

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

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| <p>GMO FREE USA d/b/a TOXIN FREE USA, P.O. Box 458, Unionville, CT 06085,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>THE PROCTER & GAMBLE COMPANY, One Procter & Gamble Plaza, Cincinnati, OH 45201</p> <p style="text-align: center;">Defendant.</p> | <p style="text-align: center;">COMPLAINT</p> <p style="text-align: center;"><u>DEMAND FOR JURY TRIAL</u></p> |
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Plaintiff GMO Free USA d/b/a Toxin Free USA (“Toxin Free USA”) brings this action against Defendant The Procter & Gamble Company (“P&G” or “Defendant”) regarding its false and deceptive marketing and sale of Oral-B Glide Dental Floss products (the “Products” or “Oral-B Glide”).¹ Defendant represents that the Products, and every ingredient in the Products, are safe for consumers and the environment. But Defendant does not disclose that the Products in fact contain per- and polyfluoroalkyl substances (“PFAS”). PFAS are a group of synthetic chemicals that are extremely resistant to degradation, persist indefinitely in the environment, bioaccumulate in blood, and can be harmful to humans and the environment, even at very low levels. This Complaint is on behalf of the general public of the District of Columbia, in the interest of consumers. This is not a class action, and no class certification will be sought. Toxin Free USA alleges the following based upon personal knowledge, information, belief, and the investigation of Counsel:

¹ Discovery may demonstrate that additional Oral-B Glide products are within the scope of this Complaint. Plaintiff reserves the right to amend this complaint to include additional dental floss items identified through the course of discovery.

INTRODUCTION

1. This is a consumer-protection case concerning deceptive marketing representations about P&G’s Oral-B Glide products. The case is brought by Toxin Free USA, a nonprofit, public-interest organization dedicated to consumer protection and education. Toxin Free USA seeks no monetary damages, only an end to the deceptive marketing and advertising at issue.

2. Defendant P&G is “the world’s largest consumer goods company,”² which has owned the Oral-B brand for about 16 years.³

3. Oral-B is a P&G brand of dental hygiene products, and Oral-B Glide is a line of specific dental floss products.

4. P&G added the Oral-B brand to its “Pro-Health” line, which means that the Products are “aimed at consumers willing to pay more for products that touted health benefits, as opposed to flavor or cosmetic appeal.”⁴

5. In its consumer-facing website, P&G represents that it adheres to a “rigorous safety process to analyze every ingredient—before we ever consider putting it in one of our products.”⁵

6. P&G further represents that the company “evaluate[s] all ingredients in the product to ensure they are safe when used—both for you and the environment.”⁶

7. P&G positions itself as a company dedicated to “helping ensure a healthy planet for present and future generations.”⁷

² *About Us*, P&G, <https://www.pgcareers.com/about-us> (last visited Sept. 12, 2022).

³ Ellen Byron, *Merger Challenge: Unite Toothbrush, Toothpaste*, *The Wall Street Journal* (Apr. 24, 2007), <https://www.wsj.com/articles/SB1177378770779935>.

⁴ *Id.*

⁵ *Product Safety*, P&G, <https://us.pg.com/product-safety/> (last visited Sept. 12, 2022).

⁶ *Id.*

⁷ *Mapping Our Impact*, P&G, <https://us.pg.com/mapping-our-impact/> (last visited Sept. 12, 2022).

8. With respect to the ingredients of Oral-B Glide, Defendant emphasizes the “natural” ingredients of the Product, stating that they contain “a light coating of *natural* wax for improved grip” (emphasis added).⁸

9. Despite making those representations, Defendant does not inform the public that the Products contain PFAS, which are neither natural nor safe for consumers or the environment.

10. PFAS are a family of more than 9,000 highly fluorinated aliphatic compounds manufactured by humans and are generally known to be damaging to both humans and the environment.⁹

11. PFAS are known to be toxic to humans, even at very low levels.¹⁰ Furthermore, PFAS are considered “forever chemicals,” meaning they do not break down naturally in the environment.¹¹ Use of PFAS in the manufacturing of dental floss and other products leads to the accumulation of PFAS in humans and in soil, water, and elsewhere in the environment, threatening other organisms.¹²

12. Consumers have grown increasingly aware of and concerned about PFAS and the presence of such in their bodies, the environment, and the products they use.¹³

⁸ See, e.g., *Glide Pro-Health Deep Clean Mint Floss*, Oral-B, <https://oralb.com/en-us/products/more-products/floss/glide-pro-health-deep-clean-mint-floss/> (last visited Sept. 12, 2022).

⁹ *Nat’l Inst. of Env’t Health Sciences, Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)*, Nat’l Insts. of Health U.S. Dept. of Health and Human Servs. (“NIH”), <https://www.niehs.nih.gov/health/topics/agents/pfc/index.cfm> (last visited Sept. 12, 2022); Elsie M. Sunderland, et al., *A review of the pathways of human exposure to poly- and perfluoroalkyl substances (PFASs) and present understanding of health effects*, 29 *J. Expo Sci. Environ. Epidemiol.* 131-147 (2019), doi:10.1038/s41370-018-0094-1.

¹⁰ Abrahm Lustgarten, et al., *Suppressed Study: The EPA Underestimated Dangers of Widespread Chemicals*, ProPublica (June 20, 2018), <https://www.propublica.org/article/suppressed-study-the-epa-underestimated-dangers-of-widespread-chemicals>.

¹¹ As an illustration of how “forever” PFAS compounds are, in 1997, when a PFAS manufacturer sought “clean blood samples” to compare to PFAS-tainted samples, the only source of “clean blood” (free of PFAS contamination) was the “preserved blood of soldiers who died in the Korean War, before [PFAS] products spread worldwide.” *Poisoned Legacy*, Environmental Working Group, (May 1, 2015) <https://www.ewg.org/research/poisoned-legacy>.

¹² NIH, *supra* note 9; Francisca Pérez, et al., *Accumulation of Perfluoroalkyl Substances In Human Tissues*, 59 *Environ. Int’l* 354 (2013), doi: 10.1016/j.envint.2013.06.004.

¹³ LastWeekTonight, *PFAS: Last Week Tonight With John Oliver (HBO)*, YouTube (Oct. 4, 2021), <https://www.youtube.com/watch?v=9W74aeuqsiU>.

13. As a result, there is a growing consumer-advocacy movement to eliminate PFAS from various consumer products, including dental floss.¹⁴

14. On October 18, 2021, underscoring the gravity of the PFAS threat, the Biden-Harris Administration announced, “accelerated efforts to protect Americans from per- and polyfluoroalkyl substances (PFAS), which can cause severe health problems and persist in the environment once released, posing a serious threat across rural, suburban, and urban areas.”¹⁵

15. The Products are known to contain at least polytetrafluoroethylene (“PTFE”), one type of PFAS. PTFE is a major pollutant that is coming under increased scrutiny over its safety.¹⁶

16. For instance, PTFE used to be manufactured with PFOA, a particularly dangerous PFAS chemical, but was then reformulated with Gen X, a chemical that is also associated with a “substantial risk of injury to health or the environment.”¹⁷

17. A peer-reviewed study identified PFHxS, in addition to PTFE, as being associated with Oral-B Glide products.¹⁸

18. PFHxS is a bioaccumulative PFAS chemical that “can cause adverse health effects, including harmful effects to a developing fetus, the thyroid, and the liver.”¹⁹

¹⁴ Elicia Mayuri Cousins, et al., *Risky Business? Manufacturer and Retailer Action to Remove Per- and Polyfluorinated Chemicals From Consumer Products*, NEW SOLUTIONS: A J. of Environ. & Occupational Health Policy, 2019, 29(2), 242–65, <https://doi.org/10.1177/1048291119852674>.

¹⁵ *FACT SHEET: Biden- Harris Administration Launches Plan to Combat PFAS Pollution*, The White House, <https://bit.ly/3DZvZba> (last visited Sept. 12, 2022).

¹⁶ *The Teflon chemical PTFE is often touted as a safe cousin of toxic PFAS. But is it really?*, ChemSec (Feb. 10, 2022), <https://chemsec.org/the-teflon-chemical-ptfe-is-often-touted-as-a-safe-cousin-of-toxic-pfas-but-is-it-really/#close>.

¹⁷ Sharon Lerner, *New Teflon Toxin Causes Cancer in Lab Animals*, The Intercept (March 3, 2016), <https://theintercept.com/2016/03/03/new-teflon-toxin-causes-cancer-in-lab-animals/>.

¹⁸ K.E. Boronow, et al., *Serum concentrations of PFASs and exposure-related behaviors in African American and non-Hispanic white women*. J. Expo Sci Environ Epidemiol 29, 206–217 (2019). <https://doi.org/10.1038/s41370-018-0109-y>.

¹⁹ *Notification Level Recommendation for Perfluorohexane Sulfonic Acid (PFHxS) in Drinking Water*, OEHHA (Mar. 17, 2022), <https://bit.ly/3BwyfYW>.

19. Defendant does not disclose that the Products contain PFAS. Defendant's representations and omissions mislead D.C. consumers into believing that the Products are not made with harmful chemicals like PFAS, when in fact, they are. Defendant's marketing of the Product is false and misleading to D.C. consumers.

STATUTORY FRAMEWORK

20. This action is brought under the District of Columbia Consumer Protection Procedures Act ("CPPA"), D.C. Code § 28-3901, *et seq.*

21. The CPPA makes it a violation for "any person" to, *inter alia*:

Represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

Represent that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are of another;

Misrepresent as to a material fact which has a tendency to mislead;

Fail to state a material fact if such failure tends to mislead;

Use innuendo or ambiguity as to a material fact, which has a tendency to mislead; or

Advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered.

D.C. Code § 28-3904(a), (d), (e), (f), (f-1), (h).

22. A violation of the CPPA may occur regardless of "whether or not any consumer is in fact misled, deceived or damaged thereby." *Id.* § 28-3904.

23. The CPPA "establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia." *Id.* § 28-3901(c). The statute "shall be ***construed and applied liberally*** to promote its purpose." *Id.* (emphasis added).

24. Because Toxin Free USA is a public interest organization, it may act on behalf of the general public and bring any action that an individual consumer would be entitled to bring:

[A] public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.

Id. § 28-3905(k)(1)(D)(i). Subparagraph (A) provides: “A consumer may bring an action seeking relief from the use of a trade practice in violation of a law of the District.”

25. A public interest organization may act on behalf of the interests of consumers, *i.e.*, the general public of the District of Columbia, so long as the organization has “sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” *Id.* § 28-3905(k)(1)(D)(ii). As set forth in this Complaint, *see infra* ¶¶ 67-70, Toxin Free USA is an organization dedicated to consumer advocacy, and Toxin Free USA has previously represented D.C. consumers in similar actions under the CPPA. Toxin Free USA thus has a sufficient nexus to D.C. consumers to adequately represent their interests.

26. In addition, because Toxin Free USA is a nonprofit organization, it may also act on behalf of itself and the general public and bring an action as a “tester” organization:

A nonprofit organization may, on behalf of itself or any of its members, or on any such behalf and on behalf of the general public, bring an action seeking relief from the use of a trade practice in violation of a law of the District, including a violation involving consumer goods or services that the organization purchased or received in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.

Id. § 28-3905(k)(1)(C).

27. This is not a class action, or an action brought on behalf of any specific consumer, but an action brought by Toxin Free USA on behalf of the general public, *i.e.*, D.C. consumers generally. No class certification will be requested.

28. This action does not seek damages or restitution. Instead, Toxin Free USA seeks to end the unlawful conduct directed at D.C. consumers, *i.e.*, Defendant’s false and deceptive labeling and marketing of the Product. Remedies available under the CPPA include “[a]n injunction against the use of the unlawful trade practice.” *Id.* § 28-3905(k)(2)(D), (F). Toxin Free USA also seeks declaratory relief in the form of an order holding Defendant’s conduct to be unlawful.

FACT ALLEGATIONS

I. Defendant Represents That the Products Are Beneficial to Consumers’ Health and Fails to Disclose the Presence of PFAS.

29. Defendant advertises the Products as being “Pro-Health,”²⁰ as seen below, in images of the Product samples procured by TFUSA for testing by an independent laboratory:



²⁰ See Byron, *supra* note 3.



30. Nowhere on the packaging or website description, as seen in the images below, does Defendant disclose that the Products contain PFAS chemicals.²¹

²¹ See, e.g., *Glide Pro-Health Deep Clean Mint Floss*, Oral-B, <https://oralb.com/en-us/products/more-products/floss/glide-pro-health-deep-clean-mint-floss/> (last visited Sept. 12, 2022). Only in a seemingly unrelated blog post does Defendant mention that PTFE may be a material used *generally* in dental floss; even so, the blog post does not mention if PTFE is used by *Defendant P&G* at all, or *which* Oral-B Products (if any) contain PTFE. Nor does Defendant mention, in this blog post or anywhere else, the use of PFHxS. See *Dental Floss Types - The Pros And Cons*, Oral-B, <https://oralb.com/en-us/oral-health/why-oral-b/floss/dental-floss-types-the-pros-and-cons/> (last visited Sept. 12, 2022).



Glide Pro-Health Deep Clean Mint Floss

★★★★★ 4.4 (179) | [Write a review](#)

Pack Count: ()

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DESCRIPTION

Oral-B Glide Pro-Health Deep Clean Floss uses unique technology to deliver deep cleaning power with the extra comfort you'd expect from Glide.

- Slides up to 50% more easily in tight spaces*
- Helps prevent gingivitis as part of a complete dental plan
- Up to 90% more micro textured surface area than Glide Original
- Provides a cool, clean feeling every time you floss
- Strong and shred resistant with a light coating of natural wax for improved grip

*vs. leading floss

31. With respect to the composition or ingredients of the Products, Defendant states that the Products contain a coating of “natural” wax.²²

32. “Consumers believe that natural products are safer . . . than synthetic alternatives.”²³

33. All PFAS are man-made, or in other words, not natural.²⁴

II. The Products Contain PFAS.

34. Contrary to Defendant’s representations, the Products are not “Pro-Health,” or even safe for their use as intended, because they contain PFAS, including those known to be harmful to humans and the environment.

35. Testing shows that the Products contain high levels of organofluorine, also known as organic fluorine, which is an indicator of PFAS.²⁵

36. As previously mentioned, a scientific study identified two PFAS chemicals associated with the Product.²⁶

37. That study, which identified PFHxS and PTFE as being associated with Oral-B Glide products, also found a correlation of high levels of PFAS in the *users* of the Products.²⁷

²² See *supra* ¶ 8.

²³ Jill Young Miller, *Perception matters: Consumers prefer ‘natural’ prevention options*, The Source, (Sept. 10, 2020), <https://source.wustl.edu/2020/09/perception-matters-consumers-prefer-natural-prevention-options/>.

²⁴ *What are PFAS?*, Agency for Toxic Substances and Disease Registry, <https://www.atsdr.cdc.gov/pfas/health-effects/overview.html> (last visited Sept. 12, 2022).

²⁵ For additional context, products containing more than 100 ppm of organofluorine have recently been banned by a series of legislative bills in California due to the toxic and environmentally destructive nature of these compounds. See *California Issues New PFAS Consumer Product Regulations*, Exponent (Oct. 15, 2021), <https://bit.ly/3ug4hVP>.

²⁶ Boronow, *supra* note 18.

²⁷ *Id.*

38. When asked about the results of the study, Defendant P&G responded that “[t]he safety of the people who use our products is our top priority. Our dental floss undergoes thorough safety testing and we stand behind the safety of all our products.”²⁸

39. The study “present[ed] data on the presence of fluorine in Oral-B Glide and other dental flosses as an indicator of polytetrafluoroethylene (PTFE) in these products.”²⁹

40. Further, the study found that “Flossing with Oral-B Glide was associated with 24.9% (95% CI: 0.2–55.7) higher levels of PFHxS.”³⁰

41. As a result of the study, Toxin Free USA conducted its own PFAS screening tests on Oral-B Glide Products. The results are below:

| Product Name | Fluorine Amount | Organic Fluorine Amount |
|--|------------------------|--------------------------------|
| Oral-B Glide Pro-Health Original Floss | 89200 ppm | 89200 ppm |
| Oral-B Glide Pro-Health Deep Clean Floss | 86200 ppm | 86200 ppm |
| Oral-B Glide Pro-Health Comfort Floss | 74500 ppm | 74500 ppm |

42. Fluorine is an indicator that a product contains PFAS.³¹

²⁸ Ryan W. Miller, *Oral-B Glide floss tied to potentially toxic PFAS chemicals, study suggests*, USA Today (Jan. 10, 2019), <https://www.usatoday.com/story/news/nation/2019/01/09/oral-b-glide-floss-toxic-pfas-chemicals-study/2530661002/>.

²⁹ Boronow, *supra* note 18.

³⁰ *Id.*

³¹ See, e.g., Heather D. Whitehead, et al., *Fluorinated Compounds in North American Cosmetics*, Environ. Sci. Tech. Ltrs. 2021, 8, 7, 538–544, doi:10.1021/acs.estlett.1c00240. (PFAS concentrations were detected by screening for total fluorine); *Testing for PFAS in food packaging*, Supply Chains Solutions Center, <https://bit.ly/3fNPHwF> (last visited Sept. 12, 2022) (recommending that companies screen for PFAS “using a total fluorine method . . . [that] measures all forms of PFAS”); Jen Dickman et. al., *Packaged in Pollution: Are food chains using PFAS in packaging?*, <https://saferchemicals.org/packaged-in-pollution/> (testing for PFAS using total fluorine amounts) (last visited Sept. 12, 2022).

43. Meanwhile, organic fluorine results identify a quantity of organofluorine compounds (*e.g.*, PFAS) and excludes the possibility that fluorine may be present from natural sources.³²

44. “Since the world hasn’t found a way to test which of 9,000 PFAS are in products, the best current test methods [for PFAS] look for fluorine.”³³ Also, “when measuring organofluorine in the environment one can assume that it originates from an anthropogenic source.”³⁴

45. Additionally, “[f]luorine is regarded as an environmental and industrial contaminant.”³⁵

46. PFAS have become known as “forever chemicals” because the carbon-fluorine bonds in PFAS are extremely strong and thus are not appreciably degraded under environmental conditions. The continued use of PFAS is by definition unsustainable because it will necessarily lead to a greater concentration of PFAS in the environment, given the “forever” characteristics of these chemicals.

47. Because of their lack of “biodegradation,” PFAS “have been detected in oceans, across continents and in remote parts of the globe,” where they “contaminate[]” both “water” and

³² Lara Schultes, et al., *Total Fluorine Measurements in Food Packaging: How Do Current Methods Perform?*, 6(2) Environ. Sci. Technol. Letters 73 (2019) doi:10.1021/acs.estlett.8b00700; Takashi Okazoe, *Overview on the history of organofluorine chemistry from the viewpoint of material industry*, 85 Proceedings of the Japan Academy, Series B 276–289 (2009) doi:10.2183/pjab.85.276.

³³ Jessian Choy, *New Independent Study Confirms PFAS in Thinx, Other Products*, Sierra Club (June 3, 2021), <https://www.sierraclub.org/sierra/ask-ms-green/new-independent-study-confirms-pfas-thinx-other-products>.

³⁴ Alina Koch, et al., *Towards a comprehensive analytical workflow for the chemical characterisation of organofluorine in consumer products and environmental samples*, 123 TrAC Trends in Analytical Chemistry 115423 (2020) doi: 10.1016/j.trac.2019.02.024 (“[N]o single analytical method is versatile and robust enough to identify and quantify the vast number of PFASs, as well as other fluorine-containing agrochemicals or pharmaceuticals that might be present in a sample.”).

³⁵ Elżbieta Bombik, et al. *The influence of environmental pollution with fluorine compounds on the level of fluoride in soil, feed and eggs of laying hens in Central Pomerania, Poland*. 192 Environ. Monitoring and Assessment 178 (2020) doi:10.1007/s10661-020-8143-3.

“soil.” As a result of this contamination, humans and animals are exposed to these “toxic” chemicals through “food” and “drinking water.”³⁶

48. Due to the environmental damage caused by PFAS, the Environmental Protection Agency (“EPA”) is taking actions to address PFAS pollution.³⁷

III. The Presence of PFAS in the Products Makes Defendant’s Affirmative Marketing, as Well as Defendant’s Material Omissions, Misleading to the Reasonable Consumer.

49. Contrary to Defendant’s representations, the Product is not “Pro-Health” because it likely contains PFAS, which have a negative impact on the health of humans.³⁸

50. Reasonable consumers encountering Defendant’s Products would not expect the Product to likely contain harmful chemicals, such as PFAS.

51. 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 cancer³⁹) to be unhealthy and would not expect them to be present in their dental floss.

52. Contrary to the statements Defendant made in its environmental report,⁴⁰ reasonable consumers would also consider PFAS, which are non-biodegradable “forever chemicals,” to be environmentally unsustainable.

53. Reasonable consumers would not expect unnatural chemicals to be present in a product advertised as being made with “natural” wax.

³⁶ Marco Bonato, et al. *PFAS Environmental Pollution and Antioxidant Responses: An Overview of the Impact on Human Health*, 17 Int’l J. of Environ. Research and Public Health 21 (2020), doi:10.3390/ijerph17218020.

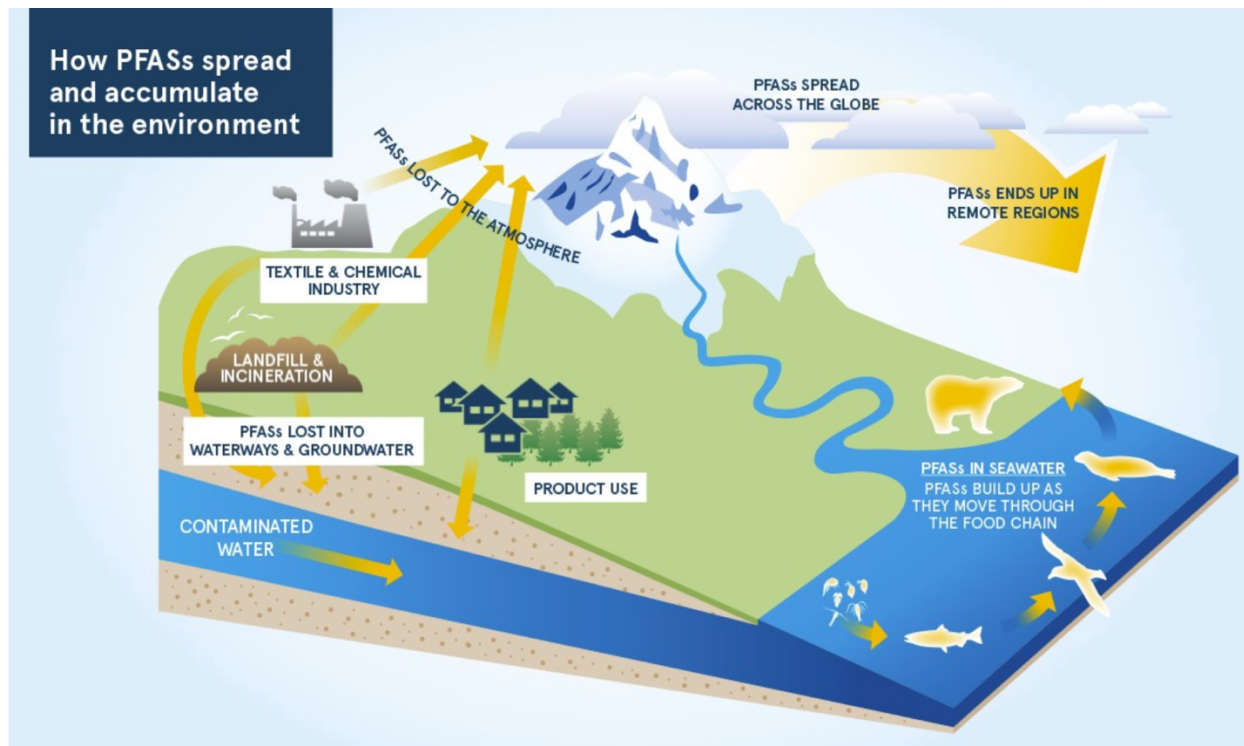
³⁷ *EPA Actions to Address PFAS*, EPA, <https://www.epa.gov/pfas/epa-actions-address-pfas> (last visited Sept. 12, 2022).

³⁸ See Sunderland, *supra* note 9 (“Multiple studies find significant associations between PFAS exposure and adverse immune outcomes in children.”).

³⁹ Linda S. Birnbaum, *The Perils of PFAS*, Gillings School of Public Health, University of North Carolina (Feb. 12, 2021), <https://sph.unc.edu/wp-content/uploads/sites/112/2019/08/The-Perils-of-PFAS-UNC-Final-2.12.21.pdf>.

⁴⁰ Mapping Our Impact, *supra* note 7.

54. Through its affirmative misrepresentations and material omissions, Defendant's conduct was and is likely to deceive the public. D.C. consumers have been, and continue to be, deceived into believing that the Product is free from toxic chemicals, when in fact, the Products contain "forever chemicals" known to be harmful to humans and to accumulate in the environment.⁴¹



55. D.C. consumers cannot discover the true nature of the Products from reading Defendant's websites or marketing materials. Ordinary consumers do not have the ability to test dental floss for PFAS or have sufficient knowledge about different methods of testing for PFAS to learn that the Product contains PFAS.

⁴¹ *PFAS 101: What are Polyfluoroalkyl Substances & What Do They Have To Do With Packaging?*, SGP (July 28, 2021), <https://www.sourcegreenpackaging.com/pfas-101-polyfluoroalkyl-forever-chemicals/>.

56. Defendant deceptively and misleadingly conceals material facts about the Products, namely, that the Products are not free from toxic chemicals or sustainable, and that the Products contain PFAS.

57. Defendant knew what representations they made in marketing the Products. They also knew how the Products were sourced and produced. Defendant thus knew, or should have known, the facts demonstrating that the Products were falsely represented to consumers, including D.C. consumers, and that consumers were not provided with material information regarding the Products.

58. Consumers care about whether or not the products they use contain toxic or harmful chemicals. Defendant P&G's omissions about the presence of PFAS in the Products are material to D.C. consumers.

59. In a survey of more than 1000 consumers, nearly all participants (98%) indicated they were interested in knowing about the presence of harmful chemicals in everyday products.⁴²

60. Also, "two-thirds (64%) of Americans are willing to pay more for sustainable products...."⁴³

61. Finally, "48% of global consumers say they make proactive health and wellness choices on a regular basis."⁴⁴

⁴² Sabrina Hartmann, et al., *Interested Consumers' Awareness of Harmful Chemicals in Everyday Products*, 29 *Environ. Sci. Eur.* 1, 4 (2017), <https://enveurope.springeropen.com/articles/10.1186/s12302-017-0127-8>.

⁴³ Michele Koch, *GreenPrint Survey Finds Consumers Want to Buy Eco-Friendly Products, but Don't Know How to Identify Them*, *BusinessWire* (Mar. 22, 2021), <https://www.businesswire.com/news/home/20210322005061/en/GreenPrint-Survey-Finds-Consumers-Want-to-Buy-Eco-Friendly-Products-but-Don%E2%80%99t-Know-How-to-Identify-Them>. In addition to consumer and industry trends, the Federal Trade Commission ("FTC") has released "Green Guides" that "caution marketers not to make unqualified general environmental benefit claims because 'it is highly unlikely that marketers can substantiate all reasonable interpretations of these claims'." See *FTC Green Guides*, 16 C.F.R. § 260.4(b) (2012).

⁴⁴ *An inside look into the 2021 global consumer health and wellness revolution*, NielsenIQ, <https://nielseniq.com/global/en/insights/report/2021/an-inside-look-into-the-2021-global-consumer-health-and-wellness-revolution/> (last visited Sept. 12, 2022).

62. D.C. Consumers are at risk of real, immediate, and continuing harm if the Products continue to be sold with the misleading representations.

JURISDICTION AND VENUE

63. This Court has personal jurisdiction over the parties in this case. Toxin Free USA consents to this Court having personal jurisdiction over the organization.

64. This Court has personal jurisdiction over Defendant P&G because the company has purposefully directed its conduct to the District and has availed itself of the benefits and protections of District of Columbia law.

65. Defendant aims marketing at consumers within the District. The Products can be, and are, purchased in the District by District consumers. Defendant's environmental report is accessible in the District.

66. This Court has subject-matter jurisdiction over this action under the CPPA, D.C. Code § 28-3901, *et seq.*

PARTIES

67. Toxin Free USA, also known as GMO Free USA, is a 501(c)(3) non-profit organization whose "mission is to harness independent science and agroecology concepts to advocate for clean and healthy food and ecological systems." Toxin Free USA educates consumers about the potential hazards of synthetic ingredients, pesticides and biocides, and genetically engineered organisms.⁴⁵

68. "In 2020 GMO Free USA expanded its public education mission beyond GMOs and GMO-related pesticides, establishing Toxin Free USA as a complementary arm to our existing organization. It is impossible to have 'clean food and environment' without addressing the many

⁴⁵ *Overview*, GMO Free USA, <https://gmofreeusa.org/about-us/overview/> (last visited Sept. 12, 2022).

toxins beyond GMOs and pesticides, such as PFAS chemicals, that have become pervasive in our food and environment.”⁴⁶

69. Toxin Free USA performs its work and advocates for consumers throughout the United States, including in the District of Columbia.

70. Toxin Free USA’s website, publications, public education, research, network building, and mobilization activities provide an important service to consumers and community activists every month.

71. On or about April 30, 2022, Toxin Free USA purchased three Oral-B Glide Pro-Health Products at Giant Food, located at 1345 Park Rd NW, Washington, DC 20010.

72. Subsequent testing commissioned by Toxin Free USA through an independent laboratory revealed the presence of fluorine and organic fluorine in the Products.

73. On July 18, 2022, Toxin Free USA sent a pre-suit letter to Defendant, to which Defendant responded on August 10, 2022, but without resolving the issues set forth in the letter.

74. Defendant P&G is incorporated in Delaware and headquartered in Ohio.

75. Defendant markets and sells the Product throughout the United States, including in the District of Columbia.

76. Upon information and belief, Defendant has caused harm to the general public of the District of Columbia.

CAUSE OF ACTION

Violations of the District of Columbia Consumer Protection Procedures Act

77. Toxin Free USA incorporates by reference all the allegations of the preceding paragraphs of this Complaint.

⁴⁶ *Id.*

78. Toxin Free USA is a nonprofit, public interest organization that brings these claims on behalf of the general public of D.C. consumers. *See* D.C. Code §§ 28-3905(k)(1)(D).

79. Through § 28-3905(k)(1)(D), the CPPA explicitly allows for public interest standing and allows a public interest organization to stand in the shoes of a consumer to seek relief from any violation of the CPPA.

80. Through § 28-3905(k)(1)(C), the CPPA explicitly allows nonprofit organizations acting on behalf of the general public to establish “tester” standing.

81. Defendant P&G is a “person” and a merchant that provides “goods” within the meaning of the CPPA. *See id.* § 28-3901(a)(1), (3), (7).

82. As alleged in this Complaint, Defendant has misrepresented the quality of the Products and omitted the material fact that the Products contain PFAS.

83. Thus, Defendant has violated the CPPA by “represent[ing] that goods . . . have a source . . . [or] characteristics . . . that they do not have”; “represent[ing] that goods . . . are of a particular standard, quality, grade, style, or model, if in fact they are of another”; “misrepresent[ing] as to a material fact which has a tendency to mislead”; “fail[ing] to state a material fact if such failure tends to mislead”; “us[ing] innuendo or ambiguity as to a material fact, which has a tendency to mislead”; and “advertis[ing] . . . goods . . . without the intent to sell them as advertised.” *See id.* § 28-3904(a), (d), (e), (f), (f-1), (h).

JURY TRIAL DEMAND

84. Toxin Free USA hereby demands a trial by jury.

PRAYER FOR RELIEF

Wherefore, Plaintiff Toxin Free USA prays for judgment against Defendant P&G and requests the following relief:

- A. A declaration that Defendant's conduct is in violation of the CPPA;
- B. An order enjoining Defendant's conduct found to be in violation of the CPPA; and
- C. An order granting Plaintiff costs and disbursements, including reasonable attorneys' fees and expert fees, and prejudgment interest at the maximum rate allowable by law.

DATED: September 12, 2022

RICHMAN LAW & POLICY



Kim E. Richman (D.C. Bar No. 1022978)
1 Bridge Street, Suite 83
Irvington, NY 10533
T: (914) 693-2018
krichman@richmanlawpolicy.com

Superior Court of the District of Columbia

CIVIL DIVISION- CIVIL ACTIONS BRANCH

GMO FREE USA d/b/a TOXIN FREE USA,
P.O. Box 458, Unionville, CT 06085

INFORMATION SHEET

Case Number: _____

vs

Date: Sept. 12, 2022

THE PROCTER & GAMBLE COMPANY,
One Procter & Gamble Plaza, Cincinnati, OH 45201

One of the defendants is being sued
in their official capacity.

| | |
|---|--|
| Name: <i>(Please Print)</i> Kim E. Richman | Relationship to Lawsuit |
| Firm Name: RICHMAN LAW & POLICY | <input checked="" type="checkbox"/> Attorney for Plaintiff |
| Telephone No.: Six digit Unified Bar No.: (914) 693-2018 1022978 | <input type="checkbox"/> Self (Pro Se) |
| | <input type="checkbox"/> Other: _____ |

TYPE OF CASE: Non-Jury 6 Person Jury 12 Person Jury
Demand: \$ _____ Other: _____

PENDING CASE(S) RELATED TO THE ACTION BEING FILED

Case No.: _____ Judge: _____ Calendar #: _____

Case No.: _____ Judge: _____ Calendar#: _____

| | | |
|---|--|--|
| NATURE OF SUIT: <i>(Check One Box Only)</i> | | |
| A. CONTRACTS | COLLECTION CASES | |
| <input type="checkbox"/> 01 Breach of Contract | <input type="checkbox"/> 14 Under \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 16 Under \$25,000 Consent Denied |
| <input type="checkbox"/> 02 Breach of Warranty | <input type="checkbox"/> 17 OVER \$25,000 Pltf. Grants Consent | <input type="checkbox"/> 18 OVER \$25,000 Consent Denied |
| <input type="checkbox"/> 06 Negotiable Instrument | <input type="checkbox"/> 27 Insurance/Subrogation | <input type="checkbox"/> 26 Insurance/Subrogation |
| <input type="checkbox"/> 07 Personal Property | Over \$25,000 Pltf. Grants Consent | Over \$25,000 Consent Denied |
| <input type="checkbox"/> 13 Employment Discrimination | <input type="checkbox"/> 07 Insurance/Subrogation | <input type="checkbox"/> 34 Insurance/Subrogation |
| <input type="checkbox"/> 15 Special Education Fees | Under \$25,000 Pltf. Grants Consent | Under \$25,000 Consent Denied |
| | <input type="checkbox"/> 28 Motion to Confirm Arbitration | |
| | Award (Collection Cases Only) | |
| B. PROPERTY TORTS | | |
| <input type="checkbox"/> 01 Automobile | <input type="checkbox"/> 03 Destruction of Private Property | <input type="checkbox"/> 05 Trespass |
| <input type="checkbox"/> 02 Conversion | <input type="checkbox"/> 04 Property Damage | |
| <input type="checkbox"/> 07 Shoplifting, D.C. Code § 27-102 (a) | | |
| C. PERSONAL TORTS | | |
| <input type="checkbox"/> 01 Abuse of Process | <input type="checkbox"/> 10 Invasion of Privacy | <input type="checkbox"/> 17 Personal Injury- (Not Automobile, Not Malpractice) |
| <input type="checkbox"/> 02 Alienation of Affection | <input type="checkbox"/> 11 Libel and Slander | <input type="checkbox"/> 18 Wrongful Death (Not Malpractice) |
| <input type="checkbox"/> 03 Assault and Battery | <input type="checkbox"/> 12 Malicious Interference | <input type="checkbox"/> 19 Wrongful Eviction |
| <input type="checkbox"/> 04 Automobile- Personal Injury | <input type="checkbox"/> 13 Malicious Prosecution | <input type="checkbox"/> 20 Friendly Suit |
| <input checked="" type="checkbox"/> 05 Deceit (Misrepresentation) | <input type="checkbox"/> 14 Malpractice Legal | <input type="checkbox"/> 21 Asbestos |
| <input type="checkbox"/> 06 False Accusation | <input type="checkbox"/> 15 Malpractice Medical (Including Wrongful Death) | <input type="checkbox"/> 22 Toxic/Mass Torts |
| <input type="checkbox"/> 07 False Arrest | <input type="checkbox"/> 16 Negligence- (Not Automobile, Not Malpractice) | <input type="checkbox"/> 23 Tobacco |
| <input type="checkbox"/> 08 Fraud | | <input type="checkbox"/> 24 Lead Paint |

SEE REVERSE SIDE AND CHECK HERE IF USED

Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants (DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify, Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input type="checkbox"/> 31 Housing Code Regulations |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

- | | | |
|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena [Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1) (Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

- | | |
|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |



Attorney's Signature

9/12/2022

Date