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KING COUNTY
SUPERIOR COURT CLERK
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CASE NUMBER: 18-2-21685-1 SEA

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

SARA M. BARKER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THRIVE CAUSEMETICS, INC., a Delaware
corporation; and KARISSA BODNAR, an
individual,

Defendants.

No.

**CLASS ACTION COMPLAINT FOR
DAMAGES AND INJUNCTIVE
RELIEF**

Plaintiff Sara M. Barker, by her undersigned attorneys, for this class action complaint
against Defendant Thrive Causemetics, Inc. and Defendant Ms. Karissa Bodnar alleges as follows:

I. INTRODUCTION

1.1 Nature of Action: This is a class action for declaratory judgment, equitable relief,
and money damages brought by Plaintiff against Defendant Thrive Causemetics, Inc. and
Defendant Karissa Bodnar (collectively “Defendants”). It is instituted to address unfair and
deceptive acts and practices that are injurious to the public interest and that have injured Plaintiff
and the proposed class members in violation of Washington’s Consumer Protection Act, RCW
19.86, *et seq.*

II. JURISDICTION AND VENUE

1
2 **2.1** Jurisdiction. Defendants are all within the jurisdiction of this Court. Defendant
3 Thrive Causemetics, Inc. (“Thrive”) is a citizen of Washington, as it is registered to do business
4 in Washington, conducts business in Washington, and maintains its principal place of business
5 and headquarters in Washington. Defendant Karissa Bodnar (“Bodnar”) conducts business in
6 Washington and is a resident and citizen of Washington. Defendants have obtained the benefits
7 of the laws of Washington as well as Washington’s commercial markets.

8 **2.2** Venue. Venue is proper in King County because Defendants operate and transact
9 business in King County. Thrive’s principal place of business and headquarters are in King
10 County, and Bodnar resides in King County.

11 **2.3** Governing Law. The claims asserted on behalf of the Plaintiff and Class members
12 are brought solely under Washington state law causes of action and are governed exclusively by
13 Washington law.

14 **2.4** Lack of CAFA Jurisdiction. Federal jurisdiction is inappropriate under the Class
15 Action Fairness Act, 28 U.S.C. § 1332(d)(4)(A), because more than two-thirds of the members of
16 the proposed plaintiff class in the aggregate are citizens of Washington; significant relief is sought
17 from Defendants by members of the plaintiff class; the alleged conduct of Defendants forms a
18 significant basis for the claims asserted by the proposed plaintiff class; Defendants are citizens of
19 Washington; the principal injuries resulting from the alleged conduct or any related conduct of
20 each Defendant were incurred in Washington; and during the three-year period preceding the
21 filing of this action, no other class action has been filed asserting same or similar factual
22 allegations against any of the Defendants on behalf of the same or other persons. Alternatively,
23 federal jurisdiction is inappropriate under the Class Action Fairness Act, 28 U.S.C.
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1 § 1332(d)(4)(B), because two-thirds or more of the members of all proposed plaintiff classes in
2 the aggregate and the primary Defendants are citizens of the state of Washington.

3 III. PARTIES

4 **3.1** Plaintiff Sara Barker. Plaintiff Sara Barker is a citizen of Washington State. She
5 purchased a product from Thrive in 2017 through the company's website. The product was
6 delivered to her at her residence in Washington.

7 **3.2** Defendant Thrive Causemetics, Inc. Thrive is a Delaware corporation with its
8 headquarters and principle place of business in Seattle, Washington. Thrive is a citizen of
9 Washington state. It is registered to do and does conduct business throughout the state of
10 Washington, including throughout King County. Upon information and belief, Thrive has sold
11 numerous products throughout the state of Washington, including to Plaintiff and Class members.
12

13 **3.3** Defendant Karissa Bodnar. Defendant Bodnar has at all relevant times been CEO
14 and owner of Thrive Causemetics, Inc. and is engaged in running the company's business,
15 managing the company's finances, determining the company's marketing strategy and any
16 advertising involving the company and its products, maintaining the company's records, and
17 exercising control over all aspects of the company. Defendant Bodnar is a citizen and resident of
18 Washington.
19

20 IV. CLASS ACTION ALLEGATIONS

21 **4.1** Class Definition. Pursuant to CR 23, Plaintiff brings this case as a class action
22 against Defendants on behalf of a Class defined as follows:

23 All citizens of the State of Washington who, between August 30, 2014 and the date
24 of the final disposition of this action (the "Class Period"), purchased one or more
25 products from Thrive Causemetics, Inc.

26 Excluded from the class are Defendants' owners, officers, legal representatives, assignees, and

1 successors. Also excluded are the judge to whom this case is assigned and any member of the
2 judge's immediate family.

3 **4.2** Numerosity. On information and belief, hundreds of Washington citizens have
4 purchased products from Thrive. The members of the class are so numerous that joinder of all
5 members is impracticable. The disposition of the claims of the Class in a single action will provide
6 substantial benefits to all parties and the Court.

7 **4.3** Commonality. There are numerous questions of law and fact common to Plaintiff
8 and members of the Class. Defendants have engaged in a common course of unfair and deceptive
9 conduct, and Plaintiff and Class members have suffered harm as a result of that conduct. These
10 common questions include, but are not limited to:
11

- 12 a. Whether Defendants have engaged in a common course of representing to
13 consumers that for every product purchased, Thrive donates one product to a
14 woman in need;
- 15 b. Whether Thrive has engaged in a common course of failing to donate one product
16 to a woman in need for every product purchased;
- 17 c. Whether a reasonable consumer would find Defendants' common courses of
18 conduct to be of material importance;
- 19 d. Whether Defendants' common courses of conduct have the tendency or capacity
20 to mislead persons of ordinary caution;
- 21 e. Whether Defendants' common courses of conduct are unfair within the meaning
22 of RCW 19.86.020;
- 23 f. Whether Defendants' common courses of conduct are deceptive within the
24 meaning of RCW 19.86.020;
- 25
26

- 1 g. Whether Defendants acted in trade or commerce when they advertised and sold
2 products to consumers under the false pretense that for every product purchased,
3 one is donated to a woman in need;
- 4 h. Whether Defendants' unfair and deceptive acts or practices were injurious to the
5 public interest because they injured other persons, had the capacity to injure other
6 persons, or have the capacity to injure other persons;
- 7 i. Whether Defendants' unfair and deceptive acts or practices caused Plaintiff and
8 members of the Class to be injured in their business or property;
- 9 j. Whether Defendant Bodnar participated in or knowingly approved of conduct by
10 Thrive that violates the Washington Consumer Protection Act;
- 11 k. Whether injunctive relief is appropriate to remedy Defendants' unfair and
12 deceptive acts or practices; and
- 13 l. The nature and extent of the injury to Plaintiff and Class members and the damages
14 that should be awarded to compensate for such injury.

15
16 **4.4** Typicality. Plaintiff's claims are typical of the claims of the Class. Plaintiff's
17 claims, like the claims of the Class, arise out of the same common courses of unfair and deceptive
18 conduct by Defendants and are based on the same legal and remedial theories.

19
20 **4.5** Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
21 Plaintiff has retained competent and capable attorneys who have significant experience in
22 complex class action litigation, including consumer law. Plaintiff and her counsel are committed
23 to prosecuting this action vigorously on behalf of the Class, and Plaintiff's counsel have the
24 financial resources to do so. Neither Plaintiff nor her counsel have interests that are contrary to or
25 that conflict with those of the Class. There are no unusual difficulties likely to be encountered in
26

1 the management of this litigation as a Class action.

2 **4.6** Predominance. Defendants have engaged in common courses of both unfair and
3 deceptive acts and practices toward Plaintiff and members of the Class. The common issues
4 arising from this conduct that affect Plaintiff and the members of the Class predominate over any
5 individual issues. Adjudication of these common issues in a single action has important and
6 desirable advantages of judicial economy

7 **4.7** Superiority. Plaintiff and Class members have suffered and will continue to suffer
8 harm and damages as a result of Defendants' unlawful and wrongful conduct. Absent a class
9 action, most Class members likely would find the cost of litigating their claims prohibitive. Class
10 treatment is superior to multiple individual suits or piecemeal litigation because it conserves
11 judicial resources, promotes consistency and efficiency of adjudication, provides a forum for
12 small claimants, and deters illegal activities. There will be no significant difficulty in the
13 management of this case as a class action. The Class members are readily identifiable from
14 Defendants' records.
15

16 **V. SUMMARY OF FACTUAL ALLEGATIONS**

17 **5.1** Plaintiff realleges and incorporates by reference each and every allegation set forth
18 in the preceding paragraphs.

19 **5.2** Defendant Thrive is a for-profit corporation engaged in the sale of luxury
20 cosmetics. Thrive CEO and Founder Karissa Bodnar named the company Thrive "Causemetics"
21 because of the charitable purpose behind the company.
22

23 **5.3** The stated mission on Thrive's website is "Beauty with a Purpose. For every
24 product purchased, one is donated to help a woman thrive."
25

26 **5.4** The majority of Thrive's business is conducted online with consumers in the

1 United States purchasing Thrive products directly from Thrive’s website.

2 **5.5** In magazine articles or television appearance detailed on Thrive’s website, Thrive
3 is marketed specifically as having a charitable mission and donating one product to a woman in
4 need for every product purchased.

5 **5.6** Defendant Thrive CEO and Founder Karissa Bodnar is routinely quoted in
6 magazines and on television touting Thrive’s mission and express commitment to donating one
7 product to a woman in need for every product purchased, as the following examples show.

8
9 I wanted a one-for-one model like Toms shoes that we call Beauty with a Purpose
10 (I even trademarked the phrase!); for every beauty product sold, one would be
11 donated to a woman with cancer. It’s really hard to get any new business off the
12 ground, but it’s even more difficult when your model is to give some products away
13 for free. I dealt with the issue by taking a giant leap of faith. I gave away products
14 up front – specifically to women’s cancer groups, celebrities, and makeup artists. I
knew that if I had created something truly effective, women would tell their friends.
I hoped that the combination of effective products, positive word of mouth, and a
feel-good mission would create the foundation for a successful company.
Thankfully, I was right, and Thrive Causemetics was profitable our very first year.¹

15 ***

16 When you buy one of our products, you are actually donating that exact same
17 product to a woman who is going through cancer treatment.²

18 ***

19 Our donation model is different from Toms. We are giving away the exact same
20 product [that’s sold]. That really connects with the consumer and the woman who
21 is receiving the product feels like she[] is being taken care of and is supported. The
transformation in a woman’s self-esteem can be incredible.³

22
23 ¹ Women’s Health, “I Started a Cosmetics Company to Honor My Friend Who Died of Cancer,” By Karissa Bodnar
as told to Kaitlin Menza, September 23, 2015, <https://thrivecausemetics.com/pages/womens-health> (last visited on
February 15, 2018).

24 ² Karissa Bodnar NBC television interview in February 2016, “Teen Cancer Survivor Gets a Surprise Makeover,”
<http://www.elpasoproud.com/news/local/el-paso-news/teen-cancer-survivor-get-a-surprise-makeover/366802254>
25 (last visited on February 15, 2018).

26 ³ WWD February 10, 2016 Interview with Thrive CEO and Founder Karissa Bodnar for New York Fashion Week,
“Thrive Causemetics to Hold Beauty Runway Show During NYFW,” [https://thrivecausemetics.com/pages/wwd-
thrive-causemetics-to-hold-beauty-runway-show-during-nyfw](https://thrivecausemetics.com/pages/wwd-thrive-causemetics-to-hold-beauty-runway-show-during-nyfw) (last visited February 15, 2018).

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2
3 **5.7** Plaintiff purchased a Thrive product through Thrive’s website in December 2017.

4 **5.8** Had Plaintiff known the truth about Thrive—that is, that the company fails to
5 donate one product to a woman in need for every product purchased—she would not have
6 purchased the Thrive product.

7 **5.9** After Plaintiff purchased makeup online through the company’s website, Thrive
8 sent her several messages expressly reinforcing its commitment to donating to a woman in need
9 one product for each product purchased. The first message stated:

10 Thank you for placing an order with us and supporting our giving mission! Beauty
11 with a Purpose – For every product you purchase, we donate one to a woman in
12 need.

13 **5.10** Next, Thrive sent Plaintiff an email purchase confirmation, again stating the
14 charitable result of her purchase:

15 We’re preparing your order now and will let you know when it’s on the way. Your
16 exact order will be matched and donated to a woman in need.

17 – Team Thrive

18 **5.11** Thrive then sent a third message to Plaintiff when the product shipped, reinforcing
19 Plaintiff’s belief that she had made a charitable contribution by purchasing a Thrive product:

20 Keep an eye out for your order from Thrive Causemetics! Thank you for supporting
21 our giving mission. Your purchase will directly help a woman in need.

22 – Team Thrive

23 **5.12** Upon information and belief, Thrive’s mission is false: Thrive does not donate one
24 product for every product purchased.

25 **5.13** In communicating with consumers, Thrive repeatedly omits information that a
26 person of ordinary caution would find material—namely, that the company fails to donate to a

1 woman in need one product for every product purchased.

2 **5.14** Thrive incorporates into the price point of its products a cost for charitable
3 donations.

4 **5.15** On information and belief, consumers are willing to pay more for charity-linked
5 products like those sold by Thrive than they would for identical products that are not linked to
6 charity.

7 **VI. FIRST CAUSE OF ACTION**
8 **(Violations of the Washington Consumer Protection Act—Unfair Practices)**

9 **6.1** Plaintiff realleges and incorporates by reference each and every allegation set forth
10 in the preceding paragraphs.

11 **6.2** Defendants' common courses of unfair conduct in violation of RCW 19.86.020
12 have caused and are likely to continue causing substantial injury to consumers that is not
13 reasonably avoidable by the consumers nor outweighed by countervailing benefits to consumers
14 or competition.

15 **6.3** Defendants' common courses of unfair conduct occur in trade or commerce and
16 impact the public interest because Defendants are in the business of selling consumer products
17 throughout the state of Washington. Hundreds of Washingtonians have been affected by
18 Defendants' unfair practices.

19 **6.4** Defendants' common courses of unfair conduct injured the business or property of
20 Plaintiff and the Class members.

21 **6.5** Defendants' common courses of unfair conduct caused injury to Plaintiff and the
22 Class members.
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**VII. SECOND CAUSE OF ACTION
(Violations of the Washington Consumer Protection Act—Deceptive Practices)**

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2 **7.1** Plaintiff realleges and incorporates by reference each and every allegation set forth
3 in the preceding paragraphs.

4 **7.2** Defendants’ common courses of conduct have had the capacity to deceive a
5 substantial portion of the public.

6 **7.3** Defendants’ common courses of deceptive conduct occur in trade or commerce
7 and impact the public interest because Defendants are in the business of selling consumer products
8 throughout the state of Washington. Hundreds of Washingtonians are affected by Defendants’
9 unfair practices.

10 **7.4** Defendants’ common courses of deceptive conduct injured the business or property
11 of Plaintiff and the Class members.

12 **7.5** Defendants’ common courses of deceptive conduct caused the injury to Plaintiff
13 and the Class members.

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16 **VIII. PRAYER FOR RELIEF**

17 Plaintiff, on her own behalf and on behalf of Class members, prays this Court enter
18 judgment against Defendants as follows:

- 19 **A.** Certify the proposed Class;
20 **B.** Appoint Plaintiff as representative of the Class;
21 **C.** Enter judgment against Defendants and in favor of Plaintiff and Class members
22 on all causes of action alleged herein;
23 **D.** Declare that the actions complained of herein violate Washington law;
24 **E.** Award Plaintiff and Class members compensatory, exemplary, and treble damages,
25 in amounts to be proven at trial;
26

1 **F.** Issue a permanent injunction under RCW 19.86.090 enjoining and restraining
2 Defendants and their representatives, successors, assigns, officers, agents, servants, employees,
3 and all other person acting or claiming to act for, on behalf of, or in active concert or participation
4 with Defendants, from continuing or engaging in the unlawful conduct alleged in this Complaint;

5 **G.** Award Plaintiff and Class members attorneys' fees, costs, and expenses, as allowed
6 by law;

7 **H.** Award Plaintiff and Class members pre-judgment and post-judgment interest to
8 the extent allowed by law; and

9 **I.** Grant Plaintiff and Class Members such other and additional relief as is just and
10 proper under applicable law.
11

12
13 DATED August 30, 2018.

14
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16 AHRENS, PLLC

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