- viii) The proper formula(s) for calculating the restitution owed to Class Members.

26. [Fed. R. Civ. P. 23(a)(3)] Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class have sustained injury and are facing irreparable harm arising out of Defendant's common course of conduct as complained of herein. The losses of each member of the Class were caused directly by Defendant's wrongful conduct as alleged herein.

27. [Fed. R. Civ. P. 23(a)(4)] Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained attorneys experienced in the prosecution of class actions, including complex consumer and mass tort litigation.

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1 28. [Fed. R. Civ. P. 23(b)(3)] A class action is superior to other available
2 methods of fair and efficient adjudication of this controversy, since individual litigation
3 of the claims of all Class members is impracticable. Even if every Class member could
4 afford individual litigation, the court system could not. It would be unduly burdensome
5 to the courts in which individual litigation of numerous issues would proceed.
6 Individualized litigation would also present the potential for varying, inconsistent, or
7 contradictory judgments and would magnify the delay and expense to all parties and to
8 the court system resulting from multiple trials of the same complex factual issues. By
9 contrast, the conduct of this action as a class action, with respect to some or all of the
10 issues presented herein, presents fewer management difficulties, conserves the
11 resources of the parties and of the court system, and protects the rights of each Class
12 member.

13 29. [Fed. R. Civ. P. 23(b)(1)(A)] The prosecution of separate actions by
14 thousands of individual Class members would create the risk of inconsistent or varying
15 adjudications with respect to, among other things, the need for and the nature of proper
16 notice, which Defendant must provide to all Class members.

17 30. [Fed. R. Civ. P. 23(b)(1)(B)] The prosecution of separate actions by
18 individual class members would create a risk of adjudications with respect to them that
19 would, as a practical matter, be dispositive of the interests of the other Class members
20 not parties to such adjudications or that would substantially impair or impede the ability
21 of such non-party Class members to protect their interests.

22 31. [Fed. R. Civ. P. 23(b)(2)] Defendant has acted or refused to act in respects
23 generally applicable to the Class, thereby making appropriate final injunctive relief with
24 regard to the members of the Class as a whole.

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FIRST CAUSE OF ACTION

**FAILURE TO PRESENT AUTOMATIC RENEWAL OFFER TERMS OR
CONTINUOUS SERVICE OFFER TERMS CLEARLY AND
CONSPICUOUSLY AND IN VISUAL, PROXIMITY TO THE REQUEST FOR
CONSENT OFFER (CAL. BUS. & PROF. CODE§ 17602(a)(l))**

(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)

32. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

33. Cal. Bus. Prof. Code§ 17602(a)(1) provides:

(a) It shall be unlawful for any business making an automatic renewal or continuous service offer to a consumer in this state to do any of the following:

(l) Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.

34. As detailed above, at all relevant times Defendant failed to present the automatic renewal offer terms, or continuous service offer terms, in a clear and conspicuous manner and in visual proximity the request for consent to the offer before the subscription or purchasing agreement was fulfilled.

35. As a result of Defendant's violations of Cal. Bus. & Prof. Code § 17602(a)(l), Defendant is subject under Cal. Bus. & Prof. Code § 17604 to all civil remedies that apply to a violation of Article 9, of Chapter 1, of Part 3, of Division 7 of the Cal. Bus. & Prof. Code.

36. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

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SECOND CAUSE OF ACTION

**FAILURE TO OBTAIN CONSUMER'S AFFIRMATIVE CONSENT
BEFORE THE SUBSCRIPTION IS FULFILLED**

(CAL BUS. & PROF. CODE §§ 17602(a)(2) and 17603)

(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)

37. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

38. Cal. Bus. & Prof. Code § 17602(a)(2) provides:

(a) It shall be unlawful for any business making an automatic renewal or continuous service offer to a consumer in this state to do any of the following:

(2) Charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.

39. At all relevant times Defendant charged Plaintiff's and Class Members' Payment Method for an automatic renewal or continuous service without first obtaining Plaintiff's and Class Members affirmative consent to language containing the automatic renewal offer terms or continuous service offer terms.

40. As a result of Defendant's violations of Cal. Bus. & Prof. Code § 17602(a)(2), Defendant is liable to provide restitution to Plaintiff and Class Members under Cal. Bus. & Prof. Code § 17603.

41. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

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THIRD CAUSE OF ACTION

**FAILURE TO PROVIDE ACKNOWLEDGMENT WITH
AUTOMATIC RENEWAL TERMS AND INFORMATION REGARDING
CANCELLATION POLICY**

(CAL. BUS. & PROF. CODE §§ 17602(a)(3))

(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)

42. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

43. Cal. Bus. & Prof. Code § 17602(a)(3) provides:

(a) It shall be unlawful for any business making an automatic renewal or continuous service offer to a consumer in this state to do any of the following:

(3) Fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the business shall also disclose in the acknowledgment how to cancel and allow the consumer to cancel before the consumer pays for the goods or services.

44. Plaintiff and Class Members purchased Defendant's cosmetics and related products for personal, family or household purposes. Defendant failed to provide an acknowledgement that includes the automatic renewal or continuous service offer terms, cancellation policy, and information on how to cancel in a manner that is capable of being retained by Plaintiff and Class Members.

45. As a result of Defendant's violations of Cal. Bus. & Prof. Code § 17602(a)(3), Defendant is subject to all civil remedies under Cal. Bus. & Prof. Code § 17604 that apply to a violation of Article 9, of Chapter 1 of Part 3, of Division 7 of the Cal. Bus. & Prof. Code.

46. Plaintiff, on behalf of himself and Class Members, requests relief as described below.

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FOURTH CAUSE OF ACTION

VIOLATION OF THE UNFAIR COMPETITION LAW

(CAL. BUS. & PROF. CODE§ 17200 *et. seq.*)

(By Plaintiff, on his own behalf and on behalf of the Class, against All Defendants)

47. The foregoing paragraphs are alleged herein and are incorporated herein by reference.

48. Cal. Bus. & Prof. Code § 17200, *et seq.* (the “UCL”) prohibits unfair competition in the form of any unlawful or unfair business act or practice. Cal. Bus. & Prof. Code § 17204 allows “a person who has suffered injury in fact and has lost money or property” to prosecute a civil action for violation of the UCL. Such a person may bring such an action on behalf of himself or herself and others similarly situated who are affected by the unlawful and/or unfair business practice or act.

49. Since December 1, 2010, and continuing to the present, Defendant has committed unlawful and/or unfair business acts or practices as defined by the UCL, by violating Cal. Bus. & Prof. Code §§ 17602(a)(1), 17602(a)(2), and 17602(a)(3). The public policy which is a predicate to a UCL action under the unfair prong of the UCL is tethered to a specific statutory provision. *See* Cal. Bus. & Prof. Code §§ 17600, 17602.

50. As a direct and proximate result of Defendant’s unlawful practices described herein, Defendant has received, and continues to hold, unlawfully obtained property and money belonging to Plaintiff and Class Members in the form of payments made for subscription agreements by Plaintiff and Class Members. Defendant has profited from its unlawful and/or unfair acts and practices in the amount of those business expenses and interest accrued thereon.

51. Plaintiff and similarly-situated Class Members are entitled to restitution pursuant to Cal. Bus. & Prof. Code § 17203 for all monies paid by Class Members under the subscription agreements from December 1, 2010, to the date of such restitution at rates specified by law. Defendant should be required to disgorge all the profits and gains it has reaped and restore such profits and gains to Plaintiff and Class

1 Members, from whom they were unlawfully taken.

2 52. Plaintiff and similarly situated Class Members are entitled to enforce all
3 applicable penalty provisions pursuant to Cal. Bus. & Prof. Code § 17202, and to obtain
4 injunctive relief pursuant to Cal. Bus. & Prof. Code § 17203.

5 53. Plaintiff, on behalf of himself and Class Members, request relief as
6 described below.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff requests the following relief:

9 A. That the Court determine that this action may be maintained as a class
10 action under Rule 23(a) of the Federal Rules of Civil Procedure, and define the Class as
11 requested herein;

12 B. That the Court find and declare that Defendant has violated Cal. Bus. &
13 Prof. Code § 17602(a)(1) by failing to present the automatic renewal offer terms, or
14 continuous service offer terms, in a clear and conspicuous manner and the visual
15 proximity to the request for consent to the offer before the subscription or purchasing
16 agreement was fulfilled;

17 C. That the Court find and declare that Defendant has violated Cal. Bus. &
18 Prof. Code § 17602(a)(2) by charging Plaintiff's and Class Members' Payment Method
19 without first obtaining their affirmative consent to language containing automatic
20 renewal offer terms or continuous service terms;

21 D. That the Court find and declare that Defendant has violated Cal. Bus. &
22 Prof. Code § 17602(a)(3) by failing to provide an acknowledgement that includes the
23 automatic renewal or continuous service offer terms, cancellation policy and
24 information on how to cancel in a manner that is capable of being retained by Plaintiff
25 and Class Members;

26 E. That the Court find and declare that Defendant has violated the UCL and
27 committed unlawful business practices by violating Cal. Bus. & Prof. Code § 17602.

28 ///

1 F. That the Court award to Plaintiff and Class Members damages and full
2 restitution in the amount of the subscription payments made by them pursuant to Cal.
3 Bus. & Prof. Code § 17603, in an amount to be proved at trial;

4 G. That Defendant be ordered to pay restitution to Plaintiff and the Class due
5 to Defendant's UCL violations, pursuant to Cal. Bus. & Prof. Code §§ 17200-17205 in
6 the amount of their subscription agreement payments;

7 H. That the Court find that Plaintiff and Class Members are entitled to
8 injunctive relief pursuant to Cal. Bus. & Prof. Code § 17203;

9 I. That Plaintiff and the Class be awarded reasonable attorneys' fees and
10 costs pursuant to California Code of Civil Procedure § 1021.5, and/or other applicable
11 law; and

12 J. That the Court award such other and further relief as this Court may deem
13 appropriate.

14
15 Dated: September 14, 2017

PACIFIC TRIAL ATTORNEYS, APC

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17 By: /s/ Scott J. Ferrell

18 Scott. J. Ferrell

19 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2017, I electronically filed the foregoing **CLASS ACTION COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Scott J. Ferrell
Scott. J. Ferrell

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MATTHEW LOPEZ, individually and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Pacific Trial Attorneys, Scott J. Ferrell,
4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660
(949) 706-6464

DEFENDANTS

STAGES OF BEAUTY, LLC, a Delaware limited liability company;
and DOES 1 – 10, inclusive,

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332

Brief description of cause:

Violation of California Automatic Renewal Law and Unfair Competition Law

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

09/14/2017

SIGNATURE OF ATTORNEY OF RECORD

/s./ Scott J. Ferrell

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.