

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBYN LIPETZ and SHANNON
KEENER, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

UNILEVER UNITED STATES, INC., and
CONOPCO, INC. d/b/a UNILEVER
HOME & PERSONAL CARE USA,

Defendants.

CASE NO.:

CLASS ACTION

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs, Robyn Lipetz and Shannon Keener (“**Plaintiffs**”), on behalf of themselves and all others similarly situated, brings this class action against Defendants, Unilever United States, Inc. (“Unilever”), and Conopco, Inc. d/b/a Unilever Home & Personal Care USA (“Conopco”) (collectively, “Unilever” or “**Defendants**”), and alleges on personal knowledge, investigation of their counsel, and on information and belief as follows:

INTRODUCTION

1. This is a nationwide class action brought by Plaintiffs on behalf of themselves and other similarly situated consumers who purchased TRESemmé Keratin Hair Smoothing Shampoo and/or TRESemmé Keratin Smooth Color Shampoo (collectively, the “**Products**” or “**TRESemmé Products**”) for personal or household use and not for resale (“**Class**” or “**Class Members**”).

2. Plaintiffs purchased the Products because of Unilever’s uniform false

representation that the Products would smooth their hair and coat it with Keratin, a protein found naturally in hair. Undisclosed by Defendants to Plaintiffs and Class Members and therefore unknown to Plaintiffs and Class Members, the Products contain an ingredient or combination of ingredients that causes significant hair loss and/or scalp irritation upon proper application. At least one ingredient in the Products, DMDM hydantoin, is a formaldehyde donor known to slowly leach formaldehyde when coming into contact with water. Formaldehyde is a well-known human carcinogen that can cause cancer and other harmful reactions when absorbed into skin. DMDM hydantoin has been used as a preservative in Unilever products for more than a decade; however, the use of DMDM hydantoin as a preservative is an entirely unnecessary risk because various safer natural alternatives exist. As such, the Products are rendered dangerous and unsafe for sale as over-the-counter hair smoothing shampoo products.

3. Defendants failed to properly warn consumers of the risks and dangers attendant to the use of such a strong ingredient on their hair and scalp – even well after Defendants knew or should have known of the Products’ hazards. Defendants continued to conceal the dangers of the Products by failing to appropriately and fully recall the Products, by continuing to claim the Products were safe when properly applied, and by failing to warn consumers of the dangers attendant to the Products’ use.

4. Defendants’ uniform acts and omissions in connection with the development, marketing, sale and delivery of the Products violate the consumer protection laws of the states of residence of Plaintiffs and other members of the Class, breaches Unilever’s express and implied warranties to Plaintiffs and the Class, and unjust enrichment by the Defendants.

5. Unilever labeled, advertised, promoted and sold the Products targeting women who wanted smooth, shiny, manageable hair with no frizz.

6. The Products are marketed in large bold font on the Products' front labels as "Keratin Smooth":



7. Through its labeling and an extensive marketing campaign, including through its website and online advertisements, Unilever made a number of express warranties: that the Products contain a keratin formula intended to smooth hair, add softness and shine, and prevent frizzing and tangling¹; and that the Products “deeply nourish,” “gently cleanse,” and “repair hair.”²

¹ www.TRESemmé.com/us/en/collections/keratin-smooth.html (Last Accessed October 8, 2020).

² www.TRESemmé.com/us/en/collections/keratin-smooth.html (“How it works”)(Last Accessed October 8, 2020).

8. However, the Products' formula contains an ingredient, or combination of ingredients, that has caused Plaintiffs and thousands of consumers to experience hair loss and/or scalp irritation.

9. At least one ingredient in the Products, DMDM hydantoin, is a formaldehyde donor known to slowly leach formaldehyde when coming into contact with water. Formaldehyde is a well-known human carcinogen that can cause cancer and other harmful reactions when absorbed into skin. DMDM hydantoin has been used a preservative in Unilever products for more than a decade; however, the use of DMDM hydantoin as a preservative is an entirely unnecessary risk because various safer natural alternatives exist.

10. DMDM hydantoin is found in the Products as stated on the Products' back labels:

- Below is the ingredient list located on the back label of the TRESemmé Keratin Smooth Color Shampoo:



- Below is the ingredient list located on the back label of the TRESemmé Keratin Hair Smoothing Shampoo:

INGREDIENTS: WATER (AQUA), SODIUM LAURETH SULFATE, COCAMIDOPROPYL BETAINE, SODIUM CHLORIDE, GLYCERIN, HYDROLYZED KERATIN, SCLEROCARYA BIRREA SEED OIL, DIMETHICONOL, FRAGRANCE (PARFUM), GLYCOL DISTEARATE, CARBOMER, GUAR HYDROXYPROPYLTRIMONIUM CHLORIDE, TEA-DODECYLBENZENESULFONATE, CITRIC ACID, PPG-9, DMDM HYDANTOIN, DISODIUM EDTA, PEG-15M, SODIUM BENZOATE, METHYLCHLOROISOTHIAZOLINONE, METHYLISOTHIAZOLINONE, COCAMIDE MEA, MICA (CI 77019), TITANIUM DIOXIDE (CI 77891)

11. In fact, for approximately a decade or longer, Unilever has known that DMDM hydantoin can cause or contribute to hair loss and scalp irritation when used as a preservative in hair products, including keratin products. Specifically, DMDM hydantoin, and other ingredients, were the subject of prior litigation initiated in 2012 against Unilever for hair loss and scalp irritation related to its Suave Professionals Keratin Infusion products.³ In fact, the Suave Keratin product was recalled in 2012 following complaints that the products caused hair loss and scalp irritation, and were advertised as formaldehyde free, while containing DMDM hydantoin. The \$10.2 million settlement in Unilever's Suave case was upheld by the Seventh Circuit Court of Appeals in 2016.

12. Despite having public knowledge since at least 2012 that DMDM hydantoin, as a formaldehyde donor, can cause or contribute to hair loss and scalp irritation, Unilever continued to proudly include this ingredient as a preservative in its products, and even goes so far as to represent to the public that DMDM hydantoin is safe for use in its hair care products.⁴

13. Upon information and belief, despite Unilever's current acknowledgment that it

³ *Reid, et al. v. Unilever United States, Inc., et al.*, C.A.N. 1:12-cv-06058 (N.D. Ill.).

⁴ <https://www.unilever.com/brands/our-products-and-ingredients/your-ingredient-questions-answered/formaldehyde-donors.html> (Last Accessed October 8, 2020).

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