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Not So Clean Beauty? False Advertising Lawsuits Allege PFAs In CoverGirl, BareMinerals Products

by [Ryan Nelson](#)

Coty's and Shiseido's respective CoverGirl and BareMinerals, both self-proclaimed creators of the clean beauty movement, deceive consumers with their toxic-free, good-for-the-planet advertising into buying PFAS-laced cosmetic products, plaintiffs allege in recent complaints. Plaintiffs against Coty point to the company's Sustainability Report as further evidence that its promises and practices don't line up.

Plaintiffs against Coty, Inc. and Shiseido Americas Corporation allege the defendants' respective CoverGirl and BareMinerals brands misleadingly represent products as safe for people and the environment, when in actuality they contain harmful per- and polyfluoroalkyl substances (PFAS).

According to a proposed class action filed in New York's Southern District on 14 December 2021, plaintiffs Daian Onaka, et al., expected "clean, conscious beauty" when they purchased BareMinerals products, based on the company's advertising claims.

John Gardella, a shareholder at CMBG3 Law and experienced trial lawyer focused on environmental litigation, compliance matters and product liability cases, notes in a 9 January article, "Plaintiffs go so far as to allege that the very brand name bareMinerals has created in consumers' minds for over 25 years the impression that the products are 'bare' of any additives or harmful ingredients whatsoever."

However, when plaintiffs had the BareMinerals products tested, all contained PFAS, the complaint says.

The suit specifically names BAREPRO Performance Wear Liquid Foundation SPF 20, BAREPRO 16-Hr Full Coverage Concealer, BAREPRO Longwear Lipstick, Original Liquid Mineral Foundation, and GEN NUDE Matte Liquid Lipstick as “PFAS Makeup.”

Onaka et al. suggest that their findings are consistent with those in a study led by University of Notre Dame researchers, which was published in Environmental Science and Technology Letters in June 2021. (Also see "[US Senate Wants PFAS Banned From Cosmetics. Should FDA Have A Say?](#)" - HBW Insight, 18 Jun, 2021.)

Had they known the BareMinerals products contained chemicals linked to cancer, immune system impacts and other human and environmental health dangers, the plaintiffs say they would not have bought the items. Their complaint alleges breach of implied and express warranty, negligent misrepresentation, fraud, and violations of California consumer protection laws.

The plaintiffs seek damages and equitable remedies for themselves and proposed classes, including purchasers nationwide. Injunctive and declaratory relief also is sought, including that Shiseido:

- Undertake an immediate public information campaign to inform consumers the truth about the PFAS, including at the time of sale of the PFAS Makeup;
- Adequately disclose the PFAS to consumers at the time of sale of the PFAS Makeup; and
- Remove the PFAS.

CoverGirl Makeup 'Neither Safe Nor Sustainable'

The suit against Coty is not a class action and seeks no damages. Instead, plaintiff Toxic Free USA requests a declaration that the defendant’s conduct violates the District of Columbia Consumer Protection Procedures Act, an order enjoining the conduct, as well as costs and reasonable attorneys’ fees, experts’ fees, and prejudgment interest.

Nonprofit Toxic Free USA filed its complaint against Coty on 28 December in District of Columbia Superior Court, alleging that CoverGirl TruBlend Pressed Powder contains high levels of organofluorine – 6,242 parts per million in the sample it tested – and that organofluorine is an indicator of PFAS, “which are neither safe or sustainable.”

That flies in the face of the brand’s messaging, the group says, pointing to CoverGirl claims about making “good-for-you makeup and skincare, prioritizing the health of our consumers and the planet,” as well as Coty’s Sustainability Report in which it champions its commitment to

humanity, product safety and environmental causes.

“Reasonable consumers would consider PFAS (which are known to be persistent and linked with high cholesterol, thyroid disease, pregnancy-induced hypertension, ulcerative colitis, and kidney and testicular cancer) to be unsafe,” Toxic-Free USA says, adding, “Reasonable consumers also would consider PFAS, which are non-biodegradable ‘forever chemicals,’ to be environmentally unsustainable.”

Gardella believes the Coty and Shiseido suits may be just the beginning of a growing legal problem for cosmetics companies, in that they could “lay the foundation for future lawsuits. ... The industry, insurers, and investment companies interested in the consumer goods vertical with niche interest in cosmetics companies must pay careful attention to these two lawsuits,” he says.

The attorney expects the putative class action against Shiseido to serve as a particular test case for the plaintiffs’ bar “to determine whether similar lawsuits will be successful in any (or all) of the fifty states in this country.”

CoverGirl and BareMinerals, both of which claim to have pioneered clean beauty decades ago, are famous names at multi-billion-dollar global companies, making them ready targets for litigation.

But published results from cosmetic product testing indicate that small, clean or “green” beauty brands are just as likely as large mainstream brands – perhaps even more likely – to contain traces of PFAS, so the opportunity before the plaintiffs’ bar could be significant and sustainable.

(Also see "[‘Green’ Beauty No Better Than Mainstream At Avoiding PFAS Contamination – Mamavation Study](#)" - HBW Insight, 7 Dec, 2021.)

Gardella suggests that toxic tort cases could arise down the road, seeking damages for alleged personal injuries linked to PFAS in cosmetics, and beauty companies conceivably could face environmental pollution lawsuits as well, he says.

“It is of the utmost importance that businesses along the whole supply chain in the cosmetics industry evaluate their PFAS risk,” Gardella concludes.