

**CLARKSON LAW FIRM, P.C.**

Glenn A. Danas (SBN 270317)  
gdanas@clarksonlawfirm.com  
Kristen G. Simplicio (SBN 263291)  
ksimplicio@clarksonlawfirm.com  
Maxim Gorbunov (SBN 343128)  
mgorbunov@clarksonlawfirm.com  
22525 Pacific Coast Highway  
Malibu, CA 90265  
Telephone: (213) 788-4050  
Facsimile: (213) 788-4070

*Attorneys for Plaintiffs, the Putative Class, and all  
other Aggrieved Employees*

[Additional Counsel Listed on Signature Page]

ELECTRONICALLY  
**FILED**  
Superior Court of California,  
County of San Francisco  
**06/05/2025**  
Clerk of the Court  
BY: JUDITH NUNEZ  
Deputy Clerk

**THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

LAUREN DANN, KATHRYN CUDE, and  
MARY YOON, individually and on behalf of  
themselves and all others similarly situated,

Plaintiff,

v.

THE RODAN + FIELDS COMPANY,  
RODAN + FIELDS LLC, DR. KATIE  
RODAN, DR. KATHY FIELDS, DIMITRI  
HALOULOS, TIM ENG, LAURA  
BEITLER, DALIA STODDARD, JESSICA  
RAEFIELD, JANINE WEBER, and DOES  
1-100,

Defendants.

Case No. CGC-24-612800

**SECOND AMENDED CLASS ACTION  
COMPLAINT**

**JURY TRIAL DEMANDED**

- (1) Failure to Pay Minimum Wage and Liquidated Damages (Labor Code §§ 1182.12, 1194, 1197, 1197.1, at 1198)
- (2) Failure to Provide Meal Periods or Meal Premium Wages (Labor Code §§ 226.7, 512(a), 1198; IWC Wage Order 4-2001);
- (3) Failure to Provide Rest Periods or Rest Break Premium Wages (Labor Code §§ 226.7, 558.1);
- (4) Failure to Keep Requisite Payroll Records (Labor Code § 1174(d));
- (5) Failure to Provide Timely and Accurate Wage Statements (Labor Code § 226(a), 226(e));
- (6) Failure to Timely Pay Wages (Labor Code § 204)
- (7) Failure to Pay Wages Upon Separation (Labor Code § 201-203);
- (8) Failure to Reimburse Business Expenses (Labor Code §§ 450, 2802; IWC Wage Order 4-2001);
- (9) Unfair Competition (Bus. & Prof. Code §§ 17200 et seq.)
- (10) Violations of the Private Attorney General Act (Labor Code §§ 2698-2699.8)

1 **TYCKO & ZAVAREEI LLP**

2 Shana H. Khader (*pro hac vice* forthcoming)

3 Skhader@tzlega.com

4 2000 Pennsylvania Avenue,

5 Northwest, Suite 1010

6 Washington, District of Columbia 20006

7 Telephone: (202) 973-0900

8 Facsimile: (202) 973-0950

9 **TYCKO & ZAVAREEI LLP**

10 Emily Feder Cooper (State Bar No. 352951)

11 ecooper@tzlegal.com

12 1970 Broadway, Suite 1070

13 Oakland, California 94612

14 Telephone: (510) 254-6808

15 Facsimile: (202) 973-0950

1 Plaintiffs LAUREN DANN, KATHRYN CUDE, AND MARY YOON (“Plaintiffs”) bring this  
2 action, individually, and on behalf of a class of similarly situated individuals against RODAN +  
3 FIELDS, LLC., DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG,  
4 LAURA BEITLER, DALIA STODDARD, JESSICA RAEFIELD, and JANINE WEBER  
5 (collectively, “Defendants” or “R+F”). Plaintiffs’ allegations against Defendants are based upon  
6 investigation carried out by Plaintiffs’ counsel, except for allegations pertaining specifically to  
7 Plaintiffs, which are based upon Plaintiffs’ personal knowledge.

## 8 **I. INTRODUCTION**

9 1. Rodan and Fields, LLC (“Rodan + Fields” or “R+F”) is a massively successful  
10 company that, for years, has exploited its California salesforce by misclassifying them as independent  
11 contractors rather than as employees. These sales and marketing personnel comprise the Independent  
12 Consultant workforce (or “Consultant Community,” as referred to by R+F) and work under R+F’s  
13 rigid direction to promote and sell a variety of R+F skincare cosmetics products (collectively, the  
14 “Products” or “R+F Products”). In exchange for Consultants’ work promoting and educating the  
15 public about the brand and Products on online social media, acquiring new customers, engaging  
16 existing customers, recruiting and training new Consultants, and driving traffic to R+F owned  
17 websites, R+F pays Consultants at most a paltry commission when customers purchase products  
18 from their own Personal R+F Website (“Consultant Websites”).

19 2. Dermatologists Dr. Katie Rodan and Dr. Kathy Fields founded the skincare brand  
20 Rodan + Fields in 2002. In 2003, they sold their company to Estée Lauder Companies who launched  
21 their products in department stores. Then in 2007, the duo repurchased R+F, launched their online  
22 platform, and shifted R+F’s business model entirely to online sales and independent Consultants  
23 rather than department stores.<sup>1</sup>

---

24  
25 <sup>1</sup> *About Us*, Rodan + Fields, <https://www.rodanandfields.com/en-us/about->

3. R+F achieved tremendous success through 2018 as it grew its workforce of Consultants and it increased its revenue in tandem. Revenues skyrocketed an average of 93% per year between 2010 and 2015, growing from \$24 million to \$627 million during those six years.<sup>2</sup> In 2016, R+F had around 200,000 Consultants, and it exceeded \$1 billion in sales for the first time.<sup>3</sup> In 2018, private equity firm Texas Pacific Group (“TPG”) valued R+F at \$4 billion and purchased a minority stake in the company.<sup>4</sup> That year, R+F had 411,000 Consultants,<sup>5</sup> and Moody’s Investors Service (“Moody’s”) reported that R+F “generate[d] about \$1.7 billion in annual revenue.”<sup>6</sup> Each year since, Consultant enrollment figures have declined. Predictably, annual revenues have, too. In 2022, R+F’s revenue reduced to \$700 million, and it had a workforce of only 197,000 Consultants.<sup>7</sup> Since 2018, Moody’s, which periodically evaluates R+F’s creditworthiness, has issued multiple downgrades and reported that “continued underperformance with sales . . . [has been] fueled by a significant decline in new enrollment of its Independent Sales Consultants.”<sup>8</sup>

4. R+F’s success—and ability to avoid accountability for its employees thus far—turns

---

[us#:~:text=Rodan%20%2B%20Fields%20is%20a%20leading,confidence%20that%20comes%20with%20it](https://perma.cc/YW88-6AG3) [https://perma.cc/YW88-6AG3].

<sup>2</sup> Kate Vinton, *How Two Dermatologists Built A Billion Dollar Brand In Their Spare Time*, Forbes (Jun. 1, 2016), <https://www.forbes.com/sites/katevinton/2016/06/01/billion-dollar-brand-proactiv-rodan-fields/?sh=79662f2c3bfe> [https://perma.cc/E3VF-UGQ5].

<sup>3</sup> See e.g., Michelle Castillo, *How Rodan + Fields bought back their skincare company and topped \$1 billion in sales*, CNBC (Jan. 17, 2018), <https://www.cnbc.com/2017/12/30/rodan-fields-selfies-and-social-media-1-billion-revenue.html> [https://perma.cc/N5K5-KYME].

<sup>4</sup> Lisette Voytko, *A Wrinkle In Time: Why Rodan + Fields’ Founders Lost Their Billionaire Status*, Forbes (October 13, 2020); <https://www.forbes.com/sites/lisettevoytko/2020/10/13/a-wrinkle-in-time-why-rodan--fields-founders-lost-their-billionaire-status/?sh=4f634a2064b2> [https://perma.cc/7TRX-BXPP]; see also Megan Carroll, *Leading Skincare Brand Rodan + Fields Partners With TPG* (May 3, 2018), <https://www.rodanandfields.com/en-us/press/leading-skincare-brand-rodan-and-fields-partners-with-tpg> [https://perma.cc/G36P-CUJ4].

<sup>5</sup> Voytko, *supra*, n.4.; see also Carroll, *supra*, n.4.

<sup>6</sup> *Moody’s assign B1 CFR to Rodan & Fields; outlook stable*, Rating Action (May 23, 2018), [https://www.moodys.com/research/Moodys-assign-B1-CFR-to-Rodan-Fields-outlook-stable-Rating-Action--PR\\_383607](https://www.moodys.com/research/Moodys-assign-B1-CFR-to-Rodan-Fields-outlook-stable-Rating-Action--PR_383607) [https://perma.cc/MSF6-GN7A] (reporting that R+F “generates about \$1.7 billion in annual revenue”).

<sup>7</sup> R+F *Income Disclosure Statements 2022-2019* (Exh. C) at p. 2.

<sup>8</sup> *Moody’s downgrades Rodan + Fields’ CFR to B3; ratings remain on review for downgrade*, Rating Action (Jan. 24, 2020); [https://www.moodys.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-B3-ratings-remain-Rating-Action--PR\\_417592](https://www.moodys.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-B3-ratings-remain-Rating-Action--PR_417592) [https://perma.cc/TQK8-VBNT] (reporting that the company “generates about \$1.3 billion in annual revenue”).

1 on the fact that it operates as multi-level marketing business (“MLM”). R+F’s recruitment tactics  
2 purportedly promise its prospective Consultants the opportunity to build a business.<sup>9</sup> The reality of  
3 working for R+F is starkly different, though. Consultants supply free brand awareness and perform  
4 uncompensated marketing of R+F Products, sales support for existing and new customers, and  
5 onboarding support and periodic trainings for other Consultants that would otherwise cost R+F  
6 millions of dollars annually.

7         5.         R+F Consultants market and sell R+F Products under its pervasive control and  
8 direction. Selling product—the main responsibility of Consultants—is work that is precisely in line  
9 with R+F’s usual course of business. Despite their title as a Consultant,” they function as R+F’s  
10 salesforce and are not engaged in an independently established trade, occupation, or business as  
11 salespeople.

12         6.         While the MLM industry has long relied on “direct sales” exemptions to justify its  
13 exploitation of sales personnel, the California Exemption was written 40 years ago, and among other  
14 things, is expressly limited only to those salespersons making “in person” sales, such as door-to-door  
15 salespeople and home “Tupperware party” hosts. It does not cover R+F’s modern, online business  
16 model, where Consultants drive social media engagement under its guidance and direction, directing  
17 consumers to R+F-controlled websites, where R+F accepts and processes the sales and fulfills the  
18 orders, while also collecting and benefiting from the consumer data it acquires from these leads.

19         7.         To protect its intellectual property, brand image, and legal interests, R+F requires  
20 Consultants to comply with a byzantine series of rules and regulations. The central document is the  
21 “Policies and Procedures,” a massive document spanning more than 100 pages when taking into  
22 account its many appendices. There, R+F includes directives for Consultants to learn and utilize to  
23 market Products consistent with its instructions and any additional documents, notices, and guidelines

---

24  
25 <sup>9</sup> See Exh. C at p. 1 (describing the work of a Consultant as “build[ing] an R+F business,” comprised of “Product Ambassadors” and three types of “Business Builders”).

1 provided to Consultants by R+F throughout their working relationship with the company. Together,  
2 these documents detail the ways in which R+F exerts significant control over Consultants in their  
3 limited, but critical role as social media marketers.

4 8. R+F does not require or even suggest that sales be made “in person.” R+F places  
5 cumbersome restrictions on when and how Consultants may order products and limits the locations  
6 in which the products may be sold, effectively preventing any meaningful sales that are “in person.”  
7 R+F treats “in person” sales as outside of its elaborate “Compensation Plan,” in other words,  
8 Consultants cannot build out their business through in person sales because they are not calculated  
9 for the purposes of Achievement Rewards or advancing commissions brackets. R+F explicitly  
10 “discourages Consultants from engaging in door-to-door solicitation for sales.” *Policies & Procedures*  
11 (Exh. B) § 6o(iv). The result is that virtually all sales occur via R+F-controlled websites, where R+F  
12 supplies the content, sets the prices, and fulfills the order.

13 9. R+F has been able to recruit Consultants in part because its Products offerings and  
14 business model lend itself so well to online marketing, and because R+F prioritizes business resources  
15 to streamline the Consultants’ online marketing work. R+F leadership touts that they “don’t use the  
16 regular marketing and advertising” and that “everything in Rodan + Fields is run on [Consultants’]  
17 smartphone[s].”<sup>10</sup>

18 10. The lack of discretion R+F gives to its Consultants is evidenced by the fact that few  
19 can or do actually earn money under its compensation structure. For instance, in 2022, 33% of  
20 Consultants, did not receive a single commission check during the entire year.<sup>11</sup> Many more saw their  
21 meager commissions erased by R+F’s monthly fee of \$24.95—required for anyone wanting access to  
22 their own Consultant Websites and the various online tools and platforms needed to perform their  
23 work. R+F only tracks the percentage that received commission, not whether Consultants earned net

---

24 <sup>10</sup> Castillo, *supra*, n.3.

25 <sup>11</sup> Exh. C at p. 2.

1 income from their hard work after deducting for purchases necessary to perform the work.

2       11. The willful, intentional nature of R+F’s decision to misclassify its California  
3 Consultants is apparent from its decision to operate as an MLM, a business model that virtually  
4 guarantees the company will secure hundreds of thousands of hours of free or below-market labor  
5 each year to execute a centralized marketing and growth strategy. Moreover, R+F’s willful decision to  
6 misclassify its salesforce is evident from its choice to remain organized in this way years after the  
7 California Supreme Court’s seminal decision in *Dynamex v. Superior Court*, 4 Cal. 5th 903 (2018) and the  
8 California legislature’s codification of the “ABC Test” in AB 5, both of which made clear that its  
9 salesforce were in fact employees, in the manner R+F deploys and relies on them. In press releases  
10 and interviews over the years, R+F executives have repeated extolled the work of the Consultant  
11 Community and its low-cost compensation scheme. As both an MLM and a California-based  
12 company, R+F knew the law. It is a sophisticated corporate actor and an active member of a national  
13 trade association (Direct Selling Association) that issues guidance and warnings to MLMs as to the  
14 changing law on misclassification.

15       12. Plaintiffs Lauren Dann, Kathryn Cude, and Mary Yoon, were such victims of Rodan  
16 + Fields’s practices. Like all Consultants, Plaintiffs were trained by other Consultants and R+F  
17 materials, and they were required to market and sell Products to the public in accordance with R+F’s  
18 directives and strict limitations. In return, Plaintiffs were paid virtually nothing, while incurring  
19 unreimbursed personal costs to perform the work on R+F’s behalf.

20       13. For these reasons, Plaintiffs bring this action to recover unpaid wages, overtime  
21 compensation, penalties, interest, injunctive relief, other equitable remedies, damages, and reasonable  
22 attorneys’ fees and costs under the California Labor Code, Cal. Lab. Code §§ 201, 202, 203, 204,  
23 226(a), 226.7, 226.8, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800, 2802 and 2698 *et seq.* (the “CLC”),  
24 IWC Wage Order 4 (8 Cal. Code Regs. § 11040), and California Unfair Competition Law (Cal Bus. &  
25 Prof Code §§ 17200 *et seq.*). Plaintiffs assert allegations as Private Attorney Generals pursuant to the

1 Private Attorneys General Act (Cal. Labor Code §§ 2698-2699.8). In addition, Rodan + Fields's  
2 conduct violates various municipal and county codes in California, including but not limited to City  
3 of L.A. Cal. Code art. 7-7.5; County of Los Angeles Code § 8.100.040, *et seq.*, San Francisco Cal. Code  
4 12R.

5 14. Upon information and belief, R+F has not addressed and/or changed its unlawful  
6 practices and has continued to deprive employees of millions of dollars in straight and overtime  
7 compensation. By bringing this action, Plaintiffs intend to stop this ongoing and unlawful practice and  
8 recover back wages and overtime to which she is rightfully entitled.

## 9 **II. JURISDICTION AND VENUE**

10 15. The monetary damages, civil penalties, restitution, and equitable relief sought by  
11 Plaintiffs and the class members exceed the minimal jurisdiction limits of the Superior Court and will  
12 be established according to proof at trial.

13 16. This Court has jurisdiction over this action pursuant to the California Constitution,  
14 Article VI, section 10. The statutes under which this action is brought do not specify any other basis  
15 for jurisdiction.

16 17. This Court has jurisdiction over all Defendants because, upon information and belief,  
17 Defendants are citizens of California, have sufficient minimum contacts in California, or otherwise  
18 intentionally avail themselves of the California market so as to render the exercise of jurisdiction over  
19 them by California courts consistent with traditional notions of fair play and substantial justice.  
20 Moreover, the acts and omissions detailed herein occurred in California.

21 18. Venue is proper in this Court because a majority of the acts, events, and violations  
22 occurred in this County. Upon information and belief, Defendants maintain offices—indeed, its  
23 principal office—and have agents, employ individuals, and/or transact business in the State of  
24 California, County of San Francisco.



1   **III.   THE PARTIES**

2           19.     Plaintiff Lauren Dann is an individual and resident of Ventura, California.

3           20.     Plaintiff Kathryn Cude is an individual and a resident of Palm Desert, California.

4           21.     Plaintiff Mary Yoon is an individual and a resident of Corona, California.

5           22.     Rodan + Fields, LLC, known as Rodan + Fields or R+F. R+F has its principal place  
6 of business in San Ramon, California, and is incorporated under the laws of the State of Delaware.

7           23.     Plaintiffs are informed and believe and based thereon allege that DR. KATIE  
8 RODAN is, and at all times relevant hereto was, an individual residing in California, as well as Founder  
9 for Rodan + Fields, LLC, and DOES 1-100, as further defined below. Plaintiffs are further informed  
10 and believe and based thereon allege that DR. KATIE RODAN, in her capacity as Founder of Rodan  
11 + Fields, LLC, exercised control over the wages, hours and/or working conditions of Plaintiffs and  
12 other aggrieved employees, including by informing employees when to report to work and what work  
13 hours should actually be recorded, violated, or caused to be violated, the above-referenced and below-  
14 referenced Labor Code provisions in violation of Labor Code section 558.1.

15          24.     Plaintiffs are informed and believe and based thereon allege that DR. KATHY  
16 FIELDS is, and at all times relevant hereto was, an individual residing in California, as well as Founder  
17 for Rodan + Fields, LLC, and DOES 1-100, as further defined below. Plaintiffs are further informed  
18 and believe and based thereon allege that DR. KATHY FIELDS, in her capacity as Founder of Rodan  
19 + Fields, LLC, exercised control over the wages, hours and/or working conditions of Plaintiffs and  
20 other aggrieved employees, including by informing employees when to report to work and what work  
21 hours should actually be recorded, violated, or caused to be violated, the above-referenced and below-  
22 referenced Labor Code provisions in violation of Labor Code section 558.1.

23          25.     Plaintiffs are informed and believe and based thereon allege that DIMITRI  
24 HALOULOS is, and at all times relevant hereto was, an individual residing in California, as well as  
25 Chief Executive Officer for Rodan + Fields, LLC, and DOES 1-100, as further defined below.

1 Plaintiffs are further informed and believes and based thereon allege that DIMITRI HALOULOS, in  
2 his capacity as the Chief Executive Officer of Rodan + Fields, LLC, exercised control over the wages,  
3 hours and/or working conditions of Plaintiffs and other aggrieved employees, including by informing  
4 employees when to report to work and what work hours should actually be recorded, violated, or  
5 caused to be violated, the above-referenced and below-referenced Labor Code provisions in violation  
6 of Labor Code section 558.1.

7         26. Plaintiffs are informed and believe and based thereon allege that TIM ENG is, and at  
8 all times relevant hereto was, an individual residing in California, as well as Interim Chief Financial  
9 Officer for Rodan + Fields, LLC, and DOES 1-100, as further defined below. Plaintiffs are further  
10 informed and believe and based thereon allege that TIM ENG, in his capacity as the Interim Chief  
11 Financial Officer of Rodan + Fields, LLC, exercised control over the wages, hours and/or working  
12 conditions of Plaintiffs and other aggrieved employees, including by informing employees when to  
13 report to work and what work hours should actually be recorded, violated, or caused to be violated,  
14 the above-referenced and below-referenced Labor Code provisions in violation of Labor Code section  
15 558.1.

16         27. Plaintiffs are informed and believe and based thereon allege that LAURA BEITLER  
17 is, and at all times relevant hereto was, an individual residing in California, as well as Chief Global  
18 Sales Officer for Rodan + Fields, LLC, and DOES 1-100, as further defined below. Plaintiffs are  
19 further informed and believe and based thereon allege that LAURA BEITLER, in her capacity as the  
20 Chief Global Sales Officer of Rodan + Fields, LLC, exercised control over the wages, hours and/or  
21 working conditions of Plaintiffs and other aggrieved employees, including by informing employees  
22 when to report to work and what work hours should actually be recorded, violated, or caused to be  
23 violated, the above-referenced and below-referenced Labor Code provisions in violation of Labor  
24 Code section 558.1.

25         28. Plaintiffs are informed and believe and based thereon allege that DALIA

1 STODDARD is, and at all times relevant hereto was, an individual residing in California, as well as  
2 Chief Brand and Innovation Officer for Rodan + Fields, LLC, and DOES 1-100, as further defined  
3 below. Plaintiffs are further informed and believe and based thereon allege that DALIA  
4 STODDARD, in her capacity as the Chief Brand and Innovation Officer of Rodan + Fields, LLC,  
5 exercised control over the wages, hours and/or working conditions of Plaintiffs and other aggrieved  
6 employees, including by informing employees when to report to work and what work hours should  
7 actually be recorded, violated, or caused to be violated, the above-referenced and below-referenced  
8 Labor Code provisions in violation of Labor Code section 558.1.

9         29. Plaintiffs are informed and believe and based thereon allege that JESSICA  
10 RAEFIELD is, and at all times relevant hereto was, an individual residing in California, as well as  
11 Chief Human Resources Officer for Rodan + Fields, LLC, and DOES 1-100, as further defined below.  
12 Plaintiffs are further informed and believe and based thereon allege that JESSICA RAEFIELD, in her  
13 capacity as the Chief Human Resources Officer of Rodan + Fields, LLC, exercised control over the  
14 wages, hours and/or working conditions of Plaintiffs and other aggrieved employees, including by  
15 informing employees when to report to work and what work hours should actually be recorded,  
16 violated, or caused to be violated, the above-referenced and below-referenced Labor Code provisions  
17 in violation of Labor Code section 558.1.

18         30. Plaintiffs are informed and believe and based thereon allege that JANINE WEBER  
19 is, and at all times relevant hereto was, an individual residing in California, as well as Senior Vice  
20 President, North American Sales for Rodan + Fields, LLC, and DOES 1-100, as further defined  
21 below. Plaintiffs are further informed and believe and based thereon allege that JANINE WEBER, in  
22 her capacity as the Senior Vice President, North American Sales of Rodan + Fields, LLC, exercised  
23 control over the wages, hours and/or working conditions of Plaintiffs and other aggrieved employees,  
24 including by informing employees when to report to work and what work hours should actually be  
25 recorded, violated, or caused to be violated, the above-referenced and below-referenced Labor Code

provisions in violation of Labor Code section 558.1.

31. Plaintiffs allege that Defendants RODAN + FIELDS, LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BETTLER, DALIA STODDARD, JESSICA RAEFIELD, and JANINE WEBER are “persons” who violated or caused to be violated California Labor Code §§ 558, and 1197.1 and the Industrial Welfare Commission (“IWC”) Wage Orders.

32. The true names and capacities of Defendants sued as DOES 1-100, inclusive, are unknown to Plaintiffs, who therefore sues said Defendants by such fictitious names pursuant to section 474 of the California Code of Civil Procedure. Plaintiffs will seek leave to amend this Demand when said true names and capacities have been ascertained.

#### **IV. FACTS COMMON TO ALL CLASS MEMBERS**

##### **A. Rodan + Fields Is a Successful Multilevel Marketing Company That Is Dependent on its Consultants to Engage in Social Media Marketing on Its Behalf**

33. Rodan + Fields was founded 2002 by dermatologists Dr. Katie Rodan and Dr. Kathy Fields with the mission of “giv[ing] consumers the best skin of their lives.”<sup>12</sup> The founders describe their company and brand as “Born in the digital era and designed to directly reach consumers where they live and shop via mobile and social networks, Rodan + Fields is disrupting the industry with its regimen-based skincare and powerful Independent Consultant community.”<sup>13</sup> Accordingly, Rodan + Fields promotes the positive impact that it has on Consultants’ by providing them opportunities to build their own businesses.

34. In 2003, the Dr. Katie Rodan and Dr. Kathy Fields sold their company to Estée Lauder

---

<sup>12</sup> RODAN + FIELDS’ INNOVATION PREVAILS; COMPANY NAMED THE #1 SKINCARE BRAND IN U.S. AND NORTH AMERICA IN 2018, Rodan + Fields, <https://www.rodanandfields.com/en-us/press/rodan-and-fields-named-number-one-skincare-brand-us-north-america-2018> [https://perma.cc/9CHD-TLG3].

<sup>13</sup> *Id.*

Companies, which launched their products in department stores. In 2007, after observing for that “retail was dying,”<sup>14</sup> the founders bought back their company. It remains privately held.

35. Believing that word-of-mouth was an authentic way to share information about its products, the 2008 relaunch used a “Consumer Connected Commerce business model.”<sup>15</sup> In other words, the entire business model—and the founder’s decision to repurchase their company—rested on the opportunity to shift to online sales and work to be performed by Consultants.<sup>16</sup>

36. After repurchasing R+F, Dr. Rodan and Dr. Fields launched their online platform and shifted R+F’s business model entirely to online sales and decided to rely predominantly on independent contractors to sell their Products rather than department stores.<sup>17</sup> It began operating as an MLM, “powered by a direct selling business model and Independent Consultant Community.”<sup>18</sup> By 2016, R+F had enrolled approximately 200,000 Consultants to sell its Products, and that year exceeded \$1 billion in sales.<sup>19</sup> In 2017, it reached over \$1.5 billion in sales.<sup>20</sup> Then, R+F’s annual revenue peaked in 2018 at \$1.7 billion<sup>21</sup>—the same year that private equity firm TPG valued the company at \$4 billion and purchased a minority stake in the company.<sup>22</sup> Subsequently, Moody’s Investors Services began reviewing the business to evaluate its creditworthiness,<sup>23</sup> and has repeatedly

---

<sup>14</sup> Castillo, *supra*, n.3.

<sup>15</sup> *About Us*, *supra*, n1.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Rodan + Fields Adds New Talent To Their Leadership Team As Together With Their Consultant Community They Power Forward Their Life-Changing Mission*, PR Newswire, <https://www.prnewswire.com/news-releases/rodan--fields-adds-new-talent-to-their-leadership-team-as-together-with-their-consultant-community-they-power-forward-their-life-changing-mission-301359190.html> [https://perma.cc/K89F-N37E].

<sup>19</sup> See e.g., Castillo, *supra*, n.3.

<sup>20</sup> *RODAN + FIELDS NAMED THE #1 SKINCARE BRAND IN THE U.S. AND NORTH AMERICA IN 2017*, Rodan + Fields, <https://www.rodanandfields.com/en-us/press/rodan-and-fields-number-one-skincare-brand-us-north-america> [https://perma.cc/SR5Z-JJAH].

<sup>21</sup> *Moody’s assign B1 CFR to Rodan & Fields; outlook stable*, *supra*, n.6 (reporting that R+F “generates about \$1.7 billion in annual revenue”).

<sup>22</sup> Voytko, *supra*, n.4; see also Carroll, *supra*, n.4.

<sup>23</sup> See generally, *Rodan & Fields, LLC*, Moody’s Investor Services Rating Action,

1 recognized that “Independent Sales Consultants are a significant driver of growth across the  
2 company’s multi-level marketing business model.”<sup>24</sup>

3 37. While all Consultants are engaged in work marketing the products to consumers, those  
4 who have not built a Downline are sometimes referred to as “Product Ambassadors,” whereas those  
5 with at least one Downline are sometimes referred to as “Business Builders.”

6 38. Consultants are responsible for marketing and generating brand awareness; they drive  
7 social media engagement, posting on Instagram and other social media outlets. For example, in  
8 advance of the launch of a new Product, R+F urges its Consultants to purchase and promote the  
9 product on social media using R+F talking points and graphics and to direct customers to R+F-  
10 controlled websites to make their purchases. Consultants heed to R+F’s directives and also pass this  
11 information on to their Downlines, who in turn promote the product to customers on social media as  
12 well. The result is a coordinated marketing campaign that increases exposure and awareness of the  
13 product release—and the R+F brand more broadly, and is a critical part of R+F’s marketing strategy.  
14 The reality is, R+F expects and incentivizes Consultants to be generating brand awareness and  
15 marketing products all the time—and to instruct and coach their Downlines’ to do the same.

16 39. R+F Leadership continuously praises the Consultants for their work promoting the  
17 R+F brand and attributes R+F’s success to their commitment and hard work. After R+F was named  
18 the number one in skincare brand in the United States and across North America, both for the second  
19 time, former CEO and President, Diane Dietz, shared:

20  
21 <https://www.moodys.com/credit-ratings/Rodan-Fields-LLC-credit-rating-830322318/reports?category=Ratings and Assessments Reports rc|Issuer Reports rc&type=Rating Action rc|Announcement of Periodic Review rc,Credit Opinion ir rc|Issuer Reports rc>  
22 [https://perma.cc/77NC-XHUW].

23 <sup>24</sup> See e.g., *Moody’s downgrades Rodan + Fields’ CFR to Caa2; outlook negative*, Moody’s Investors Services Ratings  
24 Action (April 7, 2020), [https://www.moodys.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-Caa2-outlook-negative-Rating-Action--PR\\_422039](https://www.moodys.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-Caa2-outlook-negative-Rating-Action--PR_422039) [https://perma.cc/4BQ7-HJW7] (“Weak operating  
25 performance has been a result of significant declines in the company’s independent sales consultants. The company’s independent consultants and their preferred customers are a significant revenue driver across the company’s direct selling business model, and the ongoing declines in active representatives continues to negatively affect business performance.”).

1 “We’re excited to be recognized in so many great categories by Euromonitor but what really  
2 inspires us is seeing our Founders’ vision come to life and giving people healthy skin and the  
3 confidence that goes with it. These accolades are a testament to our powerful Independent  
Consultant community who are tremendous brand advocates and who energize us to bring  
more innovative and life-changing products to markets around the world.”<sup>25</sup>

4 40. R+F views Consultants as the product of a product, in that the Consultant’s own  
5 personal skincare success is the “product” of using R+F Products, and it directs them to market R+F  
6 Products accordingly. R+F encourages and incentivizes Consultants to purchase products for personal  
7 consumption,<sup>26</sup> and accordingly urges Consultants to regularly post about their R+F skincare regimen  
8 and write testimonials about the products, both on social media and through R+F developed  
9 marketing campaigns.<sup>27</sup> To facilitate their marketing work, R+F continuously develops internal tools  
10 for the Consultants to more efficiently share their experiences on social media, i.e., “to share in a  
11 repeatable way over and over again”—both using the products and as a Consultant for R+F.<sup>28</sup>

12 41. R+F has had a salesforce of between ~200,000 and ~400,000 Consultants each year  
13 for the past seven years, comprised almost exclusively of women<sup>29</sup>, that it relies on to build brand  
14 awareness and to increase its salesforce of Consultants, i.e., to recruit other Consultants. R+F ensures  
15 that social media is saturated with posts about R+F Products and testimonials as to the quality and  
16 effectiveness of its Products. R+F’s millions and even a few years of over a billion dollars is revenue

17 <sup>25</sup> RODAN + FIELDS’ INNOVATION PREVAILS; COMPANY NAMED THE #1 SKINCARE BRAND  
18 IN U.S. AND NORTH AMERICA IN 2018, *supra*, n.12.

19 <sup>26</sup> R+F created the Consultant Replenishment Program, “an optional auto-ship program that provides you with  
the convenience of receiving regular monthly shipments of your Rodan + Fields (R+F) products.” *How do I*  
20 *enroll in the Consultant Replenishment Program (CRP)?*, Rodan + Fields,  
[https://www.rodanandfields.com/helpcenter/s/article/How-do-I-enroll-in-the-Consultant-Replenishment-](https://www.rodanandfields.com/helpcenter/s/article/How-do-I-enroll-in-the-Consultant-Replenishment-Program-CRP?language=en_US)  
[Program-CRP?language=en\\_US](https://www.rodanandfields.com/helpcenter/s/article/How-do-I-enroll-in-the-Consultant-Replenishment-Program-CRP?language=en_US) [https://perma.cc/E87F-QDDH].

21 <sup>27</sup> See, e.g., Jenny Vetter, *Rodan + Fields: A Season of Transformation and Celebration*, Direct Selling News (April 4,  
2022), [https://www.directsellingnews.com/2022/04/04/rodan-fields-a-season-of-transformation-and-](https://www.directsellingnews.com/2022/04/04/rodan-fields-a-season-of-transformation-and-celebration/)  
22 [celebration/](https://www.directsellingnews.com/2022/04/04/rodan-fields-a-season-of-transformation-and-celebration/) [https://perma.cc/K553-CJP2] (describing changes R+F implemented under new leadership after  
23 extensive efforts to better understand the Consultant experience and re-engage Consultants, including the 2022  
“Make It Yours” Campaign,” which advertised how current Consultants have leveraged opportunities with  
R+F).

24 <sup>28</sup> *Id.*

25 <sup>29</sup> This is consistent with the gender distribution of Consultants across MLMs. See generally, *Direct Selling in the*  
*United States 2022 Industry Overview*, Direct Selling Association, [https://www.dsa.org/docs/default-](https://www.dsa.org/docs/default-source/industry-fact-sheets/dsa-2022g-ofactsheetv4.pdf?sfvrsn=c51ed2a5_2)  
[source/industry-fact-sheets/dsa-2022g-ofactsheetv4.pdf?sfvrsn=c51ed2a5\\_2](https://www.dsa.org/docs/default-source/industry-fact-sheets/dsa-2022g-ofactsheetv4.pdf?sfvrsn=c51ed2a5_2) [https://perma.cc/G9K5-  
A8FT].

1 is attributable to the Consultants. Meanwhile, in 2022, the median earnings across Consultants who  
2 were paid was a measly \$366; notably, 33% of the 192,000 Consultants did not receive a single  
3 paycheck that year.<sup>30</sup> R+F has profited for the past 16 years off of the unpaid labor of the Consultants.

4 42. But despite their inextricably vital role to R+F's success, R+F has never properly  
5 classified its salesforce—Consultants—as employees. Rather, R+F transitioned into an MLM in 2007,  
6 in which it would offer people the purported “opportunity” to develop their own business earning  
7 commission by selling R+F Products and recruiting others to do the same, designating them as  
8 “independent contractors.” *Independent Consultant Agreement*, last updated Jul. 2023 (Exh. A).

9 43. However, these Consultants are not independent contractors under applicable law.  
10 Rather, R+F created the Independent Consultant “opportunity” to secure an expansive marketing and  
11 sales network for minimal to no cost. It has reaped enormous profits by deliberately avoiding paying  
12 wages and benefits to those performing the sales work that forms the backbone of R+F's business  
13 model and revenue generation. R+F charges its Consultants for access to the instrumentalities needed  
14 to sell products online, specifically a Business Starter Kit and an R+F Personal Website, further  
15 increasing R+F's profits and/or reducing its operating costs and decreasing Consultants' income, in  
16 violation of California law. The intended result is for Consultants to receive, at most, de minimis profit  
17 for their work, while providing free labor and shouldering the costs of doing business that R+F should  
18 be bearing.

## 19 **B. Rodan + Fields Consultants Are Employees**

### 20 **1. Controlling Law**

21 44. Companies like R+F were never supposed to be allowed to run an entire business on  
22 the backs of independent contractors. People who work in a company's core line of business are its  
23 “employees.” *United States v. Silk*, 331 U.S. 704, 718 (1947).

24  
25 <sup>30</sup> Exh. C at pp. 1-2. 2019-2021 Income Statements show similar poor outcomes. *See generally id.* at pp. 3-8.



1           45.     R+F claims an unprecedented portion of its workforce as “independent contractors;”  
2     whereas hundreds of thousands of Consultants work for R+F, the private company appears to have  
3     fewer than 500 employees. And while R+F continues to invest more funds in the Consultant  
4     experience to recover from the dip in Consultant enrollment the past couple of years,<sup>31</sup> R+F has  
5     completed multiple rounds of layoffs of its “employees,” including most recently laying off 70  
6     employees in October 2023.<sup>32</sup> R+F employees workers in a variety of roles, such as accounting and  
7     finance, supply chain management, product development, sales managers, and field specialists. For  
8     example, in 2021, R+F hired a Chief Global Sales Officer, “responsible for the Global Sales  
9     Organization and business related to the brand’s Independent Consultant salesforce[,]” and tasked  
10    with “lead[ing] he Business Development, Field Operations, Field Marketing and Communications,  
11    and the Recognition and Learning + Development functions.”<sup>33</sup> These teams are comprised of  
12    employees with diverse skillsets, including marketing and strategy professionals that “optimiz[e]  
13    business marketing via social media platforms,” work directly with Consultants to drive success and  
14    engagement of Consultants, and develop tools and materials to support Consultants.<sup>34</sup> These workers  
15    receive competitive benefits from R+F, including health insurance, tuition reimbursement, paid time  
16    off (for holidays and paternity leave), and annual bonus opportunity, as well as perks, like monthly  
17    complimentary R+F Products.<sup>35</sup> Consultants receive none these perks or benefits.

18           46.     But the Consultants, referred to by R+F as the “Consultant Community,” who make  
19

---

20 <sup>31</sup> *Moody’s downgrades Rodan + Fields’ CFR to B3; supra*, n.8 (explaining R+F’s underperformance in sales due to  
21 the decrease in Independent Consultants, and noting that, “[a]t the same time, the company continues to make  
22 significant investment in systems, tools and capability to drive Independent Sales Consultant enrollment, which  
23 hurt profit margins.”).

24 <sup>32</sup> See, e.g., *San Ramon Company To Lay Off 76 Workers*, Patch.com (Sept. 20, 2023),  
25 <https://patch.com/california/sanramon/san-ramon-company-lay-76-workers> [https://perma.cc/V4DY-  
R8PG]; see also *Vetter, supra*, n.27 (describing the ways in which it was enhancing the Consultant experience to  
continue building out the community and increasing brand awareness).

<sup>33</sup> *Rodan + Fields Adds New Talent To Their Leadership Team As Together With Their Consultant Community They Power  
Forward Their Life-Changing Mission, supra*, n.18.

<sup>34</sup> See e.g., *Job Postings* for Associate Manager of Global Programs & Incentives; Field Marketing Manager; Field  
Communications Specialist (2023) (Exh. D).

<sup>35</sup> *Careers*, Rodan + Fields, <https://www.rodanandfields.com/en-us/careers> [https://perma.cc/QZ99-HX3F].

up the bulk of R+F workforce, are denied even the most basic protections of federal and state labor laws. R+F does not pay them minimum wage; it does not pay overtime; and it does not reimburse business expenses, such as internet connections, laptops, smart phones, R+F Products, hosting events, or expenses incurred from social media video production over Facebook, YouTube, and Instagram. R+F's classification of its Consultants also deprives them of basic protections against discrimination and sexual harassment.

47. By design, "independent contractors" are exempted from "nearly every" labor law, but this classification was not meant to be a loophole for companies like R+F, whose Consultants are effectively modern day telemarketers.<sup>36</sup> "Historically, firms reserved the independent contractor designation for entrepreneurial individuals whose skills demanded higher pay in the open market."<sup>37</sup> With this in mind, "[l]egislatures rationalized excluding [independent contractors] from most employment laws because these individuals did not require the same legal protections as potentially more vulnerable, less-skilled 'employees.'"<sup>38</sup>

48. Today, R+F preys upon many of the most vulnerable members of society. Despite MLMs being a \$40 billion industry, "the vast majority of people involved in them don't make money off of MLMs, and many people lose money."<sup>39</sup> R+F Consultants are no exception: according to R+F's Income Disclosure Statement in 2022, 33% of Consultants received no commission payment that year, and the median earnings of those that received at least one paycheck was a mere \$366 over the course of the entire year.<sup>40</sup>

49. In recent years, state legislatures have taken action to send a clear message that most

---

<sup>36</sup> Keith Cunningham-Parmeter, *From Amazon to Uber: Defining Employment in the Modern Economy*, 96 B.U. L. Rev. 1673, 1683–84 (2016).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Emily Stewart, *\$5 Jewelry and an MLM Conference Gone Wrong: Multilevel marketing companies were the "perfect" pandemic business*, VOX (Sept. 23, 2021), <https://www.vox.com/the-goods/22688317/mlm-covid-19-pandemic-recruiting-sales-paparazzi> [https://perma.cc/8SC6-P9FF] (citing study finding that 99 percent of MLM participants lose money).

<sup>40</sup> Exh. C at p. 1.

workers should be “employees.”

50. California has adopted the “ABC test” to determine whether a company, like R+F, has misclassified its workers as “independent contractors.” Because employee status was meant to be the default, the ABC test “presumptively considers all workers to be employees and permits workers to be classified as independent contractors only if the hiring business demonstrates that the worker in question satisfies *each* of three conditions:

- a. that the worker is free from the control and direction of the hirer in connection with the performance of the work . . . ***and***
- b. that the worker performs work that is outside the usual course of the hiring entity’s business; ***and***
- c. that the worker is customarily engaged in an independently established . . . business of the same nature as that involved in the work performed.”

*Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903, 956–57 (2018) (emphasis in original).

## **2. R+F Exerts Control Over Consultants**

51. To engage in marketing and sales work for R+F, the company does not require Consultants to hold any special experience, skills, license, or education level. In fact, there is no space in the application to document prior work experience or ability to upload one’s resume. Exh. A at 1. As of August 2023, 67% of the Independent Consultants had no prior direct sales experience.<sup>41</sup>

52. Rather, R+F requires only that a prospective Consultant complete a short application that requires her to disclosing basic contact information necessary for communication, providing a “Sponsor’s” name (i.e., referring Consultant, for designating Downline Consultant relationships) and agreeing to pay R+F \$75 for a “Business Starter Pack,” which is the cost of a 3-month subscription to PULSE Pro, R+F’s proprietary tool for Consultants. The PULSE Pro subscription gives Consultants access to an online dashboard for use in marketing, selling, and recruiting, as well as

---

<sup>41</sup> *Rodan + Fields At-A-Glance*, Rodan + Fields (Aug. 2023), <https://www.rodanandfields.com/en-us/assets/us/at-a-glance.pdf>.

enhanced tools for the Consultants' Websites.

53. The application process suggests to Consultants that this initial payment is the only payment to R+F required to become a Consultant. In reality, Consultants must pay additional fees to R+F to be able to perform their work. Namely, after the initial three months, Consultants typically pay \$24.95 a month for the "PULSE by Penny Pro" subscription program ("PULSE Subscription"). While R+F suggests that the PULSE Subscription is optional, in reality, Consultants who do not subscribe have even fewer meaningful opportunities for sales, as the PULSE Subscription is the only way to obtain a personalized Consultant Website. Consultants can direct sales leads to their customized domain (<https://<customsitename>.myrandf.com>), and any purchase made through their Consultant Website is automatically credited to the Consultant. On the other hand, Consultants who do not obtain a PULSE Subscription do not have their own unique domain and instead must direct customers to the main R+F home page; from there, the customer must undertake a more convoluted process to go to a Consultant lookup page, and search for the Consultant's name before placing their order. Because Consultants can only receive commissions from online sales through R+F-controlled websites, and they are prohibited from selling on any other online platform, the *only* way to guarantee the receipt of commission from generating leads is to buy the PULSE Subscription, so that all leads are directed to the Consultant's custom domain, where commission will be credited without additional work on the part of the customer. The PULSE Subscription is so important that R+F encourages Consultants to tell their recruits about its importance.

54. Although the Application lists the Business Starter Kit as the only expense to become a Consultant all Consultants are also required to pay an annual renewal rate of \$25 to maintain their status as a Consultant.

55. Upon acceptance of their application, all Consultants are required to adhere to a series of terms and conditions, as well as documents purportedly incorporated by into those terms by reference, all of which that R+F collectively refers to as the "Consultant Agreement." Exh. A at 1.

1 While the complicated ways in which the documents refer to one another makes it difficult, if not  
2 impossible, to ascertain the complete set of terms and conditions consisting of the “Consultant  
3 Agreement,”<sup>42</sup> it currently appears to consist of documents such as:

- 4 o the Independent Consultant Application, available at Exh. A
- 5 o the R+F Policies and Procedures (“P&P”), available at Exh. B, which in turn includes various  
6 appendices, including most critically:
  - 7 o the R+F Compensation Plan (“Compensation Plan”), Appx. B
  - 8 o the R+F Code of Business Ethics, Appx. C.
- 9 o the PULSE by Penny Business Management Suite Terms & Conditions (“PULSE Terms &  
10 Conditions”), Exh. E
- 11 o additional terms in the paywall-protected Consultant “Library”
- 12 o the Privacy Policy (Exh. G) and R+F Terms and Conditions (Exh. H) associated with the use  
13 of the rodanandfields.com website.

14 56. Both the “Independent Consultant Application” and the P&P provide that  
15 Consultants are to be considered independent contractors. Exh. A at 2; Exh. B § 3b. While R+F  
16 periodically updates the documents to make minor, routine updates, all versions contain language  
17 providing that Consultants are to be considered independent contractors, including the version in use  
18 at the time of Plaintiffs’ enrollment in 2019.

19 57. The P&P alone are approximately 100 pages plus long and set out most of the  
20 requirements of the Consultants. In particular, the “R+F Code of Business Ethics,” requires  
21 Consultants to “comply with all legal obligations that apply under your Rodan + Fields Consultant  
22 Agreement,” which incorporates all restrictions laid out in the P&P, including those governing  
23 marketing and sales in accordance with R+F directives. Exh. B, Appx C at C1.; *see also* Exh. A at 2, §

---

24 <sup>42</sup> R+F routinely revises and updates certain terms in the various documents comprising the Consultant  
25 Agreement; the attached documents are the most recent versions. While some minor changes have been made  
over the years, the general nature of the consultant role and responsibilities have not.

1 5 (“Consultant agrees to . . . otherwise comply at all times with all applicable laws, regulations and  
2 rules in addition to all terms of the Consultant Agreement.”).

3 58. Because R+F treats the Consultants as independent contractors, it does not pay them  
4 any salary, wages, or benefits or offer reimbursement for business related expenses. Rather, as is typical  
5 in the MLM industry, the R+F Compensation Plan provides for two overarching types of  
6 compensation: (1) for sales the Consultant made to consumers through R+F controlled websites,<sup>43</sup>  
7 the Consultant receives a small percentage as a commission, either 17% or 24%, depending certain  
8 factors, *see infra*, ¶ 168; and (2) if the Consultant builds a “Downline,” i.e., recruits other new  
9 Consultants to market and sell R+F Products and recruit more Consultants, then the “Upline”  
10 Consultant receives commissions for sales made by those Consultants in their downline.<sup>44</sup>

11 59. All Product sales “directly to [one’s] personal Customers for a profit that [are] earned  
12 outside the Compensation Plan.” Exh. B, Appx A at A1. Notably, the P&P does not indicate whether  
13 sales when the Consultant takes a loss are captured by the Compensation Plan, i.e., whether the  
14 Consultant is eligible to earn commissions since they did not profit or whether the sale counts as  
15 “Sales Volume” to achieve status as an “Active Consultant” and advance to a higher commissions  
16 bracket for those traditionally under the Compensation Plan. *See infra*, ¶ 168. Whether or not the  
17 product is even resellable to customer is heavily restricted. *See* Exh. B § 10e (listing five restrictions on  
18 the items themselves which Consultants purchase with their personal funds).

---

20 <sup>43</sup> When a customer purchases from R+F’s website directly or by telephone, rather than a Consultant’s Website,  
21 a Consultant will only receive commissions if the customer provides the Consultant’s Customer Identification  
22 Number (CID) “to assist Rodan + Fields in connecting [Customers] and business prospects to the Consultant’s  
account.” Exh. B, Appx. B at B2-3; *see also* Exh. B § 8 (listing telephone as an approved ordering method that  
may be linked to Commissions and Achievement Awards under the Compensation Plan).

23 <sup>44</sup> The “Upline” and “Downline” concepts are the hallmark of the MLM structure. To illustrate, when an  
24 established Consultant, whom we will call “Amy,” recruits a friend, whom we will call “Sarah,” to be a  
25 Consultant, Sarah is in Amy’s Downline; and Amy is in Sarah’s Upline. If Sarah in turn recruits a new  
Consultant, whom we will call “Rachel,” then Sarah has an Upline (to Amy) and a Downline (to Rachel); the  
established Consultant Amy now has two levels to her Downline, to Sarah (first level), and Rachel (second  
level). Should Rachel then recruit someone, the established Consultant Amy would have three levels to her  
Downline.

60. Under the Compensation Plan, Consultants are responsible for all expenses. The one-time Business Starter Kit fee is non-waivable. R+F does not reimburse Consultants for the purchases, or for the costs of a cell phone, internet, and other routine business expenses. And as set forth above, Consultants also typically pay \$24.95/month (\$299.40 annually) for the PULSE Subscription.

61. These fees do not cover all expenses, however. Consultants must independently purchase samples or Products to be able to market them truthfully and honestly in promotional posts and testimonials on social media, as required under the Consultant Agreement. *See* Exh. A at 2, § 5; Exh. B, Appx. C at C1.

62. In the Consultant Agreement, R+F gives itself broad rights to control Consultants and mandate conformance with its directives, and authorizes itself to amend those directives, i.e., the Consultant Agreement, at any time. *See* Exh. A at 2, § 1 (requiring Consultants to “check the R+F Website, and/or the Library frequently for revisions or amendments to the Consultant Agreement” because it “may at any time revise the Consultant Agreement in its sole discretion”); Exh. B, Appx. B at B4 (granting itself the authority to update its P&P and requiring Consultants to “review and accept all updates in order to access PULSE by Penny or other Company systems”). Moreover, the Consultant Agreement requires that Consultants agree to adhere to the obligations set forth in the P&P, as well as “to (a) conduct their R+F business activities in a professional manner that reflects favorably at all times on R+F and the R+F Products; (b) avoid deceptive, misleading, and/or unethical practices; (c) make no representations, warranties, or other statements about the R+F Products or business that are different from or in addition to those in the Consultant Agreement and R+F Marketing Materials; (d) make no attempt to bind R+F to any agreement, or pursue, waive, or compromise rights of R+F; (e) periodically review the R+F Website and the Library for amendments to the Consultant Agreement; and (f) otherwise comply at all times with all applicable laws, regulations and rules in addition to all terms of the Consultant Agreement.” Exh. A at 2, § 5; *see also* Exh. A at 2, § 1 (“Consultants must check the R+F Website, and/or the Library frequently for revisions or

1 amendments to the Consultant Agreement.”); Exh. B, Appx. B, at B3 (“Consultants are expected to  
2 read the Insider Scoop [weekly email], which contains important information regarding Rodan +  
3 Fields events, Products, recognition of Consultants, compliance issues, special editions and other  
4 matters useful to Consultants in conducting their Rodan + Fields activities.”).

5         63. Throughout the Consultant Agreement, R+F makes clear it has the exclusive authority  
6 to terminate the Consultant for failure to comply with the terms. *See, e.g.*, Exh. A at 4, § 15 (“reserv[ing]  
7 right to right to terminate the Consultant Agreement or take other remedial action if R+F determines,  
8 in its sole discretion, that Consultant has violated any provision or term of the Consultant  
9 Agreement”). For example, R+F can terminate Consultants for violating various express rules how  
10 products are to be advertised and other, *see, e.g.*, Exh. B § 11k(i) (termination for non-compliant posts  
11 on Consultant’s social media pages); § 13 (termination or notice of non-compliance for “use of the  
12 word Practiv”) But R+F can also terminate Consultants for exercising discretion over the best ways  
13 to sell the product, *see, e.g., id.* § 11h (termination for selling via third-party sites); or for seeking out  
14 other business opportunities; *id.* § 6r (termination for inquiring into another Consultant’s other direct  
15 selling business opportunities). And many of the grounds for terminating a Consultant give R+F  
16 limitless discretion to terminate a Consultant. *See, e.g., id.* § 16a (termination based on “any act or  
17 omission that Rodan + Fields determines in its sole discretion may damage its reputation or  
18 goodwill”); *id.* § 6k (termination for non-compliance of professional, lawful and ethical conduct which  
19 may include “activity that could damage the company’s good reputation”); *id.* § 5k (termination for  
20 policy violations by Consultant’s household members, employees, agents, etc.). In addition, R+F has  
21 various other miscellaneous grounds for termination. *See, e.g., id.* § 10a (termination for excessive or  
22 improper return activity); *id.* § 12d (same); *id.* § 5b (termination for misrepresenting to R+F the use  
23 or sale of product, i.e., purchases for the purpose of qualifying to Recognition Titles or Achievement  
24 Rewards).

25         64. Moreover, R+F exerts substantial control and direction over how the Consultants



1 perform their work, both under the terms of the Consultant Agreement and in practice. While R+F  
2 permits Consultants to set their own work hours and work as little or as many as they desire, the  
3 Consultant's discretion ends there. Because of the control and direction exerted by R+F, the  
4 Consultant has virtually no discretion over how they are to actually do the job.

5 65. R+F exerts additional forms of control on Consultants that recruit others to become  
6 Consultants who then form their "Downline" team. These Consultants take on the additional duty  
7 of being a "Sponsor," which requires them to undertake additional responsibilities and perform  
8 specific tasks. *Id.* § 7b. For example, R+F mandates that Consultants who take on sponsorship duties  
9 "educate Downline Consultants about, and answer questions regarding, the Policies and Procedures."  
10 *Id.*

11 66. R+F also exerts control over a Consultant's ability to earn income from sources  
12 outside of R+F. For example, Consultants are "[p]rohibited from participating in Rodan + Fields  
13 affiliate programs and/or receiving any commission or cash back from sales resulting through the use  
14 of an affiliate link, such as Rakuten, Skimlinks, rewardStyle, Honey, Extrabux, Cartera, etc." *Id.* § 11s.  
15 Furthermore, R+F restricts income opportunities of its highest achieving Consultants by effectively  
16 punishing them for "promoting, marketing or selling the products, services or programs offered by  
17 any other direct selling business, regardless of whether the products, services or programs are related  
18 to skincare or haircare or whether they compete with Rodan + Fields." *Id.* § 6r (describing non-  
19 solicitation policy). If these Consultants engage in that activity, they "may not be eligible for trips,  
20 training, programs, access to early product releases, global expansion, recognition, Corporate  
21 sponsored opportunities, and/or other similar remedial measures." *Id.*

22 67. R+F also controls Consultants' ability to temporarily pause their work. R+F requires  
23 Consultants to request permission to place their account on hold, and R+F reviews these requests on  
24 a case-by-case basis and has sole discretion to approve or reject. *Id.* § 12h. When R+F does not  
25 approve a Consultant's request, the Consultant may lose their status and other privileges.

a. **R+F Closely Controls Consultants' Marketing and Directs Consultants to Conduct Marketing and Sales Online**

68. While some MLMs rely on home parties, door-to-door sales calls, and other forms of in person selling, R+F's business model and digital platform and tools are designed so that Consultants can work online to market and sell R+F Products, solicit leads and recruit new Consultants under R+F's close control and direction.

69. *First, R+F has issued a series of rules in its various agreements and policies in which it expressly restricts Consultants from using marketing aids other than ones it has developed.* See, e.g., Exh. A at 3, § 6 (forbidding the use of "any Marketing Materials or sales aides other than the R+F Marketing Materials . . . in connection with the sale or marketing of R+F Products and/or the R+F business opportunity . . . ."); *id.* at 2, § 5 ("Consultant agrees to . . . make no representations, warranties, or other statements about the R+F products or business that are different from or in addition to those in the Consultant Agreement and R+F Marketing Materials."); *id.* at 3, § 9 ("Consultant agrees to use only R+F Marketing Materials when presenting R+F Products and the R+F business opportunity to become a Consultant to others and to always present the Program accurately and in its entirety.").

70. *Second, R+F places limitations on the Consultants' ability to create their own marketing materials, limiting their ability to exercise creativity and discretion.* See Exh. B § 11e(ii) ("Consultants may not create their own flyers or invitations to advertise or promote the R+F Products or the Program."); *id.* § 6c(i) (restricting products claims to content provided in the P&P and Library); *id.* § 6d (prohibiting income claims when promoting the Consultant opportunity); *id.* § 6h (describing mandates for ethical marketing consistent with R+F Marketing Materials); *id.* § 6o(iii) (authorizing appearances at events in "an environment that is appropriate for promoting Rodan + Fields' brand integrity"); *id.* § 11k (mandating that "no pricing may be shown on an image or in the text of a post" when Consultants advertise leverage their social networking profiles to market R+F

1 Products). Even for events sponsored by exclusively by Consultants, R+F provides templates for  
2 creating event invitations; R+F recommends Consultants utilize R+F event descriptions rather than  
3 exercising their own creativity and it requires Consultants to use R+F provided event images to  
4 achieve “brand consistency.”

5 71. While R+F encourages Consultants to market their own experience with the Products,  
6 R+F’s general restrictions on the claims they can make and content they can generate whenever they  
7 mention R+F prevents the meaningful exercise of Consultants’ discretion.

8 72. *Third, to discourage Consultants from exercising discretion in creating*  
9 *marketing materials, R+F provides Consultants with content to use.* Specifically, R+F provides  
10 all Consultants with access to the “Library” and “Comms Corner,” where they can find “a suite of  
11 engaging shareables” for online marketing efforts. And the PULSE Subscription provides  
12 Consultants with access to additional advertising and marketing materials, as well as “R+F Social,”  
13 which offers “ready-to-use and customizable content plus analytical tools to evaluate engagement  
14 [with one’s online content.]” *PULSE by Penny Comparison Chart* (Exh. F).

15 73. The Library contains the strictly limited universe of the content (“R+F Content”)<sup>45</sup>  
16 that R+F permits Consultants use to market and sell R+F Products, with the clear directive that  
17 Consultants may only use these materials “as they originally appeared in the Library.” Exh. B § 11o;  
18 *see also id.* § 11e(iii) (requiring “[c]orporate videos [to] be re-posted in their entirety and may not be  
19 modified in any way”). These images and videos are often the same content that R+F uses in the  
20 company-run advertisements.

---

23 <sup>45</sup> R+F Content is defined as: “ (i) all R+F Trademarks; (ii) all text, images, graphics and other content and  
24 materials used or displayed on or in connection with any R+F Product (or any related packaging), R+F  
25 Marketing Materials, R+F Business Supplies or the R+F Website; and (iii) the names, images and likenesses of  
the principals or officers or other employees of Rodan + Fields, including Dr. Katie Rodan and Dr. Kathy  
Fields.” Exh. B, Appx. B, at B5.

74. Moreover, R+F limits content that Consultants may include if they choose to generate their own marketing videos. *See id.* § 11e(iii). R+F permits Consultants to “share content such as their own personal ‘why,’ and information on R+F Products or the Program, provided they comply with the requirements of Section 6c regarding Product Claims and Section 6d regarding Income Claims.” *Id.* § 11e(iv). Even for R+F sponsored events, R+F requires Consultants to obtain permission to video stream live on their personal social media pages to market R+F Products. *Id.*

75. ***Fourth, R+F uses the PULSE Subscription service to exert greater control over Consultants*** by providing them with more R+F proprietary tools to use, including the Consultant Websites. The template for the Consultant Websites is designed by R+F and restricts the Consultants’ from exercising discretion over content, as R+F generates the Product pages, prices, and descriptions appearing on the Consultant Websites, maintaining exclusive control over the storefront. Consultants may customize only their “Personal Story” on their “About Me” page, text which appears with the disclaimer: “This is my unique story,” but R+F even provides a template for this section, too. The Consultant Websites are little more than a personalized domain or affiliate link by which consumers can access the same content that appears on the R+F Website, Consultants have no ability to sell non-R+F Products, offer discounts or provide free gifts to customers through their Consultant Websites; they are relegated to the features R+F provides in the template.

76. ***Fifth, R+F uses other tools to ensure Consultants comply with its advertising and marketing rules.*** For example, R+F publishes a weekly newsletter, Insider Scoop, which appears both in the Library and gets emailed directly to Consultants, which contains news and important information about products. R+F also provides those with a PULSE Subscription access to a “Daily” feature, wherein R+F provides “a curated list of tasks personal to [that Consultant’s work]” encouraging them to perform “key business-building activities.” Exh. F. Other sales tips and new product information is sent out regularly by R+F directly or disseminated throughout the Consultant workforce via emails from Upline Consultants to those in their Downlines.

1           77.     R+F Consultants are incentivized to adhere to R+F’s instructional guides and prompts  
2 in marketing the Products. Because they are only paid if they make sales, rather than their marketing  
3 efforts, *see* Exh. B, Appx A (Compensation Plan), they are incentivized to follow the suggestions and  
4 directives of R+F, and their Upline Consultants, on what kinds of marketing efforts are likely to result  
5 in successful sales.

6           78.     ***Sixth, R+F controls the online channels by which Consultants can market the***  
7 ***Products.*** R+F monitors and controls the content Consultants generate via the PULSE Penny  
8 platform and post to their personal Consultant Websites and has the right to “remove any  
9 noncompliant postings.” Exh. F. R+F prohibits Consultants from promoting their Consultant  
10 Websites in third-party online marketplaces (e.g., Facebook Marketplace), *see* Exh. B § 11g, and from  
11 partnering with Influencers, companies, or brands to leverage their social media pages to drive users  
12 to their personal Consultant Website to generate sales, *id.* § 11k (permitting Consultant to advertise  
13 and promote their own Consultant Website, Consultant opportunity, and R+F Products exclusively  
14 on their own personal social networking profiles). Additionally, R+F prohibits advertising the  
15 Products on third-party online marketplaces, and on television, radio, billboards, national print, as  
16 well as through mass mailings or through any other channels otherwise deemed inappropriate by  
17 Rodan + Fields. *Id.* § 11g. Rather, R+F limits “appropriate locations” for distribution of advertising  
18 and marketing materials to bulletin boards, message boards and digital message boards located in  
19 public places and private businesses. *Id.* § 11f.

20           79.     Moreover, R+F has an exhaustive list of rules that govern R+F’s posting on acceptable  
21 social media sites. For example, R+F has instructions on how the Consultant opportunity must be  
22 described when engaging in recruiting. *See id.* § 11k(i)-(xii) (detailing restrictions and policies for  
23 interacting online with social media Influencers, prohibited postings, ethical and legal compliance,  
24 etc.); *id.* § 6c (detailing strict prohibitions on product claims and income claims, rules governing  
25 Consultant’s posting of “before and after” photos, etc.).

1           80.       R+F even exerts control over Consultants' internet activity outside of the R+F  
2 controlled platforms. For example, R+F regularly monitors Consultant conduct on Facebook and  
3 Instagram and will take action against any Consultant to enforce compliance.

4           81.       Finally, R+F restricts Consultants from engaging with media, instructing that they  
5 must refer all media inquiries to R+F, but in the instances where R+F approves communication with  
6 media regarding R+F, Consultant is forbidden from directing traffic to their Consultant Website or  
7 providing direct referrals by providing their contact information, and may only promote the R+F  
8 website. Exh. B § 6a.

9                               **b.       R+F Reliance on an E-Commerce Platform Limits Consultants'**  
10                               **Discretion and Promotes Online Sales over In Person**  
11                               **Interactions**

12           82.       R+F has developed numerous online tools and resources, including the Consultant  
13 Websites, R+F Social, Comms Corner, and R+F Solution Tool, which reflects a decision to exert  
14 control over the Consultants, ensure they conform to the directives contemplated under the  
15 Consultant Agreement, and influence Consultants to sell online via R+F-controlled websites. That  
16 Consultants do not receive commissions on in person sales through R+F's Compensation Plan  
further exemplifies the central nature of online sales to R+F's business model.

17           83.       *First*, R+F relies on an e-commerce platform to sell its products and authorizes  
18 Consultants' online sales exclusively through R+F-controlled systems. *Id.* § 11h (instructing  
19 Consultants to sell Products through R+F's websites, including the Consultant Websites; prohibiting  
20 Consultants from advertising and selling Products directly to consumers on e-commerce platforms  
21 such as Facebook Marketplace, Amazon, independent personal websites, or other social networking  
22 profiles or groups).

23           84.       *Second*, as discussed in Paragraph 73, *supra*, the Consultant Websites are designed in  
24 a way that ensures Consultants operate in compliance with R+F's marketing directives. And in relying  
25 on R+F controlled websites to perform sales, Consultants are subject to R+F's controls over order

1 processing, cancelations, and refunds, further limiting Consultants’ exercise of business discretion.  
2 *See* Exh. A at 3, § 7 (“R+F reserves the right to accept or decline any order for R+F Products, and  
3 may cancel or delay shipment of R+F Products for any reason, including without limitation if  
4 Consultant fails to make any required payment or otherwise fails to comply with the Consultant  
5 Agreement.”); *id.* 3, § 8 (“Consultant acknowledges that R+F offers all Customers a ‘Customer  
6 Satisfaction Guarantee,’ which includes the right to return R+F Products within 60 days of purchase  
7 for a full refund.”); Exh. B § 9f (describing “non-deliverable” orders that result in refunds and lost  
8 sales credit to Consultant and Upline); *id.* § 10c (describing refunds under the Customer Satisfaction  
9 Guarantee policy, applicable to online sales and in person); *id.* § 12d (describing downward adjustment  
10 to Consultant commissions after product return).

11 85. ***Third***, R+F’s own compensation scheme creates incentives for Consultants to sell  
12 directly from R+F online systems, rather than conduct in person sales, because only the sales made  
13 through R+F controlled platforms are included in calculations of customer commissions to  
14 determine eligibility of Achievement Rewards or advance in Recognition Title. *Id.*, Appx. A  
15 “Compensation Plan.” Advancement in title drastically increases a Consultant’s earning potential. For  
16 example, advancing from “Consultant” to “Active Consultant” increases future customer  
17 commission from 17% to 24%. *Id.*

18 86. ***Fourth***, R+F further promotes online sales through its online its proprietary online  
19 sales tools, available through the PULSE Subscription. For example, subscribing Consultants receive  
20 access to the “R+F Solution Tool,” which facilitates exclusively online interactions between  
21 Consultants, and customers or prospective customers, as it is designed to make it easy for Consultants  
22 to provide personalized R+F product recommendations. The tool also includes a quiz for  
23 Consultants to share with customers to answer questions about their skincare habits and concerns,  
24 and the results allow Consultants to identify the Products to sell them.

1           87.     **Fifth**, R+F relies on Consultants to drive traffic to its website and their personal  
2 Consultant Website through the use of their personal social media networks. But it controls  
3 Consultants’ online marketing on their personal social media pages and imposes such strict  
4 regulations over Consultants’ ability to creatively or strategically market R+F Products, that it  
5 effectively discourages anything but online sales on its platform using R+F’s content to remain in  
6 compliance with R+F directives. R+F requires Consultants to engage only in “appropriate” ways to  
7 generate brand awareness, which it has sole discretion to evaluate. *Id.* § 11k (authorizing R+F “sole  
8 discretion . . . [in] [t]he determination of what is inappropriate” and warning that “offending  
9 Consultants will be subject to disciplinary action”); *see generally id.*, Appx C (R+F’s Code of Business  
10 Ethics).

11           88.     **Sixth**, R+F’s imposes broad restrictions on where and how Consultants are permitted  
12 to market or sell the Products, furthermore promoting and incentivizing reliance on its e-commerce  
13 platforms to remain in compliance. *See, e.g., id.* § 6o(i) (prohibiting sales, displaying, and distribution  
14 of Products at kiosks, stores, or other general public retail outlets where customers can simply “walk-  
15 in”); *id.* § 6o(ii) (permitting selling and displaying products as personal service facilities, which are  
16 private or by appointment offices or spaces). R+F also restricts the types of events Consultants can  
17 engage in marketing and sales to those that “promot[e] Rodan + Fields’ brand integrity.” *Id.* § 6o(iii).  
18 Events consistent with Rodan + Fields’ brand integrity may include trade shows, professional  
19 expositions, state fairs, health fairs, conventions and bridal shows. On the other hand, swap meets,  
20 garage sales, flea markets, farmers’ markets, and other similar events are not conducive to Rodan +  
21 Fields’ professional image. *Id.*

22           89.     **Seventh**, R+F’s reliance on its e-commerce platform for Consultants and customers  
23 to purchase products allows R+F “to ensure compliance with legal prohibitions on inventory  
24 loading,” or “advancement buying.” *Id.* § 5b (inventory loading); *id.* § 5c(ii) (advancement buying).  
25 These terms refer to situations in which a Consultant purchases products for purposes other than



1 personal use or to sell to a consumer, typically a strategy a Consultant would use to meet a sales quota,  
2 qualify for achievement rewards or recognition, or other incentives under the Compensation Plan.  
3 R+F e-commerce system handles payments and allows consultants to “receive full credit . . . [for all  
4 sales] transacted directly with the Company on behalf of the Consultant through the R+F Website  
5 and/or a Consultant’s Website,” and then R+F handles the shipments, “without the need [for  
6 Consultants] to carry any inventory.” *Id.* § 5b. If and when Consultants make bulk purchases, they  
7 are required to “retain[] receipts showing that at least 70% of those R+F Products were resold to one  
8 or more different Retail Customers or were otherwise used in support of business activities (e.g.,  
9 incentives or demonstrations) within thirty (30) days of the last applicable order delivery date.” *Id.* §  
10 5b; *see also id.* § 5c(i) (requiring sale/distribution to at least three individuals). If a Consultant purchases  
11 \$1000 of Product in a single month, R+F reserves the right to request their receipts at any time and  
12 to require them to fill out extensive forms available in the Library detailing the transaction date, Retail  
13 Customer name, products sold, method of payment, and total sale value. *Id.* § 5c(i). This sort of  
14 bookkeeping deters Consultants from making bulk purchases to engage in direct sales to customers,  
15 whereas purchases through the R+F platforms track total allow R+F to monitor and ensure  
16 Consultant engaging and selling to sufficient retail customers, or it can decline sales if it suspects they  
17 are for a prohibited purpose. Thus, a Consultant who wants to increase their earnings, or merely  
18 retain their commissions bracket, through strategic purchases of inventory is not permitted to exercise  
19 that discretion.

20 90. By relying on R+F’s e-commerce platform for selling, handling payments, and  
21 shipping orders, Consultants save time and reduce expenses, given that in person sales would require  
22 them to create or identify and attend suitable and compliant in person events, operate or have access  
23 to a “personal services facility,” handle payment and shipment for in person orders, performance  
24 exhaustive bookkeeping and forecast and make advance purchase of extra inventory to have in stock  
25 while remaining in compliance with strict prohibitions on inventory loading.

1                                    **c.     R+F Exerts Control Over Consultants in Recruiting and in**  
2                                    **Relationships with Other Consultants and with Prospective and**  
3                                    **Existing Customers**

4            91.     R+F's control over Consultant's marketing and conduct extends to controlling their  
5     recruiting efforts and their relationships and interactions with prospective Consultants (prospective  
6     Downlines), as well as the Consultant-Downline relationship, and the Consultant-customer  
7     relationship.

8            92.     R+F controls how Consultants market the Consultant experience and the Program  
9     generally to recruit Downlines. *Id.* § 6b (requiring Consultants to "present the Program in a truthful  
10    and accurate manner consistent with the Consultant Agreement and the R+F Marketing Materials."  
11    R+F permits Consultants to "share content such as their own personal 'why,' and information on  
12    R+F Products or the Program, provided they comply with the requirements of Section 6c regarding  
13    Product Claims and Section 6d regarding Income Claims." *Id.* § 11e(iv); *see also id.* § 6d (prohibiting  
14    income claims when promoting the Consultant opportunity). R+F prohibits Consultants from  
15    disclosing their own income or earnings or from making 'lifestyle claims,' or claims about what their  
16    experience as a Consultant has afforded them, both of which it considers "equivalent to income  
17    claims." For example, R+F prohibits claims like "My Rodan + Fields business allowed me to buy a  
18    house, retire from my other job, allow my spouse to quit their job, or take a luxury vacation." *Id.* §  
19    6d; *see also supra*, n.69 (Federal Trade Commission warning to Rodan + Fields that it must enforce  
20    rules that Consultants cease and refrain from posting online income-related statements as a marketing  
21    tactic to recruit Consultants). R+F also prohibits Consultants from advertising under the "help  
22    wanted" section of publications or imply that they are recruiting for R+F or that they are seeking to  
23    hire or employ someone for R+F. Exh. B § 11g. The Agreement prohibits Consultants from  
24    executing any agreement or contract directly with the people they recruit; the only way the only way  
25    to become a Consultant is to complete the R+F Independent Consultant Application. *Id.* § 6b.; *see*  
*also id.* § 6r (prohibiting Consultants from competing with R+F under its non-solicitation policy).

1           93. While Consultants are encouraged and incentivized to engage in recruiting, R+F  
2 restricts their discretion to build their own team, too. For example, once a Consultant joins another's  
3 Downline, R+F imposes strict regulations over when and how the Downline can "Line Switch,"  
4 meaning change who their Sponsor is, i.e., whose Consultants' team they are on. *See generally, id.* § 7d  
5 ("Once a Consultant is sponsored, Rodan + Fields requires that the relationship between the  
6 Consultant and their Sponsor be maintained and protected."). In effect, it prevents competition  
7 between Consultants by prohibiting them from recruiting another Consultant's Downlines and  
8 imposing the strict procedures for switching described below. *Id.* ("Under no circumstance shall any  
9 Consultant offer or provide any financial or other consideration or incentive to another Consultant  
10 in exchange for such other Consultant's agreement to terminate their existing Consultant Agreement  
11 and re-apply under another Sponsor.").

12           94. R+F disincentivizes Consultant's from changing their Sponsor because R+F requires  
13 them to terminate their existing Consultant Agreement, refrain from participating in the Program for  
14 6-months, i.e., continuing to sell and earn income, and then re-enroll. *Id.* § 7d(i)–(ii) (required  
15 procedures for changing lines). Upon voluntary or involuntary termination, including for the  
16 purposes of re-enrolling under a new Sponsor, "the former Consultant shall have no right, title, claim  
17 or interest to the Consultant Agreement or Downline that they operated, or to the opportunity to  
18 receive any Commissions or Achievement Rewards from future sales generated by the Consultant  
19 Agreement or Downline. A Consultant whose Consultant Agreement is terminated will lose all rights  
20 to participate in or benefit from the Program." *Id.* § 15c.

21           95. In other words, even upon re-enrollment, there is no transfer of status for the  
22 Consultant switching Sponsors, i.e., commission level preciously attained and awards, and they do  
23 not retain any of the Consultants as their Downlines that they recruited or of the customers they  
24 retained from whom they previous were entitled to commissions. *Id.* They start from square one. *See*  
25 *e.g., id.*, Appx A at A14 (describing one example in which a Title loses their Paid-As Title when they

1 do not satisfy requirements for that Title for three consequence months, as would be the case if the  
2 Consultant was unable to participate for 6-months).

3 96. When a Preferred Customer enrolls as a Consultant, R+F also exerts controls over  
4 which Consultant team that Preferred Customer can join (i.e., who Sponsors them/becomes their  
5 Upline). *Id.* § 7c. That prospective Consultant “must either (i) apply as a Consultant under the  
6 Consultant with whom they originally enrolled as a Preferred Customer; or (ii) close their account [as  
7 a Preferred Customer] and wait a total of ninety (90) days before enrolling as a Consultant with a  
8 different Sponsor.” *Id.* When a Consultant is successful in recruiting someone, that Consultant  
9 becomes their Enrollment Sponsor and the new Consultant becomes part of their Downline. *See id.*,  
10 Appx. B (defining Sponsor as “A Consultant who enrolls another Consultant into the Program and  
11 is listed as the Sponsor on the Consultant Application (Enrollment Sponsor)”).<sup>46</sup> When there is a  
12 dispute over which Consultant sponsors the new Consultant and who will acquire this new Downline,  
13 “Rodan + Fields” reserves the sole and exclusive right to determine the final disposition of such  
14 disputes[,]” thus stripping away Consultants’ autonomy in building out their teams or, for example,  
15 negotiating among one another. *Id.* § 7c. R+F also reserves the right to assign a Downline Consultant  
16 to a Sponsor/Consultant that is not of either Consultant’s choose, thus limiting Consultants’  
17 autonomy in building their sales team. *Id.*, Appx B at B6 (defining “Sponsor”).

18 97. When a Consultant recruits new Consultants, i.e., tries to build out their team by  
19 Sponsoring a new Consultant, Consultants assume additional responsibilities, in accordance with the  
20 Policies and Procedures. R+F dictate that:

21 Sponsors must:

22

23

---

24 <sup>46</sup> The Policies & Procedures also defines a Sponsor as a Consultant “to whom a Downline Consultant has  
25 been assigned through Compression or Roll Around (Performance Sponsor)[.]” Exh. B, Appx. B; however  
Plaintiff was never assigned any Downline. She independently recruited and cultivated relationships with each  
of her Downlines.

- provide prospective Consultants with a copy of, or access to, the current Policies and Procedures (found on rodanandfields.com) prior to submission of a new Consultant Application;
- ensure that prospective Consultants complete and submit the Consultant Application themselves. If extraordinary circumstances prevent a prospective Consultant from submitting the online Consultant Application, the sponsoring Consultant may do so for the prospective Consultant so long as the prospective Consultant completes and signs a hard copy of the Consultant Application in advance, is provided access to the Policies and Procedures and has the opportunity to review the Consultant Application Terms and Conditions before enrolling in which case the signed Consultant Application must be sent to the Sales Support Department, Rodan + Fields, 3001 Bishop Drive, Suite 450, San Ramon, CA, 94583. Additionally, the Sponsor must advise the new Consultant to change their password as soon as possible; and
- explain to prospective Consultants that the only required purchase to become a Consultant is a Business Starter Pack;
- explain to prospective Consultants that the Consultant Replenishment Program (CRP) and PULSE Pro are optional, subscription programs.

*Id.* § 7b.

98. When the prospective Consultant's application is completed and accepted, the recruiting Consultant typically becomes their Sponsor, i.e., they become the recruiting Consultant's Downline. R+F imposes even more responsibilities on Sponsoring Consultants, thus setting parameters for the relationship between the Consultant and their Downline. The Sponsor is required to "educate Downline Consultants about, and answer questions regarding, the Policies and Procedures ("P&P") and direct them to the Compliance Department for additional assistance." *Id.* Sponsors are responsible for ensuring their Downlines understand the Compensation Plan, too, as outlined in the P&P and expanded upon in an additional 18-page document. *Id.*; *Compensation Plan Overview U.S. 2023* (Exh. I). Consultants are actively encouraged to ask their Sponsoring Consultant questions, i.e., a Sponsoring Consultant, like Plaintiff, is a new Consultant's main point of contact for onboarding and is responsible for setting their Downlines up for success. Exh. B § 7b.

99. R+F also regularly initiates communication with Consultants with Downlines regarding the Downline's performance metrics to exert influence over the Consultant-Downline

1 relationship. For example, based on a Downline's Sales Volume, R+F instructs Consultants to "Take  
2 Action: Coach to Sell Now!" so that the Consultant "[doesn't] let [their] team member miss out on  
3 the chance to boost their payday!" R+F provides suggestions of exactly which R+F Product it  
4 recommends the Downline sell to achieve those goals, and resources for the Consultant to "help  
5 [their] Downline put [those] suggestions into action." In other words, R+F directly pushes content  
6 and marketing strategy and tactics to Consultants, thus directing their relationship and engagement  
7 with other Consultants and limiting their independence to engage with their team members.

8 100. R+F also exerts control over the Consultant-customer relationship. It heavily  
9 encourages Consultants to convert "Retail Customers" into "Preferred Customers," customers who  
10 subscribe to "PC Perks," a Customer Loyalty Program, to receive personalized recommendations  
11 advice, and bi-monthly auto-replenishment shipments with extra discounts. Preferred Customs also  
12 have Sponsors, which is the Consultant who receives commissions from that Preferred Customer's  
13 purchases.<sup>47</sup> R+F also mandates specific procedures for when a Preferred Customer wishes to switch  
14 Sponsors, but remain a Preferred Customer, rather than enrolling as a Consultant, as well as if the  
15 Preferred Customer wishes to enroll but under a different Sponsor. *See generally*, Exh. B § 7d(iii)–(vi).  
16 These mandates limit a Consultant's ability to choose their own customers and interact with existing  
17 customers.

18 101. R+F assigns Consultants to Preferred Customers, who enroll as Preferred Customers  
19 but do not know any Consultants to Sponsor them, thus limiting Consultants' discretion over their  
20 relationship with customers.<sup>48</sup> The Consultant is expected to reach out to them, provide ongoing

---

22 <sup>47</sup> *See* Exh. B, Appx B, at B4 ("A Preferred Customer's QV [Qualifying Volume] is included in the calculation  
23 of Sponsor's PV [Personal Volume] and GV [Group Volume]. The Sponsor is paid Customer Commissions  
on the [Preferred Customer's] purchases of Commissionable Products.").

24 <sup>48</sup> *PC Perks*, Rodan + Fields, <https://www.rodanandfields.com/en-us/pc-perks/learn-more>  
25 [<https://perma.cc/8EZM-SR8M>], (explaining that "[i]f [a prospective Preferred Customer] [doesn't] know any  
Consultants, [R+F] provide[s] the names of a few at checkout [when enrolling as a Preferred Customer] who  
[they] can choose from based on various factors such as [their] location," and that they will be matched with a  
Consultant).

1 customer service, periodically reach out in accordance with marketing efforts, and more. Additionally,  
2 R+F automatically generates an email notifying Consultants of a lead (prospective customer or  
3 Consultant) when an individual fills out a templated form on that Consultant's Website, with whom  
4 that Consultant is expected to develop a relationship with.

5 102. Moreover, under the Consultant Agreement, "R+F reserves the right to communicate  
6 and do business with any Customers acquired through Consultant's efforts without restriction of any  
7 kind." Exh. A at 3, § 7. As such, R+F sends Preferred Customers exclusive offers and promotions  
8 directly that R+F identifies, not the Consultant, thereby limiting Consultant's discretion in cultivating  
9 and engaging with her Preferred Customers. R+F then emails Consultants to instruct them to reach  
10 out this Preferred Customer, with suggested prompts. R+F also heavily encourages Consultants to  
11 recruit their Preferred Customers to enroll as Consultants. R+F authorizes Consultants to run  
12 promotions as well. Exh. B § 11k(xii). However, any sales made resulting from those promotions  
13 would not be through an R+F-controlled website, but instead directly to the consumer, and therefore  
14 would not be within the Compensation Plan, i.e., be eligible for commissions, count toward volume  
15 requirements to advance in title/Consultant status for purposes of higher commissions bracket,  
16 Achievement Awards or special Incentives from R+F. *See generally, id.*, Appx. A (Compensation Plan).  
17 Exh. C at pp. 1-2.

18 103. Lastly, R+F limits Consultants' ability to help other Consultants' grow out their  
19 businesses. It prohibits Consultants from "sell[ing], assign[ing] or otherwise transfer[ing] their  
20 Consultant Agreement without the prior written approval of Rodan + Fields." Exh. B § 14a. R+F  
21 imposes numerous requirements both on the desired Seller/Transferor and on the desired  
22 Buyer/Transferee to be approved, which include that the Buyer must be an Active Consultant for at  
23 least the prior 12-months and have earned either 50% of the seller's annualized earnings (which must  
24 be a minimum of \$25,000) or have had an annualized earnings of at least \$15,000 during the prior 12-  
25 month period. *Id.* § 14(i)-(ii). Given that the average annual income for Consultants who did receive

1 at least one payment in 2022 was \$366 (although 33% received no income in 2022),<sup>49</sup> R+F effectively  
2 prohibits Consultants from selling, assigning, or transferring their Consultant Agreement.

3 104. In the narrow instances where the Buyer/Seller satisfies these criteria, R+F  
4 disincentivizes a Consultant from selling to any other Consultant other than their immediate Upline  
5 (Sponsoring Consultant), further limiting Consultants' relationships with one another and one's  
6 discretion over their own business. When a Consultant sells to their Upline, the Consultant's  
7 Downline Consultants become the Upline's new Downlines ("compress" or "Roll Up"). However,  
8 when a Consultant does not sell to their immediate Upline, that Upline must forfeit the team and  
9 future commissions of all of the Consultants they had previously recruited as Downlines. Exh. B §  
10 14a(ii) ("[T]he buying Consultant must terminate their Consultant Agreement, leave behind their  
11 existing Downline and assume the Seller's position; the two organizations will not merge. The buying  
12 Consultant's existing Downline will then compress (Roll Up) to their former Sponsor.").

13 105. R+F also has a strict non-solicitation policy that restricts Consultants' interactions with  
14 other Consultants, which restrict Consultants ability to earn income from outside opportunities. n  
15 outside earning opportunities *Id.* B § 6r. R+F both prohibits Consultants from recruiting other  
16 Consultants to join other MLMs or even to market other MLM products to Consultants and prohibits  
17 Consultants from inquiring about another Consultant's separate direct selling or other business  
18 opportunities. *Id.*

19 **d. R+F Exerts Control to Ensure Consultants Are Engaging in**  
20 **Approved Online Marketing and Sales Activities and Monitors**  
**Their Activity Closely**

21 106. R+F restricts online selling of R+F Products other than R+F-controlled websites, *Id.*  
22 § 11h, or their use of trademark merchandise or other R+F Branded Assets, *id.* § 11e, and heavily  
23 monitoring Consultants' online marketing activity to ensure compliance.

24  
25 <sup>49</sup> Exh. C at pp. 1-2.



1           107. Under the PULSE Subscription terms, R+F “reserves the right to monitor  
2 [Consultants’] PULSE by Penny and [personal Consultant Website] content, including  
3 communications made on or through these tools, and to remove any noncompliant postings.” Exh.  
4 E.

5           108. In addition to controlling Consultants’ content and use of their Consultant Website  
6 and their social media presence and ways in which they market R+F Products, R+F also exerts  
7 control over Consultants’ internet activity more broadly – outside of the R+F controlled platforms –  
8 monitoring postings to ensure compliance with its policy prohibiting “advertis[ement of] the R+F  
9 Products or the Program on channels including third-party online marketplaces. Exh. B § 11g. And  
10 R+F reminds Consultants that their posts are monitored. For example, in December 2020, R+F sent  
11 an email to Consultants, informing them that “it is imperative that we continue to carefully follow  
12 the compliance policies” and that R+F has “a dedicated Compliance team in place, as well as a robust  
13 monitoring system, to proactively track, monitor and enforce income and lifestyle claims that may  
14 appear in social media posts, videos, blogs, websites, etc.” R+F also severely limits Consultants’  
15 online marketing efforts by prohibiting sales of R+F Products and even references to pricing on non-  
16 R+F-controlled websites, and requires Consultants to remove such content. *See id.* (“The only  
17 approved form of selling/advertising via the internet is through the Pulse Personal Websites that  
18 Consultants have, or through the R+F website (Section 11h of the Policies & Procedures.)”; Exh. B  
19 § 11k (prohibiting pricing in an image or post by Consultant on their personal social media profile);  
20 *id.* § 11k(i) (“Rodan + Fields reserves the right to require the removal of noncompliant or infringing  
21 posts from any Consultant’s social media pages.”).

22           109. In addition, R+F directs how the Consultants hold themselves out on social media so  
23 that it can effectively monitor conduct and compliance. For example, Consultants are required to  
24 disclose their full names and conspicuously identify themselves as a Rodan + Fields Independent  
25 Consultant. *Id.* § 11k(ii). They are prohibited from using anonymous posts or aliases. *Id.*

110. R+F encourages Consultants to monitor one another as well. For example, Consultants are told to direct any complaints or concerns about other Consultants' conduct to the Compliance Department. *Id.* § 6k (encouraging reporting of other Consultants who violate the Consultant Agreement, including R+F's policy of professional standards it expects of Consultants); *id.* § 6j (disparaging remarks).

111. Under the Consultant Agreement, R+F requires Consultants agree to refrain from engaging in activities, e.g., solicitation, upon termination commonly found in noncompete agreements. *Id.* § 6r. Even after termination, R+F controls former Consultants' online activities by R+F prohibiting communication about R+F as well as sharing with or tagging other R+F Consultants or other R+F employees on social media in relation to other direct selling or network marketing business opportunities. *Id.* R+F continues to monitor activity to ensure compliance.

**3. R+F Cannot Meet its Burden to Show that Consultants are  
"Customarily Engaged" in a Separate Business**

112. R+F cannot meet its burden to show that Consultants are "customarily engaged" in an independently established sales and marketing business. Instead, most R+F Consultants are recruited regardless of their skill or experience, exclusively perform sales and marketing for R+F (using R+F controlled systems and R+F Materials) and maintain no separate sales or marketing business.

113. R+F Consultants are not required to have any background in sales, dermatology, or cosmetics prior to becoming a Consultant. Consultants are not required to have any licensure or meet any educational requirements, either. For example, they do not need to be licensed cosmetologists or aestheticians, nor have any schooling, training, or prior employment in fields relating to cosmetology or skincare. Nor does R+F require that they have schooling, training, or prior employment in marketing, sales, or general business. With few exceptions, Consultants have not ever owned or operated their own separate sales business outside of R+F. In fact, 67% of the Independent

1 Consultants had no prior direct sales experience.<sup>50</sup> This is expected, given that applications do not  
2 submit their resumes and are only required to complete a short application with basic personal  
3 information and agree to pay for the Business Starter Kit. Exh. A. After becoming Consultants, most  
4 do not maintain any registered or incorporated sales or marketing business, for their work with R+F  
5 or otherwise. Consultants generally do not hold themselves out to others as sales or marketing  
6 professionals or maintain any office or business address.

7 114. As discussed throughout, rather than rely on Consultants' own sales experience to  
8 market products, R+F provides the instrumentalities of Consultants' sales and marketing work  
9 through R+F's online enterprise management system ("PULSE by Penny"), from which Consultants  
10 access the Library and other proprietary resources and tools, like shareables, and business reporting  
11 and analytic tools. R+F designs, and publishes to the Library, the overall social media advertising  
12 campaign, and supplies the Consultants with hashtags, scripts, promotional photos and video clips,  
13 and other strategic online advertising directives for the Consultants to use to the Products on social  
14 media. And R+F controls all Consultant Websites.<sup>51</sup>

15 115. Ultimately, R+F intends for Consultants to view R+F as their employer. This is  
16 evident because R+F policies require that Consultants rely on its materials and tools; regardless of  
17 whether a Consultant maintains any kind of independent business, R+F's policies and mandated  
18 instrumentalities of work make it so the Consultant responsibilities are not those that are of the sort  
19 that would be performed by an independent and trained professional. *See generally, infra*, ¶¶ 173-82  
20 (detailing R+F's willful misclassification of Consultants as independent contractors rather than  
21 employees). For example, because R+F provides Consultants with the platform, apps, websites, and  
22 other tools to sell the Products, the Consultants are using the R+F brand to sell, not their own  
23

---

24 <sup>50</sup> *Rodan + Fields At-A-Glance, supra*, n.41.

25 <sup>51</sup> *See e.g., supra*, ¶ 71 (describing Library "universe of the content"); ¶ 73 (describing how R+F leverages PULSE subscription to exert control); *see generally, supra*, ¶¶ 80-88 (describing R+F's reliance on e-commerce and online tools to control how Consultants perform marketing and sales work.).

1 business's identity. Those experienced in social media marketing are not allowed to use the kinds of  
2 tools used by professionals in that field; as discussed above, R+F prohibits them from advertising  
3 through mass media, Exh. B § 11g, or from leveraging using Influencers or other brands' social media  
4 pages to drive traffic to their Consultant Websites. *Id.* § 11k.

#### 5 **4. R+F Consultants Are Not “Direct Sellers”**

6 116. Despite classifying the Consultants as independent contractors, they are employees  
7 under California law. As set forth below, while some MLM workers might meet the narrow statutory  
8 exemption for those employed in “direct sales,” the Consultants do not.

#### 9 **5. Consultants' Work is not Outside Rodan + Fields' “Usual Course of 10 Business”**

11 117. R+F views the work of the Consultants to market the Products online as central to its  
12 business model, which in turn is built on the belief that social media posts from friends and  
13 community members with shared interests may be more persuasive in for driving interest and  
14 generating paying customers than a paid advertisement. Through its Consultant program, R+F has  
15 been able to leverage this idea into increased visibility on social media and traffic to its websites,  
16 enabling it to compete in a saturated cosmetics market very cheaply.

17 118. Accordingly, Rodan + Fields celebrates and prides itself on the work of the  
18 Consultants to market and sell the Products online as central to its business model – work itself that  
19 R+F does not compensate for—and as core to its past and future successes. R+F describes its  
20 renowned brand as “powered by a direct selling business model and Independent Consultant  
21 Community.”<sup>52</sup> Direct Selling News, a trade publication for the MLM and direct selling industries,

---

22  
23  
24  
25 <sup>52</sup> *Rodan + Fields Adds New Talent To Their Leadership Team As Together With Their Consultant Community They Power Forward Their Life-Changing Mission*, *supra*, n.18.

1 has consistently reported that R+F's Consultant Community is the "powerful Independent  
2 Consultant Community" as a key ingredient to R+F's financial success over the years.<sup>53</sup>

3 119. R+F's 2023 marketing materials offers more of the same, celebrating its Consultant  
4 Community alongside both its groundbreaking successes in the skincare market. For example, the  
5 Rodan + Fields "At-A-Glance" graphic, featured below, describes its direct selling model, comprised  
6 of Consultants, as "the core of WHO we ARE."<sup>54</sup> R+F irrefutably relies on the work of Consultants  
7 in its usual course of business and recognizes their value and importance in R+F's ability to soar and  
8 seize its multi-billion-dollar growth opportunities.

---

24 <sup>53</sup> "The female-led company achieved more than \$1.5 billion in revenue in 2017 thanks to its innovative skincare  
25 products, disruptive consumer connected commerce model and powerful Independent Consultant  
Community." *Rodan + Fields Named No. 1 Skincare Brand in the U.S. and North America in 2017*, *supra*, n.20.

<sup>54</sup> *Rodan + Fields At-A-Glance*, *supra*, n.41.

# RODAN+FIELDS AT-A-GLANCE

## THE COMPANY

Premium skincare company offering innovative dermatology-inspired products backed by clinical results.

**FOUNDED**

by Stanford-trained  
Dermatologists  
Dr. Katie Rodan and  
Dr. Kathy Fields

**\$1.5B<sup>+</sup>**

annual sales in  
less than ten years

**\$18M<sup>+</sup>**

Awarded in grants by the  
Rodan + Fields Prescription  
for Change Foundation

**3** countries in  
operation  
so far

## THE INDEPENDENT CONSULTANTS

An amazing community of business leaders

**67%**

had no direct sales  
experience prior  
to joining

**70%**

work full or part-time  
in addition to R+F

**91%**

of Preferred Customers  
are very satisfied with  
their Consultant

## THE RESULTS

At the core of WHO we ARE.

**#1**

Dermatologist Founded Premium Skincare Brand in North America in 2022<sup>1</sup>

Premium Skincare Regimen Brand in the U.S. for 5 Consecutive Years  
(2018 – 2022)<sup>2</sup>

Premium Anti-Aging Regimen Brand in North America in 2022<sup>3</sup>

Premium Acne Brand in the U.S. in 2022<sup>4</sup>

Direct Selling Premium Skincare Brand in North America in 2022<sup>5</sup>

## THE OPPORTUNITY

Rodan + Fields is all about innovation and growth,  
with new opportunities for global expansion on the horizon.

ONLY  
**29%**  
R+F brand<sup>6</sup>  
awareness

**\$18B<sup>+</sup>**  
opportunity remains within U.S.  
skincare categories

**NEW**  
innovations  
every year

**\$37B**  
opportunity within the U.S.  
in adjacent categories

<sup>1</sup> Source: Euromonitor International Limited; Beauty and Personal Care 2022 Edition, retail value RSP terms; all channels; Premium Skincare.

<sup>2</sup> Source: Euromonitor International Limited; Beauty and Personal Care 2022 Edition, all channels; Premium Skin Care Regimen includes Sets and Kits; retail value RSP terms.

<sup>3</sup> Source: Euromonitor International Limited; Beauty and Personal Care 2022 Edition, retail value RSP terms; all channels; Premium Anti-Aging including Premium Anti-Aging products sold as part of Sets and Kits.

<sup>4</sup> Source: Euromonitor International Limited; Beauty and Personal Care 2022 Edition, retail value RSP terms; all channels; Premium Acne Treatments.

<sup>5</sup> Source: Euromonitor International Limited; Beauty and Personal Care 2022 Edition; all channels; Premium Skin Care Regimen includes Sets and Kits; retail value RSP terms.

<sup>6</sup> 2021 U.S. study conducted with 1500 skincare users ages 18-74.

08/2023

life-changing SKINCARE

**RODAN+FIELDS**

FOR USA ONLY  
©2023 Rodan + Fields, LLC  
All Rights Reserved.

1           120. In 2017, after R+F was named the number one skincare brand in the United States  
2 for the second time and the number one skincare brand in North America for the first time, then  
3 President and CEO, Diane Dietz, attributed R+F's success as follows:

4           “This is a testament to our products that deliver visible results, our personalized,  
5 direct-to-consumer approach and the entrepreneurial power of our Consultant  
6 Community. We look forward to the continued momentum and sharing our life-  
7 changing skincare with more consumers globally.”<sup>55</sup>

8           In 2018, after being named the number one in skincare brand again in the United States and  
9 across North America, again, Dietz credited and praised the Consultants:

10           “We’re excited to be recognized in so many great categories by Euromonitor but what really  
11 inspires us is seeing our Founders’ vision come to life and giving people healthy skin and the  
12 confidence that goes with it. These accolades are a testament to our powerful Independent  
13 Consultant community who are tremendous brand advocates and who energize us to bring  
14 more innovative and life-changing products to markets around the world.”<sup>56</sup>

15           121. Because the work of Consultants is so fundamental to R+F's future success, in August  
16 2021, R+F announced expansions to its leadership team exclusively to improve upon and support  
17 the Consultant Community, describing this business decision as part of its “renewed commitment to  
18 double down on their roots as a direct seller and advance their life-changing mission around the globe.

19           122. Specifically, R+F added a Chief Global Sales Officer, Laura Beitler, who is  
20 “responsible for the Global Sales Organization and business related to the brand’s Independent  
21 Consultant salesforce.” She was hired to “lead the Business Development, Field Operations, Field  
22 Marketing and Communications, and the Recognition and Learning + Development functions.” R+F  
23 also hired a Chief Marketing Officer, Elana Gold, for the first time, was to “drive the strategy and  
24 vision for the R+F brand. She is responsible for Brand Strategy, Creative, Innovation, Corporate  
25 Strategy + Insights, Social Media, Loyalty, Digital Marketing + eCommerce, and the Corporate

---

<sup>55</sup> *Rodan + Fields Named No. 1 Skincare Brand in the U.S. and North America in 2017*, *supra*, n.21.

<sup>56</sup> *RODAN + FIELDS’ INNOVATION PREVAILS; COMPANY NAMED THE #1 SKINCARE BRAND IN U.S. AND NORTH AMERICA IN 2018*, *supra*, n.12.

Communications functions.”<sup>57</sup> See generally, *infra*, ¶¶ 173-82 (outlining that R+F’s decision to misclassify Consultants as independent contractors rather than employees was willful).

123. The CEO described their roles as integral to its strategy to grow its business and community:

“There couldn’t be a more important time for two trailblazers in their own right, Laura and Elana, to join Rodan + Fields as we become a leading direct selling company recognized industry-wide for our community, products and people,” said Chief Executive Officer (CEO) & President, Dimitri Haloulos. “It is undeniable that their leadership, passion, and expertise come at a unique stage in our Company’s evolution to bring together our Consultant Community, direct selling business model, and product innovation in a more powerful way as we welcome our next era of growth.”<sup>58</sup>

124. Mr. Haloulos, the President and CEO himself, also committed over 100 hours to working closely with Consultants, recognizing how critical their work is to the overall business. He shared:

“In my first three months as CEO, I spent about 125 hours with our consultants and got to know their stories at a pretty granular level,” he shared. “The diversity of story, regardless of level, whether they were a long-time leader or new to the company, Rodan + Fields, and how it fits in their lives can play such a different role. The symbiotic relationship is pretty phenomenal. It’s like nothing I’ve ever seen. I learned so much—and most of all, saw the shared passion they all have about Rodan + Fields.”<sup>59</sup>

125. Relatedly, because the work and success of Consultants is so core to the success of the R+F business, R+F hires employees to work directly with the Consultants, for example, to develop content for them, to work on programming to keep them engaged, as well as to manage them. For example, as of November 6, 2023, R+F was looking to fill two full-time employment positions on two separate teams devoted to driving success and engagement of Consultants and traditional managerial duties over Consultants.

---

<sup>57</sup> Rodan + Fields Adds New Talent To Their Leadership Team As Together With Their Consultant Community They Power Forward Their Life-Changing Mission, *supra*, n.18.

<sup>58</sup> Rodan + Fields Adds New Talent To Their Leadership Team As Together With Their Consultant Community They Power Forward Their Life-Changing Mission, *supra*, n.18.

<sup>59</sup> Vetter, *supra*, n.27.



126. R+F's business and leadership strategies revolve heavily on ensuring the success of the Consultant Community, to which they devote impressive resources (e.g., technology and engineering, professional development, executive engagement). After expanding its leadership team, R+F launched changes to the Consultant experience, including new digital tools to streamline Consultants' work and make it simpler to reach customers online. The new Chief Global Sales Officer, Lauren Beitler, spearheading these improvements, described its success:

"Since launch, results have been really great. The combination of this simple way to share in a repeatable way over and over again that gets results and that's very systematic is what we've been focused on."<sup>60</sup>

127. In April 2022, an interview with Direct Sellers News, the Chief Executive Officer and President, Dimitri Haloulos, credited employees and Consultants alike, as collaborators, for R+F's launch into a phase of growth, stating:

"We did a tremendous amount of work and pivoted the business all while being remote. That to me is probably the most amazing thing. It was a mix of our consultants and our employees coming together on a shared goal to make things happen."<sup>61</sup>

Because the Consultants work is a core part of R+F's business, R+F strategically, exclusively prioritized work on digitization and re-engaging the Consultants and enhancing their experience to "pivot the business."<sup>62</sup>

128. R+F's product vision, and therefore their product development plans, also reflects how intertwined and central the Consultant's work is to the business. R+F conceives of new skincare products to target untapped market segments in reliance on the Consultants' ability to market and sell products as well as the countless hours R+F can rely upon Consultants devoting to the business. For example, in fall of 2021, R+F released a new multi-function anti-aging product, Total RF Serum,

---

<sup>60</sup> Vetter, *supra*, n.27.

<sup>61</sup> *Id.*

<sup>62</sup> *See id.* (quoting Chief Global Sales Officer Laura Beitler and describing changes R+F implemented under new leadership after extensive efforts to better understand the Consultant experience and re-engage Consultants, including the 2022 "Make It Yours" Campaign," which advertised how current Consultants have leveraged opportunities with R+F).

1 targeted toward skincare product users who were reluctant to invest in a regimen and therefore did  
2 not use R+F's regimen-based products. After a successful launch, Haloulos celebrated Consultants'  
3 role and responsibility of targeting and acquiring those new customers; again, attributing R+F's ability  
4 to further penetrate the skincare market on the power of the Consultants' community. Haloulos  
5 stated:

6 "We're a regimen-based company, and we believe that the combination of the products  
7 really makes a difference—they do clinically. Total RF Serum accelerates those results.  
8 So, if you use a regimen, you'll get better, faster results. But there are people that don't  
9 want to start with a regimen, and they can start with this one product and also get visible  
10 results. It gives our consultants a way to grow incremental penetration in the consumer  
11 market."<sup>63</sup>

12 129. R+F also underscores how essential the Community is to its business by investing  
13 specifically in product development opportunities to expand that workforce. In 2022, R+F launched  
14 its haircare product line, which it described as a significant and meaningful opportunity for their  
15 business that would allow R+F to attract new Consultants and customer bases.<sup>64</sup> R+F is also able to  
16 innovate and grow because of the work performed by the Consultants.

17 130. R+F's annual revenue and the company's creditworthiness are integrally related to the  
18 number of Consultants enrolled, which highlights the Consultant's essential role in R+F's ability to  
19 generate revenue and expand R+F's consumer base. As the number of Consultants have dropped  
20 year-over-year, so has revenue, and Moody's Investors' Service has downgraded R+F's credit rating  
21 4 times since its first assignment in 2018.<sup>65</sup> Moody's attributed each downgrade, at least in part, to the  
22 decline in Independent Consultants working for R+F. For example, in 2019, Moody's stated that the  
23 company's underperformance "was fueled by a significant decline in new enrollment of its  
24 Independent Sales Consultants . . . [which were] a significant driver of growth across the company's  
25

---

<sup>63</sup> *Id.*

<sup>64</sup> *Rodan + Fields Expands in Haircare Category*, KRQE, (Oct. 23, 2023); <https://www.krqe.com/business/press-releases/cision/20221101SF21416/rodan-fields-enters-haircare-category-with-a-scalp-first-approach/>  
[<https://perma.cc/FA76-QDQ9>].

<sup>65</sup> *See Rodan & Fields, LLC*, Moody's Investor Services Rating Action *supra*, n.23.

1 multi-level marketing business model, and the decline in enrollment negatively impacted business  
2 performance.”<sup>66</sup>

3 **a. Background on MLMs and the Direct Sales Exemption**

4 131. For many years, the MLM industry has enjoyed notoriety for its ability to carve out  
5 legal loopholes that exempted them from federal and state employment laws, thereby permitting  
6 MLMs to treat its sales personnel as independent contractors rather than employees. These  
7 exemptions were enacted in the 1970s and 1980s. However, the California Exemption describes a  
8 different job or function than what is performed by R+F Consultants.

9 132. When AB 5 was passed in 2019, it codified the opinion in *Dynamex Operations West, Inc.*  
10 *v. Superior Court of Los Angeles County*, 4 Cal. 5th 903 (2018), in which it set forth a new test for  
11 misclassification (the “Dynamex Test”). When the bill was being debated, many in the MLM industry  
12 recognized that the Dynamex Test would require them to classify their workers as employees. The  
13 Direct Selling Association (“DSA”), the industry lobbying group, pushed for an exemption. As a  
14 result of those efforts, AB 5 exempts from the Dynamex Test any salesperson “described in Section  
15 650 of the Unemployment Insurance Code, so long as the conditions for exclusion from employment  
16 under that section are met.” (“Direct Sales Exemption”). For such workers who fall within the  
17 Exemption, the old common law test (rather than the ABC test) would govern the question of  
18 employee status.

19 133. For an entity to be covered under the Direct Sales Exemption, the hiring entity must  
20 show that the work satisfies all three criteria set forth in the statute, namely that (a) the worker  
21 performs one of two specific types of work; (b) the worker’s compensation is directly tied to sales or  
22 output, and not hours worked; and (c) the worker and business have an agreement that the worker  
23 will be treated as a contractor for tax purposes. If all three criteria are not met, then the Exemption  
24

---

25 <sup>66</sup> *Moody’s downgrades Rodan + Fields’ CFR to B3; ratings remain on review for downgrade, supra*, n.8 (reporting that the company “generates about \$1.3 billion in annual revenue”).

1 does not apply, and if the worker otherwise meets the Dynamex Test, they are misclassified. While  
2 the third of these criteria—services performed pursuant to a contract identifying the person as an  
3 independent contractor—is only facially met, and even if it were an enforceable contract, that factor  
4 is not dispositive. As discussed below, the Consultant job does not satisfy the other two criteria.

5 **b. R+F Consultants Do Not Perform the Jobs Identified in the**  
6 **Direct Sales Exemption**

7 134. First, for the Direct Sales Exemption to apply, the salesperson must be performing  
8 one of two narrowly defined jobs. Specifically, the Exemption requires that one be “engaged in the  
9 trade or business of primarily inperson [sic] demonstration and sales presentation of consumer  
10 products, including services or other intangibles, in the home or sales to any buyer on a buy-sell basis,  
11 a deposit-commission basis, or any similar basis, for resale by the buyer or any other person in the  
12 home or otherwise than from a retail or wholesale establishment.” In other words, section (a) of the  
13 Direct Sales Exemption is best understood as identifying two specific categories of direct sales jobs,  
14 *Primarily In Person Consumer Sales Work*, and *Wholesale/Resale Work*, that could trigger the  
15 applicability of the Direct Sales Exemptions. The work of an R+F Consultant does not fall under  
16 either of these categories.

17 135. *R+F Consultants Are Not Engaged Primarily in In Person Consumer Sales*  
18 *Work*. This job category covers those who are “engaged in the trade or business of primarily in person  
19 [sic] demonstration and sales presentation of consumer products, including services or other  
20 intangibles, in the home.” Thus, the Direct Sales Exemption is limited to those who are *primarily*  
21 selling consumer products *in person* and *in the home*. These terms are significant, as they do not appear  
22 in the analogous job category of “direct sellers” under a later federal statute. *See* 26 U.S.C. §  
23 3508(b)(2)(ii). Thus, the California Exemption applies narrowly to jobs like door-to-door  
24 salespersons, or the direct sellers who work almost exclusively through the home party circuit, i.e.,  
25 people who sell consumer products by meeting with other consumers in their homes.

1           136. R+F Consultants do not “primarily” sell “in person” because the job of the  
2 Independent Contractor was never intended to be in person sales work. Founder Dr. Katie Rodan  
3 shared that they created the role of the Independent Consultant (and the Consultant Community  
4 generally) as a direct response to “witnessing this whole decline for retail and the rise of social  
5 media.”<sup>67</sup> See, *infra*, ¶¶ 173-82 (detailing R+F’s willful misclassification of its Consultants as  
6 independent contractors rather than employees). By design, as discussed in Paragraphs 66-88, *infra*,  
7 the R+F’s technology, strategies, processes (e.g., fulfillment), policies, and Compensation Plan  
8 encourage and promote online sales over in person interactions. Co-Founder Dr. Fields takes pride  
9 in the fact that they “don’t use the regular marketing and advertising,” and instead built “everything  
10 in Rodan + Fields [to] run on [Consultants’] smartphone[s],” such as tools, resources, incentives, and  
11 promotions that drive marketing and sales online.<sup>68</sup> In doing so, R+F made direct, in person sales  
12 more cumbersome and challenging, if not impossible, and certainly less strategic or profitable.

13           137. At most, any in person sales that occur are merely incidental to online marketing and  
14 selling. As discussed in Paragraphs 8 and 66, *supra*, door-to-door sales are discouraged, and R+F  
15 restricts the use of kiosks and the like, all while R+F requires the use of various tools, which it  
16 designed to promote online sales. Moreover, R+F does not track in person sales and does not  
17 consider them for purposes of advancement or for satisfying obligations under the compensation  
18 plan. R+F’s Income Disclosure Statement only tracks online sales. While R+F requires Consultants  
19 to personally record and track in person sales, it is only to establish to R+F that they are not violating  
20 inventory loading or advance buying rules.

21           138. Consultants market the Consultant Opportunity, i.e., recruit new Consultants, as  
22 entirely online, not in person, sales work. Even the Federal Trade Commission addressed this facet  
23 of Consultants’ marketing responsibilities when, in 2020, it released a warning to Rodan + Fields to  
24

---

<sup>67</sup> Castillo, *supra*, n.3.

<sup>68</sup> *Id.*

1 enforce rules that Consultants cease and refrain from making certain online income-related  
2 statements when they market the opportunity itself.<sup>69</sup>

3 139. To the extent that any R+F Consultant was conducting “in person” sales, the COVID-  
4 19 pandemic would have pushed more sales online for safety reasons. And in 2021, R+F made  
5 additional investments to drive business growth and facilitate online sales; specifically, R+F hired  
6 new leadership to restructure the online Consultants’ platform and build tools to make online  
7 marketing and sales simpler. *See supra*, ¶¶ 119-121; ¶ 124; ¶ 125, n.62.

8 140. ***R+F Consultants are not engaged in Wholesale/Resale Work.*** This job category  
9 covers those “individuals . . . engaged in the trade or business of . . .”:

10 [a] “sales to any buyer”

11 [b] “[i]on a buy-sell basis, [ii] a deposit-commission basis, or any similar basis,”

12 [c] “for resale by the buyer or any other person”, and

13 [d] “in the home or otherwise than from a retail or wholesale establishment.”

14 This classification also has a federal parallel, 26 U.S.C. § 3508(b)(2)(i). While California law does not  
15 define the terms buy-sell or deposit-commission in [b], federal law does. The term “buy-sell basis” is  
16 one in which one buys the product to sell the product and gets paid for selling the product with the  
17 spread between the purchase price and the resale price. *See* 26 U.S.C. 6041A(b)(2)(A) & (B). The term  
18 “deposit-commission basis” applies where the buyer keeps as commission for a sale of a product the  
19 deposit received from the buyer. *See id.*

20 141. The “Wholesale/Resale Work” category is even narrower than “In Person Home Sales  
21 Work” and does not apply to R+F. Rather, R+F requires that Consultants sell only to themselves or

---

23 <sup>69</sup> Warning Regarding Earnings Claims Related to Coronavirus Disease 2019 (COVID-19), Federal Trade  
24 Commission (April 24, 2020), [https://www.ftc.gov/system/files/warning-letters/covid-19-](https://www.ftc.gov/system/files/warning-letters/covid-19-letter-to-rodan-fields-llc.pdf)  
25 [letter to rodan fields llc.pdf](https://www.ftc.gov/system/files/warning-letters/covid-19-letter-to-rodan-fields-llc.pdf) [https://perma.cc/6XAU-4HVJ] (providing examples of Consultants’ social  
media posts regarding their lucrative work performed exclusively from home during the height of the COVID-  
19 pandemic).

1 to retail customers. Nowhere in the Agreement or in Consultants’ public materials does it state that  
2 compensation is on a buy-sell or deposit-commission basis.

3 142. To illustrate what is meant by “Wholesale/Resale Work,” a hypothetical Upline  
4 Consultant Sue would be performing this work if:

5 [a] Sue (the “seller”) sold a widget to her Downline Consultant Barb (the “buyer”) for \$50;

6 [b] for Barb (or “any other person” Barb transfers the widget to) to re-sell to another person,  
7 Paula, for \$60; and

8 [c] Sue compensated Barb for Barb’s successful effort to re-sell the widget to Paula by  
9 permitting Barb to keep the difference between the price Barb paid to Sue (\$50) and price at  
10 which Barb re-sold the widget to Paula (\$60), either on

11 [i] a buy-sell basis, in which Barb pays \$50 to Sue, then Barb sells the product to Paula  
12 for \$60, and Sue permits Barb to keep the difference; or

13 [ii] a deposit-commission basis, in which Paula pays Barb a \$10 deposit, Barb pays Sue  
14 \$50 to buy the product to sell to Paula, and upon delivery, Paula pays \$60 to Barb, and Sue  
15 permits Barb to keep the \$ 10 deposit.

16 Because Wholesale/Resale Work category applies to the “individual[] . . . engaged in the trade or  
17 business of . . .” sales to buyers on resale bases, in this example, the only worker subject to its coverage  
18 the person doing the *selling* on a wholesale or resale basis (Sue), not the buyer (Barb). If Barb were  
19 selling in person, she would be performing In Person Consumer Sales Work.

20 143. However, R+F Consultants do not work in this way because they do not sell Products  
21 to other Consultants for those Consultants to re-sell, and R+F controls compensation. If Barb directs  
22 Paula her Consultant Website, and Paula purchases a product from R+F, both Barb and her Upline  
23 consultant Sue would receive a commission for sales from R+F. But Sue did not perform  
24 Wholesale/Resale Work, because Sue did not sell the Products to Barb, i.e., [a] is not met, nor did  
25 Sue pay Barb on a buy-sell or deposit-commission basis, i.e., [c] is not met. Rather, Paula purchased  
directly from R+F’s e-commerce platform at R+F’s set price, R+F took the full payment at the point  
of sale, sent the Product directly to the Paula, and paid commission to Barb and Sue.

1           144.     Indeed, Wholesale/Resale Work cannot occur because R+F imposes restrictions on  
2 bulk purchasing that make it so Consultants would not sell to their own Downline for those Downline  
3 purchasers to sell at retail. Under the Consultant Agreement, Consultants are only permitted to  
4 purchase R+F Products in bulk for their own personal use, for use in support of R+F business  
5 activities (such as to provide samples), or to resell to Retail Customers – not to sell to other  
6 Consultants for those Consultants in turn to sell at retail. Exh. B § 5b. Consultants that wish to  
7 purchase Products for the purposes of selling directly Customers purchase directly from R+F's e-  
8 commerce platform, not from their Upline.

9           145.     Even in the narrow instances where the Consultant sells Products directly to  
10 customers, i.e., in person, rather than directing the Customer to her Consultant Website, Consultants  
11 do not engage in Wholesale/Resale Work, because the sale to consumers is not for purposes of  
12 reselling.

13           146.     Even if R+F does not expressly prohibit an Upline Consultant to sell to her Downline  
14 Consultants for those Downline Consultants to sell to retail customers, in practice, this is unlikely to  
15 occur and not how R+F intends for Consultants to work. First, this kind of arrangement could not  
16 actually be carried out on R+F's platforms. Rather, for this to happen, the Upline consultant would  
17 have to buy the products from R+F, and once received, physically hand them over to the Downline  
18 consultant for them to sell in person. But the R+F compensation and advancement plans key off of  
19 both the Consultants' purchases and their online sales. Thus, neither the Upline nor Downline  
20 consultant would get any credit for any sales that resulted, and the Downline consultant would not  
21 get credit for having purchased Products. In any event, all Consultants pay R+F the same discounted  
22 rate for Products, so to incentivize a Downline Consultant to engage in resale work under this model,  
23 the Upline Consultant would need to sell them the Products at a price lower than the R+F discounted  
24 rate. This is an illogical and unlikely outcome because the Upline would lose money if they chose to  
25 participate in Wholesale/Resale Work.



1           147.    *The job descriptions in the Direct Sales Exemption predate significant changes*  
2   *to how MLMs now operate.* By way of background, these two categories of jobs outlined in the  
3   Direct Sales Exemption were how MLMs organized at the time the Direct Sales Exemption was  
4   enacted. In the 1970s and 1980s, Downline sellers hosted parties, traveled door-to-door, had booths  
5   at local fairs, or visited friends and family in their homes to hand out samples, catalogs, and sales  
6   sheets. They took orders and payment directly from the customer. Once the seller had enough orders,  
7   the seller placed the order with the company, received the shipment from the company, and then met  
8   with the customer again in person to deliver the product and if necessary, collect any further payment  
9   that might be due. The direct seller engaged with consumers both directly and personally; the  
10   consumers had little to no interaction with the company.

11           148.    In some instances, instead of placing the order with the company, the seller performing  
12   “In Person Home Sales” would place the order with the person in their “Upline,” who was engaged  
13   in “Wholesale/Resale Work.” The Upline seller acquired products from the company and sold them  
14   to the Downline “In Person Home Sales” worker on a buy-sell or commission deposit basis for them  
15   to sell to end consumers (or to their Downlines). The seller was able to do “Wholesale/Resale Work”  
16   because at the time, MLMs permitted direct sellers to fulfill their sales quotas by either selling the  
17   product to retail consumers or selling it to Downline sellers.

18           149.    Since the Direct Sales Exemption was enacted, various changes in the MLM industry  
19   occurred to move away from this model. Most notably is the fact that over the last few decades,  
20   MLMs have been forced to make changes to their operations in response to regulatory actions and  
21   civil lawsuits by private litigants to enforce anti-pyramid scheme laws. Courts and regulators have  
22   made clear that to avoid violating criminal and civil pyramid scheme laws, MLMs needed to conduct  
23   operations so as to ensure that real, meaningful sales were happening directly to consumers—instead  
24   of primarily to sellers’ own Downlines. *See, e.g., Webster v. Omnitrition Int’l*, 79 F.3d 776, 782 (9th Cir.  
25   1996). It was not enough to simply have a policy that sales should be at retail; the law has evolved to

1 require MLMs to enforce that policy and to demonstrate its effectiveness at ensuring participants  
2 were not merely stockpiling inventory and seeking to recoup losses by recruiting new sellers to buy  
3 the product from them.

4 150. These legal developments have prompted two important changes. First, because  
5 MLMs must ensure retail sales are occurring, few if any MLMs permit sellers to perform  
6 “Wholesale/Resale Work.” As discussed herein, R+F does not. Second, the work undertaken by  
7 MLMs to enforce policies as to sales at retail results in them exercising far more control than they  
8 might have decades ago. Indeed, the R+F Consultant Agreement contains numerous restrictions to  
9 ensure Consultants are not buying more inventory than can be sold at retail or selling inventory to  
10 other Consultants. *E.g.*, Exh. B § 11h (prohibition on Consultants selling products online on non-  
11 R+F websites); *id.* § 5b (prohibiting inventory loading and requiring retention of receipt of bulk  
12 purchase to prove at least 70% were resold or used in business activities, or alternatively, requiring  
13 Consultant to use all product within 30 days of purchase)); *id.* § 5c(i) (setting limitations on  
14 Consultants’ personal purchases and subjecting them to R+F review when they exceed \$1000 any  
15 given month); *id.* § 5c(ii) (prohibiting “advancement”); *id.* § 6i (requiring Consultants to keep receipt  
16 records on retail sales for two years and to provide to R+F at its request). Under the Consultant  
17 Agreement, Consultants must sell Product – and often do so at a financial loss – to comply with  
18 R+F’s prohibition on retaining more than 30% of the products they personally purchased. *Id.* § 5b.

19 151. Furthermore, by implementing platforms such as the Consultant Website and  
20 imposing such strict regulations on any sales outside of R+F’s e-commerce platforms, R+F can better  
21 oversee and control sales of R+F Products and ensure Consultants are not engaging in activities that  
22 could run afoul of anti-pyramid scheme laws. R+F essentially oversees all retail sales, given the vast  
23 majority occur on R+F controlled websites, not in person. While this control may protect Consultants  
24 from being a victim of one kind of legal violation, they also remove much of the discretion that other  
25 independent MLM contractors had.

1                                   c.     **The Direct Sales Exemption requires specific compensation**  
2   **practices, and R+F's complicated Compensation Plan does not**  
  **conform with the requirement.**

3           152.     For a position to qualify for the Direct Sales Exemption, “[s]ubstantially all of the  
4 remuneration (whether or not paid in cash) for the services performed by that individual is directly  
5 related to sales or other output (including the performance of services) rather than to the number of  
6 hours worked by that individual.” While R+F claims that Consultants are paid commissions based  
7 on their sales, remuneration is not “directly related” to the sales and marketing services Consultants  
8 perform for R+F, both because of how R+F’s policies and procedures structure pay and because of  
9 the outsized role that chance plays. Ultimately, R+F has designed the Consultant Program such that  
10 Consultants are required to perform extensive unpaid labor promoting the brand – for purposes of  
11 sales and marketing the Program itself, from which R+F, but not the individual Consultant, directly  
12 benefits. And even when R+F does pay Consultants for their work, it is not “directly related” to the  
13 output of the Consultant.

14           153.     **First**, R+F ultimately closes the sale, which can result in a Consultant earning income  
15 that is not “directly related” to their output, but intertwined and dependent on R+F’s discretion and  
16 efforts. R+F sets and controls prices that Consultants display on their Consultant Websites, writes  
17 up the product descriptions, controls the point-of-sale platform and the decision on whether to  
18 accept payment and fulfill the order, and packages and ships the Products to the end consumer. R+F  
19 can decline a customer’s payment method, cancel the order due to a shortage or a suspicion of fraud,  
20 err in its fulfillment and must refund the consumer, have a website outage that prevents the order  
21 from going through, or otherwise decline or reject the sale for any reason. *See* Exh. A at 3, § 7 (“R+F  
22 reserves the right to accept or decline any order for R+F Products, and may cancel or delay shipment  
23 of R+F Products for any reason, including without limitation if Consultant fails to make any required  
24 payment or otherwise fails to comply with the Consultant Agreement.”); *id.* § 8 (“Consultant  
25 authorizes R+F to deduct from any payments due to them the difference between the price paid by

1 Consultant for any R+F Products and any refunds actually paid by R+F to Customers or credit card  
2 chargebacks processed, consistent with [its policy providing] . . . the right to return R+F Products  
3 within 60 days of purchase for a full refund.”); Exh. B § 10c (describing refunds under the Customer  
4 Satisfaction Guarantee policy, applicable to online sales and in person); *id.* § 12c–d (detailing  
5 commissions and rewards deducted from Consultant’s current and future qualifications related to  
6 “Commission and Achievement Rewards”). In those instances, the Consultant will not receive a  
7 commission even though the Consultant referred the customer. Where direct sellers are not  
8 dependent on a company-controlled e-commerce platform, their commission for sales is more likely  
9 to reflect sales made. They do not run the risk of company interference if they elect to permit a  
10 customer to defer payment and can choose to invest in good inventory management practices.

11 154. ***Second***, because R+F has a “Preferred Customer” program, by which the customer  
12 can elect to automate the purchase and shipment of refills of products (e.g., customer can set up an  
13 auto-ship, where refills are re-ordered and re-shipped on a set schedule), the Consultant’s  
14 remuneration after the initial sale depends in substantial part on R+F’s efforts. Customers may  
15 choose to cancel auto-shipments because of any number of things in the exclusive control of R+F,  
16 such as their dissatisfaction or boredom with the product, billing errors, price increases, or changes  
17 to the terms of service. While a Consultant may be able to assist in the troubleshooting of some kinds  
18 of concerns raised by their Preferred customers, ultimately R+F’s outsized role in delivering the  
19 goods, means that remuneration will never “directly relate” to the Consultant’s output.

20 155. R+F has further divorced a Consultant’s output from remuneration in how it credits  
21 the Consultant for auto-ship sales by Preferred Customers, as under the Compensation Plan, R+F  
22 does not pay Consultants commissions on all of their sales. *See generally*, Exh. I; Exh. B, Appx A.  
23 While Consultants are directed to market the program to customers and tout the benefits of enrolling  
24 in auto-ship, R+F imposes barriers to receiving compensation for this work. For example, R+F does  
25 not pay Consultants commission on the auto-ship purchases made by those Preferred Customers

1 unless the Consultant has satisfied other sales metrics and/or purchased a certain volume of Products  
2 directly from R+F. Because of this barrier, Consultants risk lose commissions every time they  
3 successfully enroll a new Preferred Customer.

4 156. **Third**, the realities of online advertising throws to chance whether a Consultant can  
5 be compensated in a way that “directly relates” to their output and sales. While R+F claims a  
6 Consultant will receive commission for the sales they generate, because R+F intends for its  
7 Consultants to generate online sales through collective, coordinated social media marketing  
8 campaigns, R+F cannot always connect an individual Consultant’s marketing efforts to the sales leads  
9 the Consultants collectively directed to R+F, leaving the Consultant uncompensated for those sales.  
10 For example, a retail customer may choose to purchase R+F Products specifically because of a  
11 Consultant’s marketing efforts, but if they do not purchase through the Consultant’s Website or go  
12 through the cumbersome process of looking the Consultant up on the R+F website to provide her  
13 Consultant ID upon purchase the Consultant will not receive any commission for the purchase.

14 157. As another example, R+F will often communicate to Consultants an urgent need to  
15 market a Product, such as when there is a new launch or when it wants to offer a special promotional  
16 price. But these reflect a decision by R+F to push a given product in a way that will cause it to trend  
17 and gain traction on social media in a way that is beneficial to R+F, but not necessarily to the  
18 Consultant. Where a Consultant conforms with R+F’s directives to post within their groups or  
19 networks on social media, they will not receive any compensation for contributing to the trend that  
20 will drive overall sales. They only receive commission if social media algorithms display to a potential  
21 or existing customer their social media post, and a consumer elects to visit their Consultant Website  
22 (perhaps randomly selecting it from the many other Consultant Websites being simultaneously  
23 promoted to them in connection with the viral campaign), and then elects to make their purchase  
24 through that Consultant’s Website.

1           158.     ***Fourth***, remuneration is not “directly related” to sales or other output, as Consultants  
2 generate revenue for R+F separate from Product sales, but R+F does not compensate Consultants  
3 for this output. For example, each visit to a website has economic value, regardless of whether a  
4 purchase is made, and Consultants receive no compensation for their work to drive that traffic. As  
5 with any modern e-commerce company, R+F’s Privacy Policy gives it the right to acquire and retain  
6 all information provided by visitors to its website (including the Consultant’s Personal Websites).  
7 Exh. G. Its Privacy Policy permits R+F to utilize tracking pixels, cookies, and other internet tracking  
8 tools to monitor the browsing habits of the visitors to its website, and engage in direct advertising to  
9 them—broad rights not given to the Consultants who found and referred these customers. *Id.* Thus,  
10 R+F benefits from the leads and marketing done by its Consultants, even when consumer sales are  
11 not immediately made (and thus, no compensation is to be paid to the Consultant). The data the leads  
12 provide allow R+F to not only expand its advertising reach but acquire information that can be used  
13 to develop new campaigns and products or inform strategy. R+F could also sell data it acquires as a  
14 result of Consultants’ hard work recruit and generating leads and referrals but under their  
15 Compensation Plan does not pay any commissions to the Consultant in those instances. R+F  
16 exclusively owns the data and cuts off Consultants’ access to the data they generated through their  
17 customer engagement and sales work, either through their own Consultant Website or by directing  
18 traffic to the R+F Website, after they stop paying for their PULSE Pro subscription or their  
19 Consultant Agreement terminates. Exh. F. (“Pro features will be downgraded to Basic and all  
20 previously entered data will be deleted including, but not limited to, your [Consultant Website],  
21 contacts, and advanced reporting.”).

22           159.     Moreover, because of R+F’s ability to acquire data from Consultant leads, R+F can  
23 continue to track and advertise to customers who were originally brought to R+F’s-controlled  
24 websites by the Consultant. R+F has the power to target ads directly at these prospective RCs. Unlike  
25 the Consultant, R+F knows exactly Products the lead viewed, and can engage in ongoing display

1 advertising to that person. Notably, R+F does not agree at any time that it will not compete with  
2 Consultants or poach their customers. Exh. B § 6r.

3 160. Consultants do not own any of the data they generate or acquire and are provided by  
4 R+F based on their own sales performances, purchasing patterns of their Preferred Customers, or  
5 the performance of their Downlines, even though all this information is reflective of the Consultant's  
6 hard work and output. *Id.* § 6r (prohibiting Consultants from disclosing any material in Performance  
7 Reports). Consultants lose access to all of this data upon termination of their Consultant Agreement.  
8 *Id.* § 15c (effect of termination).

9 161. R+F also requires that Consultants "authorize[] R+F to use Consultant's name,  
10 photograph or personal story, as well as any photos, videos or other testimonial or endorsement  
11 material submitted by Consultant to the Company, in R+F promotional materials and waives any  
12 claims for remuneration for such use by R+F." Exh. A at 2, § 5. In other words, R+F profits not  
13 only from the Consultant's sales and marketing work, but R+F owns and profits – at no expense to  
14 them – from content that Consultants generate and any branding associated with their own personal  
15 image, i.e., a Consultant's creative output, they've developed in purportedly running their own  
16 independent businesses.

17 162. Furthermore, "R+F reserves the right to communicate and do business with any  
18 Customers acquired through Consultant's efforts without restriction of any kind[,]” which further  
19 obfuscates the relationship between a Consultant's output and remuneration. *Id.* at 3, § 7. Here, R+F  
20 capitalizes on the relationship the Consultant spent time and effort into cultivating and authorizes  
21 itself to conduct business with the Customer without directly relating any sales generated back to the  
22 Consultant.

**d. R+F's Modern E-Commerce Business Is Unlike Past and Present Direct Sales Companies.**

163. The Direct Sales Exemption and its inclusion in AB 5 was based on the MLM industry's claim that it is needed to ensure the industry could continue to offer people the opportunity to create and run their own businesses. Some MLM businesses do run operations that are predominately based on around in person sales, promoting home parties and sales at community events, like Parent Teacher Association meetings or similar. Some do not allow consumers to buy products via a company website or they utilize pricing and purchasing policies that give the seller more control. In the primarily face-to-face, in person sales context, the direct line between a person's effort and a closed sale may still be possible to draw and may allow for the kind of independent business operations contemplated by the statute.

164. R+F's operations, however, are a stark departure because sales are almost exclusively made online on R+F's e-commerce platform. And the way in which it operates its platforms, including the non-customizable Consultant Website, backend resources it provides to Consultants, and the constraints on where and how to market and sell the Products, eliminates nearly all the work for the Consultant associated with operating a business, as compared to MLMs of the past, and of some in the present. By removing many of the functions performed by sellers in the past, Consultants with expertise, skills, or a willingness to invest in certain areas are unlikely to realize a material change in their earnings prospects.

165. For example, the use of the Consultant Sites to make and process orders means that skills or investment in inventory management or distribution processes are irrelevant to one's business operations. When customers place orders on the Consultant Sites, R+F fulfills them. Unlike some MLMs, both current and historic, as well as in the traditional wholesale context, Consultants do not need to plan to have Product on hand or collect bulk orders.



1           166. Similarly, expertise or support in accounting, finance, economics or pricing will not  
2 impact a Consultant's success, because Consultants are not able to adjust prices at which the Products  
3 are sold on their Consultant Website; R+F sets pricing at a rate that it determines will cover R+F's  
4 expenses, regardless of whether the Consultant's compensation is enough to cover the Consultant's  
5 expenses. R+F calculates, collects, and remits sales taxes for all sales, except in the narrow instances  
6 where the Consultant resold Products directly to Customers and made a profit on that sale. Exh. B §  
7 6q. Therefore, Consultants do not need, nor would they benefit from, experience in that area,  
8 especially given all of the disadvantages and disincentivizes to sell in person. Unlike some MLMs,  
9 both current and historic, as well as in the traditional wholesale context, R+F does not give a larger  
10 discount or if the Consultant purchases a larger amount of Products to resell in person nor does it  
11 increase the percentage basis for a commission on a per-order-basis if a Customer orders a larger  
12 amount of Products from the Consultant's Website.

13           167. R+F is exclusively responsible for paying Upline and Downline Consultants and  
14 determines any compensation owed to them, and thus, a Consultant does not negotiate or set anyone  
15 else's rates of pay. R+F handles the payment interface, and thus Consultants do not need expertise  
16 in electronic payments, data security and privacy, credit card processing regulations, or similar.  
17 Consultants also require no skill in management other individuals since R+F provides tools to track  
18 Downline performance and R+F sets Downline compensation.

19                           **e. The Terms and Conditions in the Consultant Agreement are**  
20                           **Unconscionable, Unfair, and Unlawful**

21           168. The Consultant Agreement between R+F and Consultants is a tool and mechanism  
22 by which R+F exerts control over the Consultant while maximizing R+F's profits. The Consultant  
23 Agreement is a take-it-or-leave it deal, with no opportunity for negotiation. Only after enrolling and  
24 beginning the work do Consultants discover that the arrangement is one in which they will spend  
25

1 extraordinary amounts of time and money promoting the company with little payoff.<sup>70</sup> Indeed, the  
2 effect of the Consultant Agreement, when considered in tandem with R+F's other business practices,  
3 grossly restricts Consultants' ability to profit from their work, and may cause Consultants to turn  
4 attention to recruiting more Consultants into a futile business endeavor.

5 169. Indeed, MLMs like R+F have been criticized for the fact that few of the sellers manage  
6 to profit. At least one study concluded that 99% of MLM participants do not earn money;<sup>71</sup> another  
7 found that only 25% earned a profit.<sup>72</sup> R+F's numbers are consistent with this low rate of success; as  
8 discussed in, Paragraph 177, *infra*, regarding R+F's willful misclassification of its Consultant  
9 workforce as Independent Contractors, R+F Consultants rarely make any money. In 2019, 2020,  
10 2021, and 2022, 45%, 50%, 56%, and 33% of Consultants, respectively, did not receive a single  
11 commission check during the entire year. Exh. C. But most Consultants who *did* receive a commission  
12 check did not fare much better. R+F's annual Income Disclosure Statement reports that median  
13 annual income for Consultants who did receive at least one payment in 2022 (67% of the Consultants  
14 enrolled) was \$366. *Id.* at pp. 1-2. 56% of these Consultants (equivalent to 73,920 Consultants of the  
15 197,000 enrolled Consultants in 2023) had fewer than 5 Preferred Customers, and this group's median  
16 commissions was \$143, and some earned as little as \$20 last year, which does not account for their  
17 business expenses. *Id.* In other words, their net income from their work as a Consultant was  
18 substantially lower. As described throughout, Consultants purchase a Business Starter Kit in their  
19 first year for \$75, most Consultants subscribe to PULSE by Penny Pro for \$24.95 (\$299.40 annually),  
20 Consultants purchase hundreds of dollars in Products to both reach their 100 "Sales Value threshold

23 <sup>70</sup> See, e.g., Abby Vesoulis & Eliana Dockterman, *Pandemic Schemes: How Multilevel Marketing Distributors Are Using*  
24 *the Internet—and the Coronavirus—to Grow Their Businesses*, TIME (Jul. 9, 2020),  
<https://time.com/5864712/multilevel-marketing-schemes-coronavirus/> [https://perma.cc/F79C-8ZSD].

24 <sup>71</sup> *Id.*

25 <sup>72</sup> *What is Multilevel Marketing (MLM)?*, AARP Foundation, <https://www.aarp.org/aarp-foundation/our-work/income/multilevel-marketing/> [https://perma.cc/9X2C-QBNU].

1 and so that they can honestly and authentically market the Products,<sup>73</sup> as required under the  
2 Consultant Agreement, and they pay for their internet and phones which they rely on to conduct  
3 business and other incidental expenses.

4 170. The Consultant Agreement is designed in a way that all but guarantees Consultants  
5 receive low commissions in exchange for hard work advertising and selling R+F Products. While the  
6 Consultant Agreement entitles Consultants to receive 17% commission for each consumer product  
7 purchased by non-Preferred Customers that can be linked back to that Consultant, or 24% for  
8 Products purchased by Preferred Customers, the Consultant Agreement operates to limit a  
9 Consultant's earning potential in unforeseeable, surprising, and unfair ways, particularly for  
10 Consultants who are not experienced in sales or business.

11 171. To make a sale, Consultants must compete not only with other Consultants, while  
12 abiding by R+F's non-solicitation policies, but with a multi-million-dollar corporation that is selling  
13 the same Products to the same general public through its own R+F website. While the Consultant  
14 Agreement restricts Consultants from exercising discretion in areas such as marketing, pricing, and  
15 use of the intellectual property, R+F itself is not subject to these same rules and regulations. And, as  
16 discussed, R+F's Privacy Policy gives R+F the exclusive right to advertise directly to any customer  
17 that was driven to the R+F Website by a Consultant's marketing work. Exh. G.

18 172. Moreover, as discussed throughout, while Consultants are limited in terms of where  
19 they may market, display, and sell R+F Products and prohibits mass media advertising, R+F has no  
20 such limitations. It can buy paid advertisements through social media and other mediums, a privilege  
21 its Consultant Agreement prohibits Consultants from utilizing. And while Consultants cannot sell at  
22 various retail establishments and may not sell at wholesale, R+F authorizes itself to sell in stores and  
23  
24

---

25 <sup>73</sup> R+F actually markets Consultants has having "experience using . . . the Rodan + Fields products." *General FAQ*, Rodan + Fields, <https://www.rodanandfields.com/en-us/r-and-f-faqs> [https://perma.cc/5CBY-2A46].

1 therefore have negotiating power that Consultants do not have.<sup>74</sup> In other words, while this  
2 arrangement may stop counterfeiters or what R+F refers to as “a matter of fairness,” it also allows  
3 R+F to stop Consultants from selling on Amazon or other third-party marketplaces to attract more  
4 customers or offer lower prices. *See generally*, Exh. B §11g-l. And it allows R+F itself to advertise and  
5 sell directly to more customers, possibly poaching Consultants’ existing customer bases and diverting  
6 more of the public to R+F and away from the Consultants, which R+F has authorized itself to do.

7 173. Moreover, R+F has structured its business operations to benefit from the addition of  
8 more Consultants, i.e., more brand awareness, sales, in addition to free recruiting and training labor  
9 by Consultants, while Consultants lose. R+F receives a minimum of \$24.95 a month from each  
10 PULSE by Penny Pro subscribing Consultant, without incurring additional expenses for these  
11 acquisitions, but as discussed, the reality is they purchase hundreds of dollars in Product per year.  
12 While R+F benefits from an oversaturation of Consultants, the individual Consultants, only have  
13 more competitors and a harder time setting themselves apart. And nowhere in the Consultant  
14 Agreement does R+F promise to limit the number of Consultants retained in any way.

15 174. Given that Consultants must compete with R+F and other Consultants for retail sales,  
16 Preferred Customers, and new Downline Consultants under such oppressive and onerous terms, it is  
17 no surprise that the overwhelming majority never receive commission and struggle to break even.  
18 But because Consultants receive commission from the retail sales made by any Consultants they  
19 recruit and ultimately sponsor, R+F’s own Income Disclosure Statements indicate that those who  
20 advance to higher levels through recruiting more Consultants on average earn more money. *See*  
21 *generally*, Exh. C. Thus, Consultants have a financial incentive—and are expected to— promote the  
22 opportunity to work for R+F under these unfair, unconscionable, and oppressive terms. Those new  
23 Consultants in turn usually pay R+F \$24.95 monthly, purchase merchandise including but not limited  
24

---

25 <sup>74</sup> *General FAQ*, *supra*, n.73 (providing that they sell through products “primarily” through Consultants).

1 to Products, promote R+F on all of their social media networks, are subject to the same restrictions  
2 on selling as those who recruited them, and like those before them, find profiting from selling to be  
3 futile and turn to recruiting, which is also often fruitless.

4 **C. R+F's Misclassification of Plaintiffs and Consultants Was Willful**

5 175. R+F's decision to misclassify the Consultants as independent contractors was willful  
6 and intentional.

7 176. **First**, R+F is based in San Ramon, California, and employs personnel in a variety of  
8 roles there, and thus, it is implementing California's labor and employment laws as a matter of regular  
9 practice. It is a highly sophisticated, large company, whose legal team includes California lawyers,  
10 both those at the prestigious law firms that provide it representation in other matters, as well as those  
11 comprising its team of in-house counsel. Both its management and its legal team would be exposed  
12 to news about changes in California law with respect to misclassification.

13 177. **Second**, as detailed above, R+F's Consultant Agreement, as well as the materials in  
14 the Library on its proprietary platform exclusively available to Consultants, set forth detailed codes  
15 of conduct. R+F knew and intended for Consultants to conform to these codes of conduct –  
16 mandated under the Consultant Agreement and Policies and Procedures – and ensured adherence  
17 through its platforms and other instrumentalities, including the use of the tools to monitor  
18 Consultants' online conduct. *See, supra*, ¶¶ 78, 104-109 (describing R+F exerting control through its  
19 monitoring practices).

20 178. **Third**, R+F knows and depends on the Consultants and even the highest levels of the  
21 company understand that the Consultants have immense value to the success of the company and  
22 play an essential role in R+F's revenue, growth, and business model. *See generally, supra*, ¶¶ 115-172  
23 (detailing how Consultant work is part of R+F's usual course of business). The management team,  
24 including but not limited to the CEO, CFO, and Chief Global Sales Officer not only understand the  
25 essential role the Consultants play, but know they are classified as independent contractors, as

evidenced both the Founders decision to repurchase their company for the purposes of relaunching R+F with a Consumer Connected Commerce business model, i.e., dependent on a workforce of Consultants (“Consultant Community”) to leverage social media rather than R+F’s previous retail strategy. *See, supra*, ¶¶ 32, 124. Thus, the decision was not a singular decision by a low-level employee, but a conscious and knowing choice envisioned and strategized by the Founders and continuously endorsed and improved upon by the highest levels of the Company. *See generally, supra*, ¶ 34, n.18 (discussing strategic decision to hire additional leadership to manage and optimize Consultant workforce and workflow); *supra*, ¶ 125, n.62 (discussing strategic infusion of “digital world” in Consultant experience).

179. **Fourth**, R+F further knows and understands as an MLM, only a small fraction will make money under its commission structure and reports data that highlight that exact outcome. Indeed, the commission structure here represents a significant cost savings over the payment of wages. R+F publishes an annual Income Disclosure Statement of Consultant earnings, which shows that the median annual income for Consultants who did receive at least one payment in 2022 (67% of the Consultants enrolled) was \$366. Exh. C at pp. 1-2. Notably, an even greater percentage of Consultants enrolled received zero commissions in 2019, 2020, and 2021, 45%, 50%, 56%, respectively. *Id.* at pp. 1-8. As mentioned, none of those reported income values account for Consultants’ out-of-pocket costs. In 2022, only 42,000 of 132,000 Consultants that received a paycheck that year had Downlines – likely that the remaining 65,000 that received zero commissions that year also did not have any Downlines. *Id.* at pp. 1-2. In other words, only 25% had Downlines and thus benefited by earning commissions on sales made by other Consultants. Thus, R+F is well aware that it is receiving inexpensive, commission-based work from the Consultants and intentionally structured the Consultant Program to leverage word of mouth efforts it does not have to pay for.

180. **Fifth**, R+F knew that its Consultants were not engaged in either type of work protected under the Direct Sales Exemption. It does not use terms like “buy-sell” or “deposit-

commission” in its compensation documents or Consultant Agreement. It also knows that its Consultants engage primarily in social media marketing on its behalf, and are rarely, if ever, engaging in person sales or hosting parties in others’ homes, particularly during and since the COVID pandemic. And it designs platforms, such as the R+F e-commerce platforms, including the Consultant’s Personal Website, to facilitate online sales and marketing. *See generally, supra*, ¶¶ 80-88 (describing how R+F’s reliance on its e-commerce platforms pushes Consultants into online sales).

181. ***Sixth***, R+F knew the Direct Sales Exemption was enacted years ago, and there was no guarantee that all MLMs could enjoy its protection. Rather, R+F has been an MLM since 2007 and thus, would know that the classification of MLM workers has for years been one of the most critical legal and policy issues for the industry.

182. Specifically, R+F is a member of the Direct Selling Association (“DSA”), an MLM lobbying association, which disseminates updates about its activities to its members, including its lobbying efforts for exemptions to wage and hour laws for its members. For years, it has issued warnings and information to its members, advising them to review their agreements to ensure conformity.

183. For example, in 2018, the DSA filed an amicus brief in a misclassification case pending before the Oregon Supreme Court. There, the court determined that the MLM had misclassified its sales personnel as independent contractors. *See ACN Opportunity, LLC v. Employment Department*, 362 Or. 824 (2018). The decision was based in part on the fact that the statute exempted sales “in the home,” and the legislative history indicated that this Exemption was narrowly tailored to apply to things like Tupperware parties. Notably, the concurrence made clear that the direct sales laws on the books reflect outdated direct selling practices and may not reach many modern MLMs.

184. It is hard to imagine that R+F would not have learned of a decision by a neighboring state supreme court, particularly given the decision’s significance to its industry, the role played by the DSA, and the timing in the wake of the *Dynamex* decision locally. And shortly after its passage,

the DSA announced the creation of an “Independent Contractor Initiative” to combat the consequences of that decision and ensure stronger state laws.<sup>75</sup>

**D. R+F’s Misclassification of Consultants and Unfair Business Practices Harm the California Public**

185. R+F’s misclassification of its workers and unfair and unconscionable business model threatens the general public. Because R+F has no incentive to stop these practices and boasts its efforts to expand these practices, a public injunction is necessary to stop these practices.

**1. R+F Utilizes Widespread Marketing Practices Directed at the General Public to Recruit New Consultants**

186. R+F has eschewed traditional recruiting practices in lieu of widespread advertising. Because of how R+F recruits, nearly everyone in the state of California is likely to be targeted for recruiting and engagement in R+F’s unfair and unlawful business model.

187. Rather than market job opportunities to job seekers meeting certain criteria, R+F uses its Consultants to promote the R+F Consultant Program in the same way they market its Products, i.e., it publishes advertising, marketing and information materials for the Program, too, not just the Products. Exh. B, Appx B at B5 (defining R+F Marketing Materials). Moreover, R+F’s marketing restrictions apply to Consultants’ marketing of not just the Products, but also the Program. *See e.g., id.*, Appx. C (detailing requirements “[w]hen sharing information about the R+F Products and Programs” under the R+F Consultant Code of Business Ethics). R+F has made clear that it views every Retail or Preferred Customer as a prospective Consultant. For example, in the same form that a consumer or visitor to a Consultant’s Website submits to request speaking with the Consultant,

---

<sup>75</sup> See Jeff Babener, *Op-Ed by Jeff Babener in the World of Direct Selling: DSA Launches Independent Contractor Initiative*, Direct Selling Association (Sept. 10, 2018), <https://www.dsa.org/events/news/individual-press-release/op-ed-by-jeff-babener-in-the-world-of-direct-selling-dsa-launches-independent-contractor-initiative> [https://perma.cc/EQ89-CP8K].



1 R+F provides the option for the viewer to select I am interested in “learning more about R+F  
2 products” or “Becoming a Consultant.”<sup>76</sup>

3 188. As discussed in Paragraphs 8, 56, 80-88, *supra*, and generally throughout, R+F has set  
4 up its compensation structure and business model to incentivize Consultants to turn to recruiting,  
5 and those Consultants in turn will promote the opportunity to their customers, as well as their family  
6 and friends. Thus, the public does not need to be affirmatively seeking out job opportunities; merely  
7 buying a routine consumer good or having a friend or family member working as a Consultant may  
8 subject them to recruiting messaging, and by extension, could lead them to complete an application,  
9 agree to the terms of the Consultant Agreement, and become a Consultant.

10 189. Moreover, R+F’s reliance on its Consultant Community to market the Consultant  
11 opportunity is likely to cause the message to reach the general public at large, as its network is  
12 enormous. At its peak in 2018, R+F’s Consultant Community consisted of 411,000 Consultants.<sup>77</sup>  
13 The most recent data reported, for 2022, shows there were 197,000 Consultants enrolled in the  
14 Program in the United States. Exh. C at p. 2.

15 190. Consultants need not respect geographic boundaries when marketing the opportunity  
16 to become a Consultant for R+F. *See* Exh. B § 5h (authorizing Consultants to sell anywhere in their  
17 Home Country or other Authorized Country). Thus, any member of the California public who either  
18 personally knows an R+F Consultant or follows one on social media, regardless of where the  
19 Consultant lives, is likely to receive messages about the Consultant opportunity. *See id.* § 6r  
20 (recognizing that trying to limit geographic scope of policies related to marketing or soliciting direct  
21 selling business opportunities “would render them wholly ineffective” because “network marketing  
22 is conducted through networks of independent contractors, and business is commonly conducted via  
23 the Internet and telephone”).

24  
25 <sup>76</sup> *See e.g.*, <https://eylajosiemore.myrandf.com/en-us/pws/pwsAboutMe> [https://perma.cc/EAH5-4PRF].

<sup>77</sup> Voytko, *supra*, n.4; *see also* Carroll, *supra*, n.4.

1           191. Because of the financial incentives those Consultants receive, members of the public  
2 may sometimes repeatedly and consistently receive marketing about the Consultant opportunity over  
3 weeks or months at a time, and perhaps from multiple Consultants. Indeed, each newly accepted  
4 Consultant presents the risk of an exponential increase of Consultants. Consultants can maintain their  
5 status and receive additional compensation based on the sales volume of the Downline Consultants  
6 that they recruited. Therefore, the more Consultants recruit to join their Downline, the more likely it  
7 is that they will be able to generate more income.

8           192. Because Consultants are incentivized to aggressively recruit new Consultants, and R+F  
9 considers every customer to be a potential Consultant, California's residents are vulnerable to long-  
10 term consequences of R+F's rampant misclassification. Notably, R+F is not a selective employer; it  
11 requires little in the way of experience or other criteria like minimum education level. The  
12 overwhelming majority of adults in the state of California are likely qualified for the job, and millions  
13 of people in the state may seek out this opportunity. Indeed, it is estimated that one in every thirteen  
14 Americans will participate in an MLM at some point in their lifetimes.<sup>78</sup> This could translate into  
15 hundreds of thousands of Californians, if not millions of Californians, who are at risk of being  
16 recruited into an illegal and unfair working arrangement.<sup>79</sup> Notably, in 2022 California had 1,525,948  
17 individuals involved in direct selling, i.e., working under an independent contractor sales contract –  
18 the highest number in the country.<sup>80</sup>

20 <sup>78</sup> Marguerite DeLiema, et al., *AARP Study of Multilevel Marketing: Profiling Participants and their Experiences in*  
21 *Direct Sales*, AARP Foundation (2018), at 13,  
[https://www.aarp.org/content/dam/aarp/aarp\\_foundation/2018/pdf/AARP%20Foundation%20MLM%20Research%20Study%20Report%2010.8.18.pdf](https://www.aarp.org/content/dam/aarp/aarp_foundation/2018/pdf/AARP%20Foundation%20MLM%20Research%20Study%20Report%2010.8.18.pdf) [https://perma.cc/7T9E-QE5Y].

22 <sup>79</sup> To further contextualize, R+F has over two million Preferred Customers across the U.S., Canada, and  
23 Australia, and many more Retail Customers, all of whom are exposed to marketing and recruiting efforts to  
24 become a Consultant, because as discussed, both R+F and its Consultants market Products and the Program  
25 simultaneously, which does not even account for exposure to individuals who as of yet have never purchased  
R+F Products. *About Us*, *supra*, n1.

<sup>80</sup> *Impact of Direct Selling by State, 2022*; Direct Selling Education Foundation,  
[https://www.dsa.org/docs/default-source/industry-fact-sheets/2023statestatsfactsheetv2.pdf?sfvrsn=c11ed2a5\\_2](https://www.dsa.org/docs/default-source/industry-fact-sheets/2023statestatsfactsheetv2.pdf?sfvrsn=c11ed2a5_2) [https://perma.cc/HRS5-3UUG].

## 2. R+F's Unfair and Unlawful Conduct Harms California In Other Ways

193. R+F is responsible for perpetrating economic and social harms on Californians through its misclassification of its Consultant workforce. By choosing not to compensate Consultants for their time or reimbursing their business expenses, R+F siphons away their time and resources, which harms them and their families. For example, it is well documented, including in R+F's very own Income Disclosure Statements, that most MLM salespeople do not earn money. Exh. C. One study, published in 2017 by the Consumer Awareness Institute, analyzed 350 MLMs with publicly available data and reported that 99% of MLM sellers lost money, after deducting upfront and recurring costs.<sup>81</sup> Another study of 1,049 MLM salespeople revealed that the median hourly rate among sellers was equivalent to less than 70 cents per hour.<sup>82</sup> This is particularly troubling given MLM companies, including R+F, continue to market and promote the Consultant "opportunity" as an "income" or "business" opportunity, knowing full well that the vast majority of its Consultant workforce will experience losses. It is also not uncommon for Consultants to accumulate credit card debt due to their non-reimbursed business expenses.<sup>83</sup>

194. R+F's unfair and unlawful practices leave Consultants with fewer resources to invest in their families or in legitimate businesses and less time to spend working for real, guaranteed wages. Instead of the opportunity being a "side hustle" that allows them to pay off mortgages or student loan debt, cover costs of childcare, or otherwise advance financially, the loss of money from fruitless financial investments as a Consultant could cause them greater economic hardship.

---

<sup>81</sup> Consumer Awareness Institute, Taylor, Jon M., MBA, Ph.D., *The Case (for and) against Multi-level Marketing* (2011) Multi-Level Marketing Unmasked—Why Multilevel Marketing Is Unfair and Deceptive; available [https://www.ftc.gov/sites/default/files/documents/public\\_comments/trade-regulation-rule-disclosure-requirements-and-prohibitions-concerning-business-opportunities-ftc.r511993-00008%C2%A0/00008-57281.pdf](https://www.ftc.gov/sites/default/files/documents/public_comments/trade-regulation-rule-disclosure-requirements-and-prohibitions-concerning-business-opportunities-ftc.r511993-00008%C2%A0/00008-57281.pdf) [https://perma.cc/RU2J-JJ4Q] (cited by the Federal Trade Commission).

<sup>82</sup> Brittney Laryea, *Survey: Vast Majority of Multilevel Marketing Participants Earn Less Than 70 Cents an Hour*, Magnify Money (Sept. 17, 2018), <https://www.magnifymoney.com/news/mlm-participants-survey/>.

<sup>83</sup> *Id.*

1           195.   MLMs notoriously target women to sell health and wellness, beauty, and household  
2 products by marketing an unattainable dream of financial freedom, particularly stay-at-home mothers,  
3 who may be boxed out of traditional workforce opportunities due to lack of flexibility in setting their  
4 own work schedules. Through this strategy, they succeed in “manipulat[ing] the existing cultural  
5 context surrounding women . . . [of] homemaking and feminism”<sup>84</sup> to sell these products designed  
6 for women, evidenced by the fact that 75% of the MLM workforce across industries consisted of  
7 women.<sup>85</sup>

8           196.   Rodan + Fields is no exception, and through its unlawful and intentionally predatory  
9 practices, Rodan + Fields has accumulated a vast network of predominately women to sell cosmetics  
10 and skincare products to other women.<sup>86</sup> This outcome is by design and consistent with R+F’s brand  
11 messaging around female empowerment.<sup>87</sup> Consequentially, R+F has disproportionately harmed and  
12 disempowered thousands of Californian women, who have wasted thousands of dollars with no  
13 return on their investment to become and maintain their status as Consultants thanks to R+F’s  
14 unlawful conduct.

---

22           <sup>84</sup> T. True Fullmer, *Multilevel Marketing: A Tax on Our Communities*, Marriott Student Review,  
23 <https://marriottstudentreview.org/weekly-blog/multilevel-marketing-a-tax-on-our-communities/>  
[<https://perma.cc/YW5V-67U4>].

24           <sup>85</sup> *Direct Selling in the United States 2022 Industry Overview*, *supra*, n.29.

24           <sup>86</sup> *Multilevel Marketing: A Tax on Our Communities*, *supra*, n.84.

25           <sup>87</sup> Rodan + Fields, official Facebook page (Mar. 6, 2019), <https://www.facebook.com/rodanandfields>  
[<https://perma.cc/WWH9-5ABB>].



197. Beyond recruitment, R+F’s misclassification of their Consultants harms Californians both economically and socially, and disproportionately impacts women, who make up 75% of consultants in direct selling businesses, and a far greater percentage when the products are cosmetics.<sup>88</sup> When Consultants lose money and accumulate credit card debt, they and their families are harmed by the siphoning away of their uncompensated time and lost money on business expenses. This results in them and their families having fewer resources to invest in legitimate businesses and less time to spend working for real, guaranteed wages. And instead of the opportunity being a “side hustle” that allows them to pay off mortgages or student loan debt, cover costs of childcare, or

<sup>88</sup> *Direct Selling in the United States 2022 Industry Overview*, *supra*, n.29.

1 otherwise advance financially, the loss of money from fruitless financial investments as a Consultant  
2 could cause them more economic hardship.

3 198. This public harm intensifies during periods of crisis. There was an increase in deceptive  
4 marketing at the start of the COVID-19 pandemic, whereby Consultants were “unlawfully  
5 misrepresent[ing] that consumers who become Rodan + Fields business opportunity participants are  
6 likely to earn substantial income.”<sup>89</sup> The Federal Trade Commission was compelled to issue a warning  
7 to Rodan + Fields regarding its Consultants’ claims on social media and advising R+F to require  
8 Consultants to cease making these misleading statements.<sup>90</sup>

9 199. Many MLMs have grown during the COVID-19 pandemic, recruiting salespeople by  
10 promising remote work for the unemployed.<sup>91</sup> At the onset of the pandemic, Consultants posted on  
11 social media that R+F provided them the chance to earn extra income in a time when so many were  
12 struggling.<sup>92</sup> The Federal Trade Commission cracked down on Rodan + Fields on April 24, 2020,  
13 almost immediately after the pandemic began, issuing a warning to the company related to its  
14 Consultants’ misleading representations about the likelihood of earning substantial income by  
15 becoming a Consultant.<sup>93</sup> R+F was forced to reign in its Consultants’ recruitment posts, sending out  
16 the compliance reminder email in December 2020 discussed in paragraph 106. Ultimately, the  
17 Consultants salesforce shrunk in 2020 and has continued to shrink due to “the reduced attractiveness  
18 of the business opportunity as an independent consultant,”<sup>94</sup> and R+F has been working hard to  
19 revamp its platform and Compensation Plan to grow its Consultant Community and reap the benefits

21 <sup>89</sup> *Warning Regarding Earnings Claims Related to Coronavirus Disease 2019 (COVID-19)*, *supra*, n.69.

22 <sup>90</sup> *Id.*

23 <sup>91</sup> *Id.*

24 <sup>92</sup> *Id.*

25 <sup>93</sup> *Id.*

<sup>94</sup> *Moody’s downgrades Rodan + Fields’ CFR to Caa3; outlook remains negative*, Moody’s Investor Services Rating Action (April 6, 2022), [https://www.moody.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-Caa3-outlook-remains-Rating-Action--PR\\_464782](https://www.moody.com/research/Moodys-downgrades-Rodan-Fields-CFR-to-Caa3-outlook-remains-Rating-Action--PR_464782) [https://perma.cc/ZZ8C-CHE6]; *see also* *Moody’s downgrades Rodan + Fields’ CFR to Caa2; outlook negative*, *supra*, n.24 (downgrading credit and issuing negative outlook, citing unattractive business opportunity).

1 of their unpaid labor.<sup>95</sup> These are the precise individuals that legislatures meant to shield with  
2 minimum wage and other workplace protections.

3 200. Most MLMs benefited from greater recruitment of participants during COVID-19<sup>96</sup>  
4 because they recruit new Consultants under the guise that they will be able to grow their own business  
5 with a sustainable income. These claims, whether or not they are made during times of global financial  
6 crisis, siphons potential workers away from legitimate opportunities with the promises of building a  
7 personal business, when these individuals are under the control of MLM companies, like R+F, with  
8 none of the benefits of proper classification, hurting California families and increasing reliance on  
9 public benefits, such as federal and state COVID relief.

10 201. R+F's practices also harm competitors, such as legitimate companies in cosmetics  
11 space, who must and do pay wages and benefits at prevailing market rates to market and sell their  
12 products. By misclassifying its workers, and paying them only for certain sales, R+F incurs lower  
13 expenses, giving them a competitive advantage over other market participants in the cosmetics  
14 industry.

15 202. The California Legislature specifically considered harms like these in passing AB-5.  
16 The legislature recognized "harm to misclassified workers who lose significant workplace protections,  
17 the unfairness to employers who must compete with companies that misclassify, and the loss to the  
18 state of needed revenue from companies that use misclassification to avoid obligations such as  
19 payment of payroll taxes, payment of premiums for workers' compensation, Social Security,  
20 unemployment, and disability insurance" and that "the misclassification of workers as independent  
21 contractors has been a significant factor in the erosion of the middle class and the rise in income  
22  
23

---

24 <sup>95</sup> Vetter, *supra*, n.27; see also Moody's downgrades Rodan + Fields' CFR to Caa2; outlook negative, *supra*, n.24 (noting  
25 "R + F is executing on plans to stabilize the consultant base including recent category expansion to haircare").

<sup>96</sup> *Warning Regarding Earnings Claims Related to Coronavirus Disease 2019 (COVID-19)*, *supra*, n.69.

1 inequality.” R+F’s continued misclassification of California workers will exacerbate all these harms  
2 to the California public.

3 203. Absent an injunction protecting the public from the negative impacts of Defendants’  
4 illegal activities, including by and through their officers and/or entities in their control, the California  
5 public remains at risk from R+F’s deceptive recruitment strategies and the economic and social harms  
6 created by their unlawful practices.

7 **E. Plaintiff Lauren Dann’s Experiences as R+F Consultant**

8 204. Plaintiff Lauren Dann worked as an R+F Consultant from February 2019 through  
9 March 3, 2023.

10 205. Before becoming a Consultant, Plaintiff Dann had been purchasing the Products for  
11 several years and was a Preferred Customer of another Consultant. In 2019, Plaintiff Dann was  
12 recruited by another Consultant to sign up to join the R+F Independent Consultant Community.  
13 With the guidance and encouragement of this Consultant (her “Sponsor,”) she downloaded and filled  
14 out the Independent Consultant Application. At that time, Plaintiff had no experience in sales,  
15 marketing, business, and had not worked in the cosmetics or skincare industry.

16 206. The application did not ask Plaintiff Dann for her resume or any details about her  
17 work experience, qualifications, licensure, skills, or social media handles. The terms and conditions  
18 attached to the application stated that to be eligible to become a Consultant, she was required to  
19 purchase a Business Enrollment Kit. On the application, she checked a box indicating she met this  
20 eligibility requirement, among others. She chose a custom domain prefix for her R+F Personal  
21 Website. She signed the application, agreeing to comply with all terms and conditions of the  
22 Independent Consultant Agreement, which incorporated the Policies and Procedures, among other  
23 documents. She also agreed to pay an annual renewal fee of \$25 to remain active as a Consultant, as  
24 required by the P&P.



1           207. Plaintiff Dann had four Business Enrollment Kit options; she selected the “RF  
2 Express Business Kit” for \$995 and the domain <https://www.mrsldann.myrandf.com/>.

3           208. Plaintiff Dann paid the fee to complete and submit her application. Her Business Kit  
4 included shareable materials and tools for prospecting customers and Consultants as well as product  
5 samples. She also gained access to the R+F “Library.”

6           209. After becoming a Consultant, she worked to generate awareness around her new  
7 business and to try to sell R+F Products. She purchased R+F Marketing Materials and Business  
8 Supplies from R+F directly, as required by the Independent Consultant Agreement, for marketing  
9 purposes, as well as for training purposes, i.e., to help her learn about and test the products she was  
10 responsible for selling. Excluding home office supplies necessary to run her business, her initial  
11 expenses summed to over \$2,500. It took her multiple months to recuperate the funds she invested  
12 to become a Consultant and start selling R+F Products.

13           210. After working 3-months as a Consultant, her limited subscription to PULSE Pro,  
14 which provided her access to her R+F-controlled Consultant Website, expired. She elected to  
15 subscribe to PULSE Pro for \$24.95 per month to maintain it, so that customers could make purchases  
16 through her website directly and she could earn commission on those sales. This subscription also  
17 entitled her to receive discounts on the R+F Products she needed to purchase in order to effectively  
18 and honestly market and sell them, as required by the P&P.

19           211. R+F paid commissions differently, depending on whether a customer held a  
20 “Preferred Customer” status. While R+F paid commissions on regular customers for each purchase  
21 they made, R+F would only pay commissions on Preferred Customer purchases if the Plaintiff, like  
22 all Consultants, either had already obtained a threshold level of sales for a given month (worth  
23 approximately \$120-\$125 in retail value), or purchased the equivalent amount of R+F Products for  
24 personal use or to attempt to resell to customers.

1           212.    Because the only way to start earning commission each month for every sale to a  
2 Preferred Customer was to have earned \$100 from products purchased e wholesale purchase of  
3 products from R+F, Plaintiff typically purchased the minimum amount of products each month to  
4 achieve that threshold, spending approximately \$1500 annually. Plaintiff Dann often featured these  
5 Products in her marketing work, but usually was unable to resell any of the products she purchased.

6           213.    During her tenure, she relied heavily on the R+F tools and resources available only to  
7 Consultants on its platform, designed and provided by R+F. Plaintiff leveraged the R+F platform to  
8 assist her in her marketing and sales work, to gain insights on how to best interact with customers,  
9 manage and oversee her Downlines, generate leads (including R+F recommendations) on which  
10 Preferred Customers or Downlines to target, and to directly engage with and provide service to  
11 customers. She also regularly sought guidance from other Consultants and relied on their knowledge  
12 and support.

13           214.    Although Plaintiff Dann did not provide her social media profiles to R+F when she  
14 completed her application, she agreed to adhere to the exhaustive rules and regulations governing her  
15 online conduct, sales, and marketing efforts. In May 2019, Plaintiff Dann learned R+F was  
16 monitoring her accounts after she received an email from R+F's compliance team demanding she  
17 remove certain content in compliance with the P&P to which she was required to adhere.

18           215.    Plaintiff was successful in recruiting two Downlines, who in turn each recruited 1-2  
19 Downlines. After building her small team, for the remainder of her time as an R+F Consultant,  
20 Plaintiff Dann spent approximately a third of her time supporting her Downlines, and the remainder  
21 marketing, promoting, and learning about R+F Products— almost all of which was performed online,  
22 as well as engaging with customers. Plaintiff Dann very rarely sold Products or recruited in person.

1                   **1.       Plaintiff Dann Was Required to Adhere to R+F’s Policies and**  
2                   **Procedures**

3           216.   As required for eligibility to become a Consultant, R+F required to meet the  
4 requirements set forth in the Independent Consultant Agreement, which included the lengthy P&P  
5 document.

6           217.   When Plaintiff Dann’s Application was accepted by R+F, R+F provided Plaintiff  
7 access to its proprietary, password-protected PULSE digital platform. It contained a “Library,” that  
8 served as a Consultant’s portal for resources, analytics, and tools related to work as Consultants. R+F  
9 stored key documents in the Library, such as all documents incorporated in the Consultant  
10 Agreement, training tools; marketing instructions and guidance; approved R+F Marketing Materials  
11 and Business Supplies; marketing and communications templates, a catalog of products, prices, and  
12 corresponding commissions rates, and other important reference materials, including additional rules  
13 and regulations governing social media conduct and PWS content requirements, not included in the  
14 P&P. R+F required her to understand, abide by, and utilize these materials.

15          218.   During Plaintiff Dann’s approximately four years with R+F, R+F frequently released  
16 new products, rebranded existing products, launched marketing campaigns, shifted advertising  
17 strategies, updated approved Marketing Materials, made changes to the Compensation Plan, released  
18 training videos for Consultants, hosted virtual live events, and other initiatives to engage Consultants,  
19 encourage them to market and sell, and educate about R+F Products and policies.

20          219.   As required by the Consultant Agreement, Plaintiff Dann regularly accessed and  
21 reviewed amendments to R+F’s documents and other terms incorporated into the Consultant  
22 Agreement to ensure she remained in compliance with all of R+F’s requirements and directives.  
23 Accordingly, Plaintiff Dann was frequently assigned to watch training videos, amend their own  
24 marketing and sales strategies, and update her custom social media content to incorporate the most  
25 recently approved marketing materials. Plaintiff Dann understood that performing these types of

1 tasks were required in order to remain an active Consultant, i.e., in compliance. Because she  
2 “Sponsored” other Consultants, who became her Downlines, she was required to expend time  
3 engaging with her Downlines to ensure they understood changes to R+F’s Consultant Agreement,  
4 too. She also had both in person and video meetings with her team. Over the years, Plaintiff Dann’s  
5 commitment to these tasks ranged from twenty-five hours per month to ten hours per month. She  
6 also spent additional money purchasing new products so that she could test them and market them  
7 authentically and several hours reviewing content R+F content pertaining to those products, as  
8 required under R+F’s Code of Business Ethics.

9 220. Plaintiff Dann worked as a Consultant from February 2019 through March 2023, in  
10 accordance with the R+F directives previously outlined.

11 **2. Plaintiff Dann Spent Many Hours Performing Marketing, Sales, and**  
12 **Customer Service Work in Accordance with R+F’s Policies.**

13 221. During Plaintiff Dann’s tenure, Plaintiff Dann used her personal social media to  
14 promote R+F Products and the Consultant Opportunity, i.e., market and recruit, regularly. This work  
15 was involved and time consuming and involved multiple phases. Plaintiff Dann often would spend  
16 several hours throughout the week planning posts and sales strategies for the upcoming week,  
17 engaging other Consultants, and performing other tasks, elaborated below.

18 222. *First*, to start, Plaintiff Dann needed to spend time planning for and the content that  
19 would ultimately be the subject matter of any given post. In accordance with R+F’s policies, Plaintiff  
20 Dann devoted time to study and select which of the many available R+F Products she would  
21 promote.

22 223. R+F heavily encouraged Plaintiff Dann to use R+F Products, i.e., subscribe to the  
23 Consultant Replenishment Program, and post content tracking her skincare regimen and her positive  
24 results on her social media. Because R+F encouraged Consultant’s to publish their own personal  
25 experiences with the Products, Plaintiff Dann’s planning and preliminary work included using the

1 Products for sufficient time to see results. Plaintiff Dann was required to purchase these Products  
2 from R+F to create any personalized content. Plaintiff Dann frequently reviewed the P&P and R+F  
3 materials because R+F imposed strict parameters on before and after videos, e.g., requiring specific  
4 statements about use and disclaimers, and other product marketing efforts.

5 224. She also reviewed R+F materials that provided strategies and guidance for advertising  
6 and selling. She dedicated a lot of time to preparing her marketing posts to share with her network.  
7 She was intentional about marketing to both existing and prospective customers and the different  
8 strategies required for each market segment. Plaintiff Dann would brainstorm content, draft and edit  
9 the text, and take photographs and video recordings for her posts. She regularly consulted R+F  
10 Content for inspiration. Because of the time-intensive commitment to develop her own content, she  
11 utilized R+F templates and other R+F generated content like hashtags and graphics for the majority  
12 of her work, curating them to suit her needs. The amount of time Plaintiff Dann spent varied over  
13 the years, ranging from approximately ten hours per month developing content and marketing  
14 products to ten hours per week on these tasks.

15 225. At times, Plaintiff Dann used her own content and media, such as taking her own  
16 photographs and recordings. When doing so, she devoted time into making sure the images were  
17 attractive and that the lighting and background was suitable and consistent with R+F's expectations,  
18 and fully in compliance with the regulations governing "Before and After" Photos. Indeed, when she  
19 posted on social media about results from her own use of R+F Products, she received more  
20 engagement on her posts, which led to more sales. Additionally, she spent several hours each week  
21 navigating R+F tools intended to help her evaluate customer engagement and her own sales  
22 performance, so she could leverage these metrics to improve upon her marketing tactics.

23 226. **Second**, in addition to spending time marketing the products, Plaintiff Dann marketed  
24 the Consultant experience. She created and published content online about the impact the Consultant  
25 experience had on her life (but, in accordance with R+F's P&P, refraining from making any "Income

1 and Lifestyle” claims) or her positive skincare results from using the products. Because she was  
2 prohibited from making any representation inconsistent with R+F Marketing Materials, she  
3 frequently reviewed them and paid close attention to any new R+F regulations to develop content  
4 strictly in accordance with R+F policies, e.g., statements she was permitted to make and others she  
5 was prohibited from making, as well as disclaimers she was required to make. The amount of time  
6 Plaintiff Dann spent marketing her experience and on other recruiting efforts varied over the years,  
7 ranging from approximately five hours per week to five hours per month.

8       227. ***Third, in addition to creating and publishing marketing content about her***  
9 ***experience as a Consultant,*** Plaintiff Dann strategically targeted people in her personal networks  
10 to build out her team of Consultants. R+F heavily encouraged Consultants to build out their teams  
11 of Downlines and recommended this strategy. R+F provided training tools for recruiting purposes.  
12 Plaintiff Dann spent additional time each month engaging friends and family, separate from her  
13 broader online marketing efforts to recruit Consultants.

14       228. ***Fourth,*** Plaintiff Dann’s social media-based marketing work was not limited to  
15 crafting and publishing posts, but included ongoing oversight of her social media accounts to reply  
16 to public comments as well as engage with existing customers and leads who would send her direct  
17 online messages to her social media inboxes. Because it was critical for customer acquisition and  
18 retention, she constantly monitored responses to posts, and expediently replied to any direct messages  
19 from interested customers. Plaintiff Dann spent ample time to thoughtfully prepare these responses,  
20 often a few hours a week engaging in text and email messaging with existing Retail Customers,  
21 Preferred Customers, and prospective Consultants.

22       229. ***Fifth,*** Plaintiff Dann spent time monitoring her personal email for inquiries submitted  
23 to her directly through her Personal Website using an R+F-generated form that Plaintiff Dann had  
24 not been able to customize or remove from her PWS. Because her R+F-controlled PWS included a  
25 standard form that allowed visitors to her website to contact her online directly and select the “I am

1 interested in Becoming a Consultant” and/or “I am interested in Learning more about R+F  
2 products” checkboxes, R+F required Plaintiff Dann to use its platform to generate leads for  
3 prospective customers and prospective Consultants and to follow up with these individuals.  
4 Whenever someone filled out the form, Plaintiff Dann automatically received an R+F-generated e-  
5 mail prompting her to reach out.

6 230. Additionally, potential and Preferred Customers would fill out the R+F Solution Tool  
7 Quiz on her Consultant Website, and the R+F Platform would generate an email to Plaintiff Dann  
8 with results for her to reach out to answer their skincare questions and offer guidance. She was not  
9 paid for these consultations.

10 231. Plaintiff Dann was consistently prompt in responding to these and similar requests  
11 submitted through her PWS. If she waited hours or days to respond, she risked losing a potential sale  
12 or building her team of Downlines. As a result, to be successful, Plaintiff Dann regularly monitored  
13 her social media accounts and messages, so she could respond immediately to interested customers—  
14 at any time of day or night. Where Plaintiff Dann could not respond to a customer or Downline lead  
15 immediately, Plaintiff Dann would respond as soon as she was able, even if it meant answering the  
16 request in an inconvenient location, such as in her car in a parking lot. While the time each day she  
17 spent varied, she would check her phone when alerts came in, continuously keeping track of when a  
18 customer might need her. Plaintiff Dann rarely, if ever, sold to customers in person, and she  
19 conducted her marketing and communications with prospective customers, existing customers,  
20 prospective consultants, and her existing Downlines online.

21 232. *Sixth*, Plaintiff Dann received targeted emails from R+F on a monthly basis  
22 instructing her to follow up with her Preferred Customers on exclusive offers R+F had sent them  
23 directly and separate frequent emails from R+F instructing her to reach to her Downlines to coach  
24 them on how to sell specific Products R+F recommended to accrue Achievement Rewards. Plaintiff  
25 spent approximately ten hours per month following these directives from R+F. She was not paid for

any of her work fielding R+F tasks regardless of whether her follow up efforts resulted in personal sales or sales of her Downlines.

**3. Plaintiff Dann Spent Many Hours Using R+F's Platforms and Tools to Market and Sell Products and the Consultant Experience in Accordance with Its Directives**

233. Plaintiff Dann leveraged R+F's online Platforms and Tools to satisfying R+F's expectations of Consultants, in a manner consistent with how R+F markets the Consultant's role and responsibilities. And Plaintiff Dann spent time directing customers to R+F's online skincare solution quiz ("R+F Solution Tool"). She leveraged its results to assist customers in purchasing the Products recommended based on the customer's responses through her online through her PWS. In other words, this tool guided some of her marketing and sales efforts. And as described above, she used R+F platforms for email.

234. R+F heavily encouraged Plaintiff Dann to market the "PC Perks" subscription, a Customer Loyalty Program; her efforts were concentrated on converting Retail Customers into Preferred Customers who receive bi-monthly auto-replenishment shipments with extra discounts. She leveraged various R+F tools and resources. She was not paid for this work unless she was successful in enrolling customers, in which case she received commissions from their purchases, but not the Preferred Customer acquisition itself.

**4. Plaintiff Dann Spent Many Additional Hours on Other Responsibilities**

235. Plaintiff Dann's tasks were not limited only to developing advertising and engaging with customers but also included other necessary work to remain in compliance with their obligations as Consultants and try to generate income after becoming a Consultant.

236. When Plaintiff Dann began working as a Consultant, Plaintiff reviewed the training materials on R+F's platform, PULSE by Penny, in particular the contents in the "Library" to learn about R+F and marketing and sales generally. This included several hours of watching training videos



1 and studying the materials published by R+F specific on R+F's brand identity; marketing tactics, e.g.,  
2 and promotion best practices; how to market the R+F brand and the Products, etc. Plaintiff Dann  
3 was not well versed in R+F's expansive product line, so she studied the Products catalog. As part of  
4 her onboarding Plaintiff Dann also expended hours consuming content specific to her role as a  
5 Consultant published by both R+F and original content created by other Consultants, where she  
6 learned R+F's expectations of Consultants, how to perform the day-to-day work, and compensation  
7 structure. Additionally, she attended up to two meetings a day with her Sponsoring Consultant, where  
8 she was trained on R+F policies, strategies, and tactics. During these first couple of weeks, Plaintiff  
9 Dann invested approximately 35 hours each week to fully onboard as a Consultant and then recruit  
10 two Downline Consultants to join her team.

11 237. The activities and tasks she undertook for recruiting purposes were distinct from her  
12 work marketing both the Products and her own experience as a Consultant. Plaintiff Dann personally  
13 cultivated each of those relationships to convert customers into Consultants. To recruit other  
14 Consultants, she spent many hours reviewing R+F's resources for updates to its policies to ensure  
15 she abided by R+F's strict limitations on who she could recruit, statements she was permitted to  
16 make on social media and others she was prohibited from making when recruiting, as well as  
17 disclaimers she was required to make. To enroll a new Consultant, she was required to explain the  
18 financial expectations of Consultants to complete enrollment (Business Start Pack purchase  
19 requirement), the PULSE Pro subscription, and Consultant discounts for product subscriptions. She  
20 was also required to oversee the application process to ensure prospective Consultants complete it  
21 themselves.

22 238. Plaintiff Dann became the "Sponsor" of Consultants she recruited in her Downline.  
23 Once she had Downlines, she was required to onboard her Downlines, e.g., to explain R+F's business  
24 model, educate them on the Policies and Procedures, and provide resources to start selling. After  
25 onboarding, she was required to take on additional responsibilities, e.g., tracking their performance

1 using R+F tools, coaching them to sell specific products as directed by R+F in its email outreach to  
2 Plaintiff Dann, and sending weekly communications, and to be available whenever they reached out  
3 frequently with questions. Plaintiff Dann was committed to ensuring her Downlines were successful  
4 and remained in compliance with R+F's directives, and she received no compensation for this work.  
5 She spent over five hours per day training and supporting her Downlines their first week, then was  
6 able to reduce this commitment to approximately fifteen hours per month. She never received any  
7 compensation associated with satisfying these responsibilities set forth by R+F.

8         239. Plaintiff Dann tried recruiting additional Downlines later during her tenure but did not  
9 end up sponsoring any additional Consultants. Plaintiff Dann did not receive any compensation for  
10 the countless hours she spent recruiting, and she did not receive compensation when she successfully  
11 brought on a new Consultant to her Downline. Her two Downlines each in turn recruited 1–2  
12 Downlines. She hosted team meetings.

13         240. Throughout her tenure, she stayed in contact with her Upline to perform her job. For  
14 example, for most of her employment, Plaintiff Dann's Upline Consultant held weekly meetings,  
15 which Plaintiff Dann often attended. The meetings lasted about an hour. These were important for  
16 her continued learning about the brand, R+F Products, evolving expectations R+F had of  
17 Consultants, and changes to the Compensation Plan. She leveraged this content to help educate her  
18 own Downlines.

19         241. Because Consultants are responsible for learning about any substantive changes to the  
20 Policies and Procedures, i.e., the Consultant Agreement, she was expected to read the weekly Insider  
21 Scoop published and distributed to Consultants to stay abreast on compliance matters, Products  
22 releases and information, R+F events, and matters that R+F coined "useful to Consultants in  
23 conducting their Rodan + Fields activities." For example, R+F also regularly changed its marketing  
24 strategies for Consultants. Whenever R+F changed its marketing strategies, Plaintiff Dann would  
25 spend time familiarizing herself and adapting to these new strategies to ensure her posts reflected the

1 changes and learning any corresponding updates to the policies and procedures. R+F frequently  
2 released new products that Plaintiff Dann needed to invest time in learning about. Plaintiff attended  
3 monthly virtual product launches at the encouragement of R+F for which she was not compensated  
4 but had the opportunity to win product giveaways. Although they were not required, Plaintiff Dann  
5 found these to be necessary trainings to learn about the new products and be able to effectively  
6 market them.

7         242. Plaintiff Dann also watched additional periodic training videos to learn how to use the  
8 various tools on the R+F Pro Penny Platform. These types of trainings were necessary not only for  
9 onboarding at the start of her tenure, but also when R+F released new technology that Consultants,  
10 including Plaintiff Dann, were required to use to perform her work. For example, when R+F changed  
11 its Consultant enrollment process, Plaintiff Dann was required to spend time learning both  
12 changes to the P&P as well as how to use the new technology intended to streamline the  
13 process, since R+F required Consultants to provide prospective Consultants with assistance in  
14 completing and submitting their application under the Consultant Agreement. Plaintiff Dann  
15 was not compensated for the time spent learning about changes to R+F platforms or technology that  
16 she was required to understand to perform her work and adhere to the Policies and Procedures.

17         243. Moreover, the R+F Compensation Plan changed frequently, and Plaintiff Dann spent  
18 countless hours trying to understand the nuances of these changes during her tenure, and R+F sent  
19 communications to Consultants regarding broader scale changes for her to commit uncompensated  
20 time to learn.

21         244. Plaintiff Dann spent time directly engaging with customers virtually, not just for the  
22 purposes of selling products, because it was critical for customer retention. For example, she was  
23 responsible for providing direct customer service to resolve their concerns and issues in compliance  
24 with R+F's Consultant Agreement. She also spent time responding to and engaging with Customers  
25 who submitted requests to be contacted through her PWS which were sometimes unrelated to

1 product inquiries likely to generate sales, such as when they provided her feedback about their  
2 product experience, asked her questions about discounts generally or the PC Perks program, and  
3 more.

4 245. Plaintiff Dann received multiple marketing emails from R+F encouraging her to  
5 attend its annual R+F conference. R+F marketed the conference as an opportunity to receive  
6 trainings to improve sales metrics, hear inspirational speakers and field leaders present, learn more  
7 about what R+F has been working on and receive exclusive opportunities to save on R+F's "next  
8 innovation," available only to attendees, and capitalize on networking opportunities with the  
9 Consultant Community.<sup>97</sup> She spent time consulting her Uplines about these opportunities and  
10 weighing its costs and benefits for helping her generate sales. Ultimately Plaintiff Dann opted not to  
11 attend because of expenses she would incur, none of which were reimbursed by R+F, like flights,  
12 meals, lodging, ground transportation, and the admissions ticket to the 3-day conference itself.  
13 Nevertheless, the hours she spent contemplating these opportunities were necessary aspects of her  
14 regular work evaluating her current performance and honing her strategies for generating sales.

15 **5. Plaintiff Dann Spent Many Hours, Sometimes Without Breaks, and**  
16 **Paid for Business Expenses**

17 246. Plaintiff Dann would often work at least four hours without a break or rest period. On  
18 weeks when R+F had new product launches and team meetings, Plaintiff Dann spent more than four  
19 hours without break or rest period attending trainings and learning about the products. There were  
20 also many weeks when she spent over four hours without break or rest conducting marketing and  
21 sales activities online and/or engaging with her Downline to satisfy expectations of her as a Sponsor.  
22 She was effectively required to perform multiple activities related to product launches to stay in  
23 compliance.

24  
25 <sup>97</sup> <https://www.rfconvention.com/#> [https://perma.cc/EHF7-62GJ].

1           247. During her tenure, Plaintiff Dann was not compensated for her time doing any of the  
2 forementioned activities or fulfilling any of the aforementioned responsibilities, nor paid any  
3 overtime.

4           248. Plaintiff Dann was not compensated or reimbursed for out-of-pocket expenses – even  
5 expenses R+F’s Compensation Plan incentivized her to make. Factoring in her expenses to become  
6 a Consultant and her monthly product purchases to expedite her eligibility to earn commissions on  
7 sales to PC immediately at the start of each new month described above, Plaintiff Dann estimates  
8 that she spent approximately \$10,500 of her personal funds during the four years she worked for  
9 R+F. Plaintiff purchased the PULSE by Penny Pro monthly subscription for \$24.95 monthly to gain  
10 access to a Personal Website, expending approximately \$300 per year to maintain her website  
11 subscription. She was heavily encouraged to do this by her Sponsor because Consultants are only  
12 eligible to earn commissions and Achievement Rewards for online sales on R+F controlled websites,  
13 and almost all sales were transacted through one’s PWS, rather than the R+F general website. She  
14 spent over \$100 each month on Products and paid \$25 annually to renew her Consultant Agreement.  
15 She also spent personal funds to cover expenses for team meetings. In addition to the \$10,500,  
16 Plaintiff Dann’s monthly business expenses included her monthly cell phone bill (\$150) and internet  
17 access (\$100), and she was not reimbursed any proportion of these expenses.

18           249. Additionally, Plaintiff Dann sometimes purchased monthly samples that R+F and her  
19 Upline encouraged her to. Not only did R+F not reimburse her for these business expenses, but these  
20 purchases did also not qualify for the monthly sales threshold she was required to meet before she  
21 was entitled to earn commissions from her Preferred Customers.

22           250. At times, Plaintiff Dann was successful in her sales and marketing efforts, receiving  
23 approximately \$400–\$500 per week in commission, but some months she received \$0. Her best sales  
24 week was \$1000. These earnings include a small commission percentage of their Downlines’ sales, as  
25 provided for in the R+F’s Compensation Plan. R+F never provided transparency about the portion

1 of her income was attributable to Downline sales. Notably, her net income was substantially lower  
2 when factoring in her expenses, and some months, she made no income from her work, and therefore  
3 lost money.

4 251. The commissions were paid via direct deposit. No paystub was provided that identified  
5 hours worked, nor were any employment taxes withheld at any time. The paystubs did not identify  
6 commission rate. Plaintiff Dann did not receive any breakdown or calculation of monthly pay. For  
7 some of Plaintiff Dann's sales, R+F did not pay her commissions because the customer returned the  
8 products.

9 **F. Plaintiff Kathryn Cude's Experiences as an R+F Consultant**

10 252. Plaintiff Kathryn Cude worked as an R+F Consultant from December 2016 through  
11 the present (although Plaintiff Cude is no longer actively promoting the product).

12 253. Before becoming a Consultant, Plaintiff Cude had been purchasing the Products for  
13 several years and was a Preferred Customer of another Consultant. In 2016, Plaintiff Cude was  
14 recruited by another Consultant to sign up to join the R+F Independent Consultant Community.  
15 With the guidance and encouragement of this Consultant (her "Sponsor,") she downloaded and filled  
16 out the Independent Consultant Application. At that time, Plaintiff Cude had no experience in sales,  
17 marketing, business, and had not worked in the cosmetics or skincare industry.

18 254. The application did not ask Plaintiff Cude for her resume or any details about her work  
19 experience, qualifications, licensure, skills, or social media handles. The terms and conditions attached  
20 to the application stated that to be eligible to become a Consultant, she was required to purchase a  
21 Business Enrollment Kit. On the application, she checked a box indicating she met this eligibility  
22 requirement, among others. She chose a custom domain prefix for her R+F Personal Website. She  
23 signed the application, agreeing to comply with all terms and conditions of the Independent  
24 Consultant Agreement, which incorporated the Policies and Procedures, among other documents.

1 She also agreed to pay an annual renewal fee of \$25 to remain active as a Consultant, as required by  
2 the P&P.

3 255. Plaintiff Cude had four Business Enrollment Kit options; she selected the “RF Express  
4 Business Kit” for \$995 and the domain <https://www.katiecude.Myrandf.com>.

5 256. Plaintiff Cude paid the fee to complete and submit her application. Her Business Kit  
6 included shareable materials and tools for prospecting customers and Consultants as well as product  
7 samples. She also gained access to the R+F “Library.”

8 257. After becoming a Consultant, she worked to generate awareness around her new  
9 business and to try to sell R+F Products. She purchased R+F Marketing Materials and Business  
10 Supplies from R+F directly, as required by the Independent Consultant Agreement, for marketing  
11 purposes, as well as for training purposes, i.e., to help her learn about and test the products she was  
12 responsible for selling. Excluding home office supplies necessary to run her business, her initial  
13 expenses summed to over \$2,500. It took her multiple months to recuperate the funds she invested  
14 to become a Consultant and start selling R+F Products.

15 258. After working 3-months as a Consultant, her limited subscription to PULSE Pro,  
16 which provided her access to her R+F-controlled Consultant Website, expired. She elected to  
17 subscribe to PULSE Pro for \$24.95 per month to maintain it, so that customers could make purchases  
18 through her website directly and she could earn commission on those sales. This subscription also  
19 entitled her to receive discounts on the R+F Products she needed to purchase in order to effectively  
20 and honestly market and sell them, as required by the P&P.

21 259. R+F paid commissions differently, depending on whether a customer held a  
22 “Preferred Customer” status. While R+F paid commissions on regular customers for each purchase  
23 they made, R+F would only pay commissions on Preferred Customer purchases if the Plaintiff Cude,  
24 like all Consultants, either had already obtained a threshold level of sales for a given month (worth  
25

1 approximately \$120-\$125 in retail value), or purchased the equivalent amount of R+F Products for  
2 personal use or to attempt to resell to customers.

3 260. Because the only way to start earning commission each month for every sale to a  
4 Preferred Customer was to have earned \$100 from products purchased e wholesale purchase of  
5 products from R+F, Plaintiff Cude typically purchased the minimum amount of products each month  
6 to achieve that threshold, spending approximately \$1500 annually. Plaintiff Cude often featured these  
7 Products in her marketing work, but usually was unable to resell any of the products she purchased.

8 261. During her tenure, she relied heavily on the R+F tools and resources available only to  
9 Consultants on its platform, designed and provided by R+F. Plaintiff Cude leveraged the R+F  
10 platform to assist her in her marketing and sales work, to gain insights on how to best interact with  
11 customers, manage and oversee her Downlines, generate leads (including R+F recommendations) on  
12 which Preferred Customers or Downlines to target, and to directly engage with and provide service  
13 to customers. She also regularly sought guidance from other Consultants and relied on their  
14 knowledge and support.

15 262. Although Plaintiff Cude did not provide her social media profiles to R+F when she  
16 completed her application, she agreed to adhere to the exhaustive rules and regulations governing her  
17 online conduct, sales, and marketing efforts.

18 263. Plaintiff Cude was successful in recruiting three Downlines, one of whom recruited 2  
19 additional Downlines. After building her small team, for the remainder of her time as an R+F  
20 Consultant, Plaintiff Cude spent approximately a third of her time supporting her Downlines, and  
21 the remainder marketing, promoting, and learning about R+F Products— almost all of which was  
22 performed online, as well as engaging with customers. Plaintiff Cude very rarely sold Products or  
23 recruited in person.

24 264. Plaintiff Cude Was Required to Adhere to R+F's Policies and Procedures  
25



1           265. As required for eligibility to become a Consultant, R+F required to meet the  
2 requirements set forth in the Independent Consultant Agreement, which included the lengthy P&P  
3 document.

4           266. When Plaintiff Cude's Application was accepted by R+F, R+F provided Plaintiff Cude  
5 access to its proprietary, password-protected PULSE digital platform. It contained a "Library," that  
6 served as a Consultant's portal for resources, analytics, and tools related to work as Consultants. R+F  
7 stored key documents in the Library, such as all documents incorporated in the Consultant  
8 Agreement, training tools; marketing instructions and guidance; approved R+F Marketing Materials  
9 and Business Supplies; marketing and communications templates, a catalog of products, prices, and  
10 corresponding commissions rates, and other important reference materials, including additional rules  
11 and regulations governing social media conduct and PWS content requirements, not included in the  
12 P&P. R+F required her to understand, abide by, and utilize these materials.

13           267. During Plaintiff Cude's approximately four years with R+F, R+F frequently released  
14 new products, rebranded existing products, launched marketing campaigns, shifted advertising  
15 strategies, updated approved Marketing Materials, made changes to the Compensation Plan, released  
16 training videos for Consultants, hosted virtual live events, and other initiatives to engage Consultants,  
17 encourage them to market and sell, and educate about R+F Products and policies.

18           268. As required by the Consultant Agreement, Plaintiff Cude regularly accessed and  
19 reviewed amendments to R+F's documents and other terms incorporated into the Consultant  
20 Agreement to ensure she remained in compliance with all of R+F's requirements and directives.  
21 Accordingly, Plaintiff Cude was frequently assigned to watch training videos, amend their own  
22 marketing and sales strategies, and update her custom social media content to incorporate the most  
23 recently approved marketing materials. Plaintiff Cude understood that performing these types of tasks  
24 were required in order to remain an active Consultant, i.e., in compliance. Because she "Sponsored"  
25 other Consultants, who became her Downlines, she was required to expend time engaging with her

1 Downlines to ensure they understood changes to R+F's Consultant Agreement, too. She also had  
2 both in-person and video meetings with her team. Plaintiff Cude spent about twenty-five hours per  
3 month on these tasks. She also spent additional money purchasing new products so that she could  
4 test them and market them authentically and several hours reviewing content R+F content pertaining  
5 to those products, as required under R+F's Code of Business Ethics.

6 269. Plaintiff Cude worked as a Consultant from December 2016 through the present, in  
7 accordance with the R+F directives previously outlined.

8 270. Plaintiff Cude Spent Many Hours Performing Marketing, Sales, and Customer Service  
9 Work in Accordance with R+F's Policies.

10 271. During Plaintiff Cude's tenure, Plaintiff Cude used her personal social media to  
11 promote R+F Products and the Consultant Opportunity, i.e., market and recruit, regularly. This work  
12 was involved and time consuming and involved multiple phases. Plaintiff Cude often would spend  
13 between several hours throughout the week planning posts and sales strategies for the upcoming  
14 week, engaging other Consultants, and performing other tasks, elaborated below.

15 272. First, to start, Plaintiff Cude needed to spend time planning for and the content that  
16 would ultimately be the subject matter of any given post. In accordance with R+F's policies, Plaintiff  
17 Cude devoted time to study and select which of the many available R+F Products she would promote.

18 273. R+F heavily encouraged Plaintiff Cude to use R+F Products, i.e., subscribe to the  
19 Consultant Replenishment Program, and post content tracking her skincare regimen and her positive  
20 results on her social media. Because R+F encouraged Consultant's to publish their own personal  
21 experiences with the Products, Plaintiff Cude's planning and preliminary work included using the  
22 Products for sufficient time to see results. Plaintiff Cude was required to purchase these Products  
23 from R+F to create any personalized content. Plaintiff Cude frequently reviewed the P&P and R+F  
24 materials because R+F imposed strict parameters on before and after videos, e.g., requiring specific  
25 statements about use and disclaimers, and other product marketing efforts.

1           274. She also reviewed R+F materials that provided strategies and guidance for advertising  
2 and selling. She dedicated a lot of time to preparing her marketing posts to share with her network.  
3 She was intentional about marketing to both existing and prospective customers and the different  
4 strategies required for each market segment. Plaintiff Cude would brainstorm content, draft and edit  
5 the text, and take photographs and video recordings for her posts. She regularly consulted R+F  
6 Content for inspiration. Because of the time-intensive commitment to develop her own content, she  
7 utilized R+F templates and other R+F generated content like hashtags and graphics for the majority  
8 of her work, curating them to suit her needs. While the amount of time Plaintiff Cude spent varied  
9 over the years, Plaintiff Cude spent approximately 20 hours per month developing content and  
10 marketing products and another 20 hours per month signing up new members.

11           275. At times, Plaintiff Cude used her own content and media, such as taking her own  
12 photographs and recordings. When doing so, she devoted time into making sure the images were  
13 attractive and that the lighting and background was suitable and consistent with R+F's expectations,  
14 and fully in compliance with the regulations governing "Before and After" Photos. Indeed, when she  
15 posted on social media about results from her own use of R+F Products, she received more  
16 engagement on her posts, which led to more sales. Additionally, she spent several hours each week  
17 navigating R+F tools intended to help her evaluate customer engagement and her own sales  
18 performance, so she could leverage these metrics to improve upon her marketing tactics.

19           276. Second, in addition to spending time marketing the products, Plaintiff Cude marketed  
20 the Consultant experience. She created and published content online about the impact the Consultant  
21 experience had on her life (but, in accordance with R+F's P&P, refraining from making any "Income  
22 and Lifestyle" claims) or her positive skincare results from using the products. Because she was  
23 prohibited from making any representation inconsistent with R+F Marketing Materials, she  
24 frequently reviewed them and paid close attention to any new R+F regulations to develop content  
25 strictly in accordance with R+F policies, e.g., statements she was permitted to make and others she

1 was prohibited from making, as well as disclaimers she was required to make. While the amount of  
2 time Plaintiff Cude spent varied over the years, Plaintiff Cude spent approximately five hours per  
3 week marketing her experience and on other recruiting efforts.

4 277. Third, in addition to creating and publishing marketing content about her experience  
5 as a Consultant, Plaintiff Cude strategically targeted people in her personal networks to build out her  
6 team of Consultants. R+F heavily encouraged Consultants to build out their teams of Downlines and  
7 recommended this strategy. R+F provided training tools for recruiting purposes. Plaintiff Cude spent  
8 additional time each month engaging friends and family, separate from her broader online marketing  
9 efforts to recruit Consultants.

10 278. Fourth, Plaintiff Cude's social media-based marketing work was not limited to crafting  
11 and publishing posts, but included ongoing oversight of her social media accounts to reply to public  
12 comments as well as engage with existing customers and leads who would send her direct online  
13 messages to her social media inboxes. Because it was critical for customer acquisition and retention,  
14 she constantly monitored responses to posts, and expediently replied to any direct messages from  
15 interested customers. Plaintiff Cude spent ample time to thoughtfully prepare these responses, often  
16 a few hours a week engaging in text and email messaging with existing Retail Customers, Preferred  
17 Customers, and prospective Consultants.

18 279. Fifth, Plaintiff Cude spent time monitoring her personal email for inquiries submitted  
19 to her directly through her Personal Website using an R+F-generated form that Plaintiff Cude had  
20 not been able to customize or remove from her PWS. Because her R+F-controlled PWS included a  
21 standard form that allowed visitors to her website to contact her online directly and select the "I am  
22 interested in Becoming a Consultant" and/or "I am interested in Learning more about R+F  
23 products" checkboxes, R+F required Plaintiff Cude to use its platform to generate leads for  
24 prospective customers and prospective Consultants and to follow up with these individuals.

1 Whenever someone filled out the form, Plaintiff Cude automatically received an R+F-generated e-  
2 mail prompting her to reach out.

3 280. Additionally, potential and Preferred Customers would fill out the R+F Solution Tool  
4 Quiz on her Consultant Website, and the R+F Platform would generate an email to Plaintiff Cude  
5 with results for her to reach out to answer their skincare questions and offer guidance. She was not  
6 paid for these consultations.

7 281. Were there any other ways in which P engaged with potential or Preferred Customers  
8 that P was not compensated for?

9 282. Plaintiff Cude was consistently prompt in responding to these and similar requests  
10 submitted through her PWS. If she waited hours or days to respond, she risked losing a potential sale  
11 or building her team of Downlines. As a result, to be successful, Plaintiff Cude regularly monitored  
12 her social media accounts and messages, so she could respond immediately to interested customers—  
13 at any time of day or night. Where Plaintiff Cude could not respond to a customer or Downline lead  
14 immediately, Plaintiff Cude would respond as soon as she was able, even if it meant answering the  
15 request in an inconvenient location, such as in her car in a parking lot. While the time each day she  
16 spent varied, she would check her phone when alerts came in, continuously keeping track of when a  
17 customer might need her. Plaintiff Cude rarely, if ever, sold to customers in-person, and she  
18 conducted her marketing and communications with prospective customers, existing customers,  
19 prospective consultants, and her existing Downlines online.

20 283. Sixth, Plaintiff Cude received targeted emails from R+F on a monthly basis instructing  
21 her to follow up with her Preferred Customers on exclusive offers R+F had sent them directly and  
22 separate frequent emails from R+F instructing her to reach to her Downlines to coach them on how  
23 to sell specific Products R+F recommended to accrue Achievement Rewards. See Exh. Lauren Email  
24 of Exclusive Offer for Specific Preferred Customer (directing her to walk her Preferred Customer  
25 through process of completing online purchase). Plaintiff Cude spent approximately ten hours per

1 month following these directives from R+F. She was not paid for any of her work fielding R+F tasks  
2 regardless of whether her follow up efforts resulted in personal sales or sales of her Downlines.

3 284. Plaintiff Cude Spent Many Hours Using R+F's Platforms and Tools to Market and  
4 Sell Products and the Consultant Experience in Accordance with Its Directives

5 285. Plaintiff Cude leveraged R+F's online Platforms and Tools to satisfying R+F's  
6 expectations of Consultants, in a manner consistent with how R+F markets the Consultant's role and  
7 responsibilities. And Plaintiff Cude spent time directing customers to R+F's online skincare solution  
8 quiz ("R+F Solution Tool"). She leveraged its results to assist customers in purchasing the Products  
9 recommended based on the customer's responses through her online through her PWS. In other  
10 words, this tool guided some of her marketing and sales efforts. And as described above, she used  
11 R+F platforms for email.

12 286. R+F heavily encouraged Plaintiff Cude to market the "PC Perks" subscription, a  
13 Customer Loyalty Program; her efforts were concentrated on converting Retail Customers into  
14 Preferred Customers who receive bi-monthly auto-replenishment shipments with extra discounts.  
15 She leveraged various R+F tools and resources. She was not paid for this work unless she was  
16 successful in enrolling customers, in which case she received commissions from their purchases, but  
17 not the Preferred Customer acquisition itself.

18 287. Plaintiff Cude Spent Many Additional Hours on Other Responsibilities

19 288. Plaintiff Cude's tasks were not limited only to developing advertising and engaging  
20 with customers but also included other necessary work to remain in compliance with their obligations  
21 as Consultants and try to generate income after becoming a Consultant.

22 289. When Plaintiff Cude began working as a Consultant, Plaintiff Cude reviewed the  
23 training materials on R+F's platform, PULSE by Penny, in particular the contents in the "Library"  
24 to learn about R+F and marketing and sales generally. This included several hours of watching  
25 training videos and studying the materials published by R+F specific on R+F's brand identity;

1 marketing tactics, e.g., and promotion best practices; how to market the R+F brand and the Products,  
2 etc. Plaintiff Cude was not well versed in R+F's expansive product line, so she studied the Products  
3 catalog. Plaintiff Cude spent roughly 60 hours learning about the company's products, and another  
4 10 hours learning about their sales methods and policies. As part of her onboarding Plaintiff Cude  
5 also expended hours consuming content specific to her role as a Consultant published by both R+F  
6 and original content created by other Consultants, where she learned R+F's expectations of  
7 Consultants, how to perform the day-to-day work, and compensation structure. Additionally, she  
8 attended up to two meetings a day with her Sponsoring Consultant, where she was trained on R+F  
9 policies, strategies, and tactics. During these first couple of weeks, Plaintiff Cude invested  
10 approximately 35 hours each week to fully onboard as a Consultant and then recruit two Downline  
11 Consultants to join her team.

12         290. The activities and tasks she undertook for recruiting purposes were distinct from her  
13 work marketing both the Products and her own experience as a Consultant. Plaintiff Cude personally  
14 cultivated each of those relationships to convert customers into Consultants. To recruit other  
15 Consultants, she spent many hours reviewing R+F's resources for updates to its policies to ensure  
16 she abided by R+F's strict limitations on who she could recruit, statements she was permitted to  
17 make on social media and others she was prohibited from making when recruiting, as well as  
18 disclaimers she was required to make. To enroll a new Consultant, she was required to explain the  
19 financial expectations of Consultants to complete enrollment (Business Start Pack purchase  
20 requirement), the PULSE Pro subscription, and Consultant discounts for product subscriptions. She  
21 was also required to oversee the application process to ensure prospective Consultants complete it  
22 themselves.

23         291. Plaintiff Cude became the "Sponsor" of Consultants she recruited in her Downline.  
24 Once she had Downlines, she was required to onboard her Downlines, e.g., to explain R+F's business  
25 model, educate them on the Policies and Procedures, and provide resources to start selling. After

1 onboarding, she was required to take on additional responsibilities, e.g., tracking their performance  
2 using R+F tools, coaching them to sell specific products as directed by R+F in its email outreach to  
3 Plaintiff Cude, and sending weekly communications, and to be available whenever they reached out  
4 frequently with questions. Plaintiff Cude was committed to ensuring her Downlines were successful  
5 and remained in compliance with R+F's directives, and she received no compensation for this work.  
6 She spent over five hours training and supporting her Downlines their first week, then was able to  
7 reduce this commitment to approximately fifteen hours per month. She never received any  
8 compensation associated with satisfying these responsibilities set forth by R+F.

9         292. Plaintiff Cude tried recruiting additional Downlines later during her tenure but did not  
10 end up sponsoring any additional Consultants. Plaintiff Cude did not receive any compensation for  
11 the countless hours she spent recruiting, and she did not receive compensation when she successfully  
12 brought on a new Consultant to her Downline. Her two Downlines each in turn recruited 1–2  
13 Downlines. She hosted team meetings.

14         293. For the first several years, she stayed in contact with her Upline to perform her job.  
15 For example, for most of her employment, Plaintiff Cude's Upline Consultant held monthly meetings,  
16 which Plaintiff Cude often attended. The meetings lasted about an hour. These were important for  
17 her continued learning about the brand, R+F's products, evolving expectations R+F had of  
18 Consultants, and changes to the Compensation Plan. She leveraged this content to help educate her  
19 own Downlines.

20         294. Because Consultants are responsible for learning about any substantive changes to the  
21 Policies and Procedures, i.e., the Consultant Agreement, she was expected to read the weekly Insider  
22 Scoop published and distributed to Consultants to stay abreast on compliance matters, Products  
23 releases and information, R+F events, and matters that R+F coined "useful to Consultants in  
24 conducting their Rodan + Fields activities." For example, R+F also regularly changed its marketing  
25 strategies for Consultants. Whenever R+F changed its marketing strategies, Plaintiff Cude would



1 spend time familiarizing herself and adapting to these new strategies to ensure her posts reflected the  
2 changes and learning any corresponding updates to the policies and procedures. R+F frequently  
3 released new products that Plaintiff Cude needed to invest time in learning about. Plaintiff Cude  
4 attended monthly virtual product launches at the encouragement of R+F for which she was not  
5 compensated but had the opportunity to win product giveaways. Although they were not required,  
6 Plaintiff Cude found these to be necessary trainings to learn about the new products and be able to  
7 effectively market them.

8         295. Plaintiff Cude also watched additional periodic training videos to learn how to use the  
9 various tools on the R+F Pro Penny Platform. These types of trainings were necessary not only for  
10 onboarding at the start of her tenure, but also when R+F released new technology that Consultants,  
11 including Plaintiff Cude, were required to use to perform her work. For example, when R+F changed  
12 its Consultant enrollment process, Plaintiff Cude was required to spend time learning both changes  
13 to the P&P as well as how to use the new technology intended to streamline the process, since R+F  
14 required Consultants to provide prospective Consultants with assistance in completing and  
15 submitting their application under the Consultant Agreement. Plaintiff Cude was not compensated  
16 for the time spent learning about changes to R+F platforms or technology that she was required to  
17 understand to perform her work and adhere to the Policies and Procedures.

18         296. Moreover, the R+F Compensation Plan changed frequently, and Plaintiff Cude spent  
19 countless hours trying to understand the nuances of these changes during her tenure, and R+F sent  
20 communications to Consultants regarding broader scale changes for her to commit uncompensated  
21 time to learn.

22         297. Plaintiff Cude spent time directly engaging with customers virtually, not just for the  
23 purposes of selling products, because it was critical for customer retention. For example, she was  
24 responsible for providing direct customer service to resolve their concerns and issues in compliance  
25 with R+F's Consultant Agreement. She also spent time responding to and engaging with Customers

1 who submitted requests to be contacted through her PWS which were sometimes unrelated to  
2 product inquiries likely to generate sales, such as when they provided her feedback about their  
3 product experience, asked her questions about discounts generally or the PC Perks program, and  
4 more.

5         298. Plaintiff Cude received multiple marketing emails from R+F encouraging her to attend  
6 its annual R+F conference. R+F marketed the conference as an opportunity to receive trainings to  
7 improve sales metrics, hear inspirational speakers and field leaders present, learn more about what  
8 R+F has been working on and receive exclusive opportunities to save on R+F's "next innovation,"  
9 available only to attendees, and capitalize on networking opportunities with the Consultant  
10 Community.<sup>98</sup> She spent time consulting her Uplines about these opportunities and weighing its  
11 costs and benefits for helping her generate sales. Ultimately Plaintiff Cude opted not to attend because  
12 of expenses she would incur, none of which were reimbursed by R+F, like flights, meals, lodging,  
13 ground transportation, and the admissions ticket to the 3-day conference itself. Nevertheless, the  
14 hours she spent contemplating these opportunities were necessary aspects of her regular work  
15 evaluating her current performance and honing her strategies for generating sales.

16         299. Plaintiff Cude Spent Many Hours, Sometimes Without Breaks, and Paid for Business  
17 Expenses

18         300. Plaintiff Cude would often work at least four hours without a break or rest period. On  
19 weeks when R+F had new product launches and team meetings, Plaintiff Cude spent more than four  
20 hours without break or rest period attending trainings and learning about the products. There were  
21 also many weeks when she spent over four hours without break or rest conducting marketing and  
22 sales activities online and/or engaging with her Downline to satisfy expectations of her as a Sponsor.

23  
24  
25 

---

<sup>98</sup> <https://www.rfconvention.com/#>

1 She was effectively required to perform multiple activities related to product launches to stay in  
2 compliance.

3 301. During her tenure, Plaintiff Cude was not compensated for her time doing any of the  
4 forementioned activities or fulfilling any of the aforementioned responsibilities, nor paid any  
5 overtime.

6 302. Plaintiff Cude was not compensated or reimbursed for out-of-pocket expenses – even  
7 expenses R+F’s Compensation Plan incentivized her to make. Factoring in her expenses to become  
8 a Consultant and her monthly product purchases to expedite her eligibility to earn commissions on  
9 sales to PC immediately at the start of each new month described above, Plaintiff Cude estimates that  
10 she spent approximately \$5000 of her personal funds during the four years she worked for R+F.  
11 Moreover, Plaintiff Cude purchased the PULSE by Penny Pro monthly subscription for \$24.95  
12 monthly to gain access to a Personal Website, expending approximately \$300 per year to maintain  
13 her website subscription. She was heavily encouraged to do this by her Sponsor because Consultants  
14 are only eligible to earn commissions and Achievement Rewards for online sales on R+F controlled  
15 websites, and almost all sales were transacted through one’s PWS, rather than the R+F general  
16 website. She spent over \$100 each month on Products and paid \$25 annually to renew her Consultant  
17 Agreement. In addition to the \$5000, Plaintiff Cude’s monthly business expenses included her  
18 monthly cell phone bill (\$150) and internet access (\$100), and she was not reimbursed any proportion  
19 of these expenses.

20 303. Additionally, Plaintiff Cude sometimes purchased monthly samples that R+F and her  
21 Upline encouraged her to. Not only did R+F not reimburse her for these business expenses, but these  
22 purchases did also not qualify for the monthly sales threshold she was required to meet before she  
23 was entitled to earn commissions from her Preferred Customers.

24 304. At times, Plaintiff Cude was successful in her sales and marketing efforts, receiving  
25 approximately \$100-1500 per month in commission. Her best sales month was \$1500. These earnings

1 include a small commission percentage of their Downlines' sales, as provided for in the R+F's  
2 Compensation Plan. R+F never provided transparency about the portion of her income was  
3 attributable to Downline sales. Notably, her net income was substantially lower when factoring in her  
4 expenses, and some months, she made no income from her work, and therefore lost money.

5 305. The commissions were paid via direct deposit. No paystub was provided that identified  
6 hours worked, nor were any employment taxes withheld at any time. The paystubs did not identify  
7 commission rate. Plaintiff Cude did not receive any breakdown or calculation of monthly pay. For  
8 some of Plaintiff Cude's sales, R+F did not pay her commissions because the customer returned the  
9 products.

#### 10 **G. Plaintiff Yoon's Experience as an R&F Consultant**

11 306. In 2019, Plaintiff Yoon was recruited by a Consultant to sign up to join the R+F  
12 Independent Consultant Community. With the guidance and encouragement of this Consultant (her  
13 "Sponsor,") she downloaded and filled out the Independent Consultant Application. At that time,  
14 Plaintiff had no experience in sales, marketing, business, and had not worked in the cosmetics or  
15 skincare industry.

16 307. The application did not ask Plaintiff Yoon for her resume or any details about her  
17 work experience, qualifications, licensure, skills, or social media handles. The terms and conditions  
18 attached to the application stated that to be eligible to become a Consultant, she was required to  
19 purchase a Business Enrollment Kit. On the application, she checked a box indicating she met this  
20 eligibility requirement, among others. She chose a custom domain prefix for her R+F Personal  
21 Website. She signed the application, agreeing to comply with all terms and conditions of the  
22 Independent Consultant Agreement, which incorporated the Policies and Procedures, among other  
23 documents. She also agreed to pay an annual renewal fee of \$25 to remain active as a Consultant, as  
24 required by the P&P.

1           308. Plaintiff Yoon had four Business Enrollment Kit options; she selected the “RF  
2 Express Business Kit” for \$495 and the domain MARYYOO.MYRANDF.COM.

3           309. Plaintiff Yoon paid the fee to complete and submit her application. Her Business Kit  
4 included shareable materials and tools for prospecting customers and Consultants as well as product  
5 samples. She also gained access to the R+F “Library.”

6           310. After becoming a Consultant, she worked to generate awareness around her new  
7 business and to try to sell R+F Products. She purchased R+F Marketing Materials and Business  
8 Supplies from R+F directly, as required by the Independent Consultant Agreement, for marketing  
9 purposes, as well as for training purposes, i.e., to help her learn about and test the products she was  
10 responsible for selling. Excluding home office supplies necessary to run her business, her initial  
11 expenses summed to over \$2,500. It took her multiple months to recuperate the funds she invested  
12 to become a Consultant and start selling R+F Products.

13           311. After working 3-months as a Consultant, her limited subscription to PULSE Pro,  
14 which provided her access to her R+F-controlled Consultant Website, expired. She elected to  
15 subscribe to PULSE Pro for \$24.95 per month to maintain it, so that customers could make purchases  
16 through her website directly and she could earn commission on those sales. This subscription also  
17 entitled her to receive discounts on the R+F Products she needed to purchase in order to effectively  
18 and honestly market and sell them, as required by the P&P.

19           312. R+F paid commissions differently, depending on whether a customer held a  
20 “Preferred Customer” status. While R+F paid commissions on regular customers for each purchase  
21 they made, R+F would only pay commissions on Preferred Customer purchases if the Plaintiff, like  
22 all Consultants, either had already obtained a threshold level of sales for a given month (worth  
23 approximately \$120-\$125 in retail value), or purchased the equivalent amount of R+F Products for  
24 personal use or to attempt to resell to customers.  
25

1           313.    Because the only way to start earning a commission each month for every sale to a  
2 Preferred Customer was to have earned \$100 from products purchased from R+F, Plaintiff typically  
3 purchased the minimum amount of products each month to achieve that threshold, spending  
4 approximately \$1500 annually. Plaintiff Yoon often featured these Products in her marketing work,  
5 but usually was unable to resell any of the products she purchased.

6           314.    During her tenure, she relied heavily on the R+F tools and resources available only to  
7 Consultants on its platform, designed and provided by R+F. Plaintiff Yoon leveraged the R+F  
8 platform to assist her in her marketing and sales work, to gain insights on how to best interact with  
9 customers, manage and oversee her Downlines, generate leads (including R+F recommendations) on  
10 which Preferred Customers or Downlines to target, and to directly engage with and provide service  
11 to customers. She also regularly sought guidance from other Consultants and relied on their  
12 knowledge and support.

13           315.    Although Plaintiff Yoon did not provide her social media profiles to R+F when she  
14 completed her application, she agreed to adhere to the exhaustive rules and regulations governing her  
15 online conduct, sales, and marketing efforts. In May 2019, Plaintiff Yoon learned R+F was  
16 monitoring her accounts after she received an email from R+F's compliance team demanding she  
17 remove certain content in compliance with the P&P to which she was required to adhere.  
18 Furthermore, R+F sent emails about what kind of photos could be allowed on social media, and  
19 oftentimes photos were posted by upper consultants, and lower consultants, including Plaintiff Yoon,  
20 copied them from their pages.

21           316.    Plaintiff Yoon was successful in recruiting two Downlines, one of which recruited a  
22 Downline of their own. After building her small team, for the remainder of her time as an R+F  
23 Consultant, Plaintiff Yoon spent approximately a third of her time supporting her Downlines, and  
24 the remainder marketing, promoting, and learning about R+F Products— almost all of which was  
25

1 performed online, as well as engaging with customers. Plaintiff Yoon occasionally sold to people in  
2 person. However, many of the items she sold were returned due to R+F's generous return policy.  
3 She also recruited in person once or twice but stopped after that due to additional in-person festival  
4 fair fees that she had to pay.

5 317. Plaintiff Yoon was Required to Adhere to R+F's Policies and Procedures

6 318. As required for eligibility to become a Consultant, R+F required to meet the  
7 requirements set forth in the Independent Consultant Agreement, which included the lengthy P&P  
8 document.

9 319. When Plaintiff Yoon's Application was accepted by R+F, R+F provided Plaintiff  
10 Yoon access to its proprietary, password-protected PULSE digital platform. It contained a "Library,"  
11 that served as a Consultant's portal for resources, analytics, and tools related to work as Consultants.  
12 R+F stored key documents in the Library, such as all documents incorporated in the Consultant  
13 Agreement, training tools; marketing instructions and guidance; approved R+F Marketing Materials  
14 and Business Supplies; marketing and communications templates, a catalog of products, prices, and  
15 corresponding commissions rates, and other important reference materials, including additional rules  
16 and regulations governing social media conduct and PWS content requirements, not included in the  
17 P&P. R+F required her to understand, abide by, and utilize these materials.

18 320. During Plaintiff Yoon's approximately four years with R+F, R+F frequently released  
19 new products, rebranded existing products, launched marketing campaigns, shifted advertising  
20 strategies, updated approved Marketing Materials, made changes to the Compensation Plan, released  
21 training videos for Consultants, hosted virtual live events, and other initiatives to engage Consultants,  
22 encourage them to market and sell, and educate about R+F Products and policies.

23 321. As required by the Consultant Agreement, Plaintiff Yoon regularly accessed and  
24 reviewed amendments to R+F's documents and other terms incorporated into the Consultant  
25 Agreement to ensure she remained in compliance with all of R+F's requirements and directives.

1 Accordingly, Plaintiff Yoon was frequently assigned to watch training videos, amend their own  
2 marketing and sales strategies, and update her custom social media content to incorporate the most  
3 recently approved marketing materials. Plaintiff Yoon understood that performing these types of  
4 tasks were required in order to remain an active Consultant, i.e., in compliance. Because she  
5 “Sponsored” other Consultants, who became her Downlines, she was required to expend time  
6 engaging with her Downlines to ensure they understood changes to R+F’s Consultant Agreement,  
7 too. She also had both in-person and video meetings with her team. Plaintiff Yoon spent about thirty  
8 hours per month on these tasks. She also spent additional money purchasing new products so that  
9 she could test them and market them authentically and several hours reviewing content R+F content  
10 pertaining to those products, as required under R+F’s Code of Business Ethics.

11 322. Plaintiff Yoon worked as a Consultant from February 2019 through March 2023, in  
12 accordance with the R+F directives previously outlined.

13 323. Plaintiff Yoon Spent Many Hours Performing Marketing, Sales, and Customer Service  
14 Work in Accordance with R+F’s Policies.

15 324. During Plaintiff Yoon’s tenure, she used her personal social media to promote R+F  
16 Products and the Consultant Opportunity, i.e., market and recruit, regularly. This work was involved  
17 and time consuming and involved multiple phases. Plaintiff Yoon often would spend between several  
18 hours throughout the week planning posts and sales strategies for the upcoming week, engaging other  
19 Consultants, and performing other tasks, elaborated below.

20 325. First, to start, Plaintiff Yoon needed to spend time planning for and the content that  
21 would ultimately be the subject matter of any given post. In accordance with R+F’s policies, Plaintiff  
22 devoted time to study and select which of the many available R+F Products she would promote.

23 326. R+F heavily encouraged Plaintiff Yoon to use R+F Products, i.e., subscribe to the  
24 Consultant Replenishment Program, and post content tracking her skincare regimen and her positive  
25 results on her social media. Because R+F encouraged Consultant’s to publish their own personal



1 experiences with the Products, Plaintiff Yoon’s planning and preliminary work included using the  
2 Products for sufficient time to see results. Plaintiff Yoon was required to purchase these Products  
3 from R+F to create any personalized content. Plaintiff Yoon frequently reviewed the P&P and R+F  
4 materials because R+F imposed strict parameters on before and after videos, e.g., requiring specific  
5 statements about use and disclaimers, and other product marketing efforts.

6 327. She also reviewed R+F materials that provided strategies and guidance for advertising  
7 and selling. She dedicated a lot of time to preparing her marketing posts to share with her network.  
8 She was intentional about marketing to both existing and prospective customers and the different  
9 strategies required for each market segment. Plaintiff Yoon would brainstorm content, draft and edit  
10 the text, and take photographs and video recordings for her posts. She regularly consulted R+F  
11 Content for inspiration. Because of the time-intensive commitment to develop her own content, she  
12 utilized R+F templates and other R+F generated content like hashtags and graphics for the majority  
13 of her work, curating them to suit her needs. While the amount of time Plaintiff Yoon spent varied  
14 over the years, since starting, Plaintiff Yoon spent approximately 70 hours per month selling products  
15 and 50 hours per month recruiting members.

16 328. At times, Plaintiff Yoon used her own content and media, such as taking her own  
17 photographs and recordings. When doing so, she devoted time into making sure the images were  
18 attractive and that the lighting and background was suitable and consistent with R+F’s expectations,  
19 and fully in compliance with the regulations governing “Before and After” Photos. Indeed, when she  
20 posted on social media about results from her own use of R+F Products, she received more  
21 engagement on her posts, which led to more sales. Additionally, she spent several hours each week  
22 navigating R+F tools intended to help her evaluate customer engagement and her own sales  
23 performance, so she could leverage these metrics to improve upon her marketing tactics.

24 329. Second, in addition to spending time marketing the products, Plaintiff Yoon marketed  
25 the Consultant experience. She created and published content online about the impact the Consultant

1 experience had on her life (but, in accordance with R+F's P&P, refraining from making any "Income  
2 and Lifestyle" claims) or her positive skincare results from using the products. Because she was  
3 prohibited from making any representation inconsistent with R+F Marketing Materials, she  
4 frequently reviewed them and paid close attention to any new R+F regulations to develop content  
5 strictly in accordance with R+F policies, e.g., statements she was permitted to make and others she  
6 was prohibited from making, as well as disclaimers she was required to make. While the amount of  
7 time Plaintiff Yoon spent varied over the years, since around [Month or season/Year], Plaintiff Yoon  
8 spent approximately five hours per week/month marketing her experience and on other recruiting  
9 efforts.

10 330. Third, in addition to creating and publishing marketing content about her experience  
11 as a Consultant, Plaintiff Yoon strategically targeted people in her personal networks to build out her  
12 team of Consultants. R+F heavily encouraged Consultants to build out their teams of Downlines and  
13 recommended this strategy. R+F provided training tools for recruiting purposes. Plaintiff spent  
14 additional time each month engaging friends and family, separate from her broader online marketing  
15 efforts to recruit Consultants.

16 331. Fourth, Plaintiff Yoon's social media-based marketing work was not limited to crafting  
17 and publishing posts, but included ongoing oversight of her social media accounts to reply to public  
18 comments as well as engage with existing customers and leads who would send her direct online  
19 messages to her social media inboxes. Because it was critical for customer acquisition and retention,  
20 she constantly monitored responses to posts, and expediently replied to any direct messages from  
21 interested customers. Plaintiff Yoon spent ample time to thoughtfully prepare these responses, often  
22 a few hours a week engaging in text and email messaging with existing Retail Customers, Preferred  
23 Customers, and prospective Consultants.

24 332. Fifth, Plaintiff Yoon spent time monitoring her personal email for inquiries submitted  
25 to her directly through her Personal Website using an R+F-generated form that Plaintiff had not been

1 able to customize or remove from her PWS. Because her R+F-controlled PWS included a standard  
2 form that allowed visitors to her website to contact her online directly and select the “I am interested  
3 in Becoming a Consultant” and/or “I am interested in Learning more about R+F products”  
4 checkboxes, R+F required Plaintiff Yoon to use its platform to generate leads for prospective  
5 customers and prospective Consultants and to follow up with these individuals. Whenever someone  
6 filled out the form, Plaintiff Yoon automatically received an R+F-generated e-mail prompting her to  
7 reach out.

8 333. Additionally, potential and Preferred Customers would fill out the R+F Solution Tool  
9 Quiz on her Consultant Website, and the R+F Platform would generate an email to Plaintiff Yoon  
10 with results for her to reach out to answer their skincare questions and offer guidance. She was not  
11 paid for these consultations.

12 334. Plaintiff Yoon was consistently prompt in responding to these and similar requests  
13 submitted through her PWS. If she waited hours or days to respond, she risked losing a potential sale  
14 or building her team of Downlines. As a result, to be successful, Plaintiff Yoon regularly monitored  
15 her social media accounts and messages, so she could respond immediately to interested customers—  
16 at any time of day or night. Where Plaintiff Yoon could not respond to a customer or Downline lead  
17 immediately, Plaintiff Yoon would respond as soon as she was able, even if it meant answering the  
18 request in an inconvenient location, such as in her car in a parking lot. While the time each day she  
19 spent varied, she would check her phone when alerts came in, continuously keeping track of when a  
20 customer might need her. Plaintiff Yoon rarely, if ever, sold to customers in-person, and she  
21 conducted her marketing and communications with prospective customers, existing customers,  
22 prospective consultants, and her existing Downlines online.

23 335. Sixth, Plaintiff Yoon received targeted emails from R+F on a monthly basis instructing  
24 her to follow up with her Preferred Customers on exclusive offers R+F had sent them directly and  
25 separate frequent emails from R+F instructing her to reach to her Downlines to coach them on how

1 to sell specific Products R+F recommended to accrue Achievement Rewards. See Exh. Lauren Email  
2 of Exclusive Offer for Specific Preferred Customer (directing her to walk her Preferred Customer  
3 through the process of completing online purchase). Plaintiff Yoon spent approximately ten hours  
4 per month following these directives from R+F. She was not paid for any of her work fielding R+F  
5 tasks regardless of whether her follow up efforts resulted in personal sales or sales of her Downlines.

6 336. Plaintiff Yoon Spent Many Hours Using R+F's Platforms and Tools to Market and  
7 Sell Products and the Consultant Experience in Accordance with Its Directives

8 337. Plaintiff Yoon leveraged R+F's online Platforms and Tools to satisfying R+F's  
9 expectations of Consultants, in a manner consistent with how R+F markets the Consultant's role and  
10 responsibilities. And Plaintiff Yoon spent time directing customers to R+F's online skincare solution  
11 quiz ("R+F Solution Tool"). She leveraged its results to assist customers in purchasing the Products  
12 recommended based on the customer's responses through her online through her PWS. In other  
13 words, this tool guided some of her marketing and sales efforts. And as described above, she used  
14 R+F platforms for email.

15 338. R+F heavily encouraged Plaintiff Yoon to market the "PC Perks" subscription, a  
16 Customer Loyalty Program; her efforts were concentrated on converting Retail Customers into  
17 Preferred Customers who receive bi-monthly auto-replenishment shipments with extra discounts.  
18 She leveraged various R+F tools and resources. She was not paid for this work unless she was  
19 successful in enrolling customers, in which case she received commissions from their purchases, but  
20 not the Preferred Customer acquisition itself.

21 339. E. Plaintiff Yoon Spent Many Additional Hours on Other Responsibilities

22 340. Plaintiff Yoon's tasks were not limited only to developing advertising and engaging  
23 with customers but also included other necessary work to remain in compliance with their obligations  
24 as Consultants and try to generate income after becoming a Consultant. Plaintiff Yoon hosted events,  
25 parties, and performed many demonstrations. Plaintiff Yoon also did one-on-one coffee dates and

1 took many calls. She would also post on social media and attend network parties that her friends  
2 would host.

3 341. When Plaintiff Yoon began working as a Consultant, Plaintiff Yoon reviewed the  
4 training materials on R+F's platform, PULSE by Penny, in particular the contents in the "Library"  
5 to learn about R+F and marketing and sales generally. This included several hours of watching  
6 training videos and studying the materials published by R+F specific on R+F's brand identity;  
7 marketing tactics, e.g., and promotion best practices; how to market the R+F brand and the Products,  
8 etc. Plaintiff Yoon was not well versed in R+F's expansive product line, so she studied the Products  
9 catalog. As part of her onboarding Plaintiff Yoon also expended hours consuming content specific  
10 to her role as a Consultant published by both R+F and original content created by other Consultants,  
11 where she learned R+F's expectations of Consultants, how to perform the day-to-day work, and  
12 compensation structure. Additionally, she attended up to two meetings a day with her Sponsoring  
13 Consultant, where she was trained on R+F policies, strategies, and tactics. During these first couple  
14 of weeks, Plaintiff Yoon invested approximately 35 hours each week to fully onboard as a Consultant  
15 and then recruit two Downline Consultants to join her team. Plaintiff Yoon spent around ten hours  
16 learning about the company's products, and about ten hours learning about the company's sales  
17 methods.

18 342. The activities and tasks she undertook for recruiting purposes were distinct from her  
19 work marketing both the Products and her own experience as a Consultant. Plaintiff Yoon personally  
20 cultivated each of those relationships to convert customers into Consultants. To recruit other  
21 Consultants, she spent many hours reviewing R+F's resources for updates to its policies to ensure  
22 she abided by R+F's strict limitations on who she could recruit, statements she was permitted to  
23 make on social media and others she was prohibited from making when recruiting, as well as  
24 disclaimers she was required to make. To enroll a new Consultant, she was required to explain the  
25 financial expectations of Consultants to complete enrollment (Business Start Pack purchase

1 requirement), the PULSE Pro subscription, and Consultant discounts for product subscriptions. She  
2 was also required to oversee the application process to ensure prospective Consultants complete it  
3 themselves.

4       343. Plaintiff Yoon became the “Sponsor” of Consultants she recruited in her Downline.  
5 Once she had Downlines, she was required to onboard her Downlines, e.g., to explain R+F’s business  
6 model, educate them on the Policies and Procedures, and provide resources to start selling. After  
7 onboarding, she was required to take on additional responsibilities, e.g., tracking their performance  
8 using R+F tools, coaching them to sell specific products as directed by R+F in its email outreach to  
9 Plaintiff Yoon, and sending weekly communications, and to be available whenever they reached out  
10 frequently with questions. Plaintiff Yoon was committed to ensuring her Downlines were successful  
11 and remained in compliance with R+F’s directives, and she received no compensation for this work.  
12 She spent over five hours training and supporting her Downlines their first week, then was able to  
13 reduce this commitment to approximately fifteen hours per month. She never received any  
14 compensation associated with satisfying these responsibilities set forth by R+F.

15       344. Plaintiff Yoon tried recruiting additional Downlines later during her tenure but did not  
16 end up sponsoring any additional Consultants. Plaintiff Yoon did not receive any compensation for  
17 the countless hours she spent recruiting, did not receive compensation when she successfully brought  
18 on a new Consultant to her Downline (Her two Downlines, one of which recruited their own  
19 downlines) and did not receive compensation for hosting team meeting.

20       345. Because Consultants are responsible for learning about any substantive changes to the  
21 Policies and Procedures, i.e., the Consultant Agreement, she was expected to read the weekly Insider  
22 Scoop published and distributed to Consultants to stay abreast on compliance matters, Products  
23 releases and information, R+F events, and matters that R+F coined “useful to Consultants in  
24 conducting their Rodan + Fields activities.” For example, R+F also regularly changed its marketing  
25 strategies for Consultants. Whenever R+F changed its marketing strategies, Plaintiff would spend

1 time familiarizing herself and adapting to these new strategies to ensure her posts reflected the  
2 changes and learning any corresponding updates to the policies and procedures. R+F frequently  
3 released new products that Plaintiff Yoon needed to invest time in learning about. Plaintiff Yoon  
4 attended monthly virtual product launches at the encouragement of R+F for which she was not  
5 compensated but had the opportunity to win product giveaways. Although they were not required,  
6 Plaintiff Yoon found these to be necessary trainings to learn about the new products and be able to  
7 effectively market them.

8         346. Plaintiff Yoon also watched additional periodic training videos to learn how to use the  
9 various tools on the R+F Pro Penny Platform. These types of trainings were necessary not only for  
10 onboarding at the start of her tenure, but also when R+F released new technology that Consultants,  
11 including Plaintiff, were required to use to perform her work. For example, when R+F changed its  
12 Consultant enrollment process, Plaintiff Yoon was required to spend time learning both changes to  
13 the P&P as well as how to use the new technology intended to streamline the process, since R+F  
14 required Consultants to provide prospective Consultants with assistance in completing and  
15 submitting their application under the Consultant Agreement. Plaintiff Yoon was not compensated  
16 for the time spent learning about changes to R+F platforms or technology that she was required to  
17 understand to perform her work and adhere to the Policies and Procedures.

18         347. Moreover, the R+F Compensation Plan changed frequently, and Plaintiff Yoon spent  
19 countless hours trying to understand the nuances of these changes during her tenure, and R+F sent  
20 communications to Consultants regarding broader scale changes for her to commit uncompensated  
21 time to learn.

22         348. Plaintiff Yoon spent time directly engaging with customers virtually, not just for the  
23 purposes of selling products, because it was critical for customer retention. For example, she was  
24 responsible for providing direct customer service to resolve their concerns and issues in compliance  
25 with R+F's Consultant Agreement. She also spent time responding to and engaging with Customers

1 who submitted requests to be contacted through her PWS which were sometimes unrelated to  
2 product inquiries likely to generate sales, such as when they provided her feedback about their  
3 product experience, asked her questions about discounts generally or the PC Perks program, and  
4 more.

5 349. Plaintiff Yoon received multiple marketing emails from R+F encouraging her to attend  
6 its annual R+F conference. R+F marketed the conference as an opportunity to receive trainings to  
7 improve sales metrics, hear inspirational speakers and field leaders present, learn more about what  
8 R+F has been working on and receive exclusive opportunities to save on R+F's "next innovation,"  
9 available only to attendees, and capitalize on networking opportunities with the Consultant  
10 Community.<sup>1</sup> She spent time consulting her Uplines about these opportunities and weighing its costs  
11 and benefits for helping her generate sales. Ultimately Plaintiff Yoon opted not to attend because of  
12 expenses she would incur, none of which were reimbursed by R+F, like flights, meals, lodging,  
13 ground transportation, and the admissions ticket to the 3-day conference itself. Nevertheless, the  
14 hours she spent contemplating these opportunities were necessary aspects of her regular work  
15 evaluating her current performance and honing her strategies for generating sales. It cost \$100 to  
16 attend virtual conferences which Plaintiff paid for out of pocket.

17 350. Plaintiff Yoon Spent Many Hours, Sometimes Without Breaks, and Paid for Business  
18 Expenses

19 351. Plaintiff Yoon would often work at least four hours without a break or rest period. On  
20 weeks when R+F had new product launches and team meetings, Plaintiff Yoon spent more than four  
21 hours without break or rest period attending trainings and learning about the products. There were  
22 also many weeks when she spent over four hours without break or rest conducting marketing and  
23 sales activities online and/or engaging with her Downline to satisfy expectations of her as a Sponsor.  
24 She was effectively required to perform multiple activities related to product launches to stay in  
25 compliance.



1           352. During her tenure, Plaintiff Yoon was not compensated for her time doing any of the  
2 forementioned activities or fulfilling any of the aforementioned responsibilities, nor paid any  
3 overtime.

4           353. Plaintiff Yoon was not compensated or reimbursed for out-of-pocket expenses – even  
5 expenses R+F’s Compensation Plan incentivized her to make. Factoring in her expenses to become  
6 a Consultant and her monthly product purchases to expedite her eligibility to earn commissions on  
7 sales to PC immediately at the start of each new month described above, Plaintiff Yoon estimates  
8 that she spent approximately \$3,000-4,000 of her personal funds during the four years she worked  
9 for R+F. Moreover, Plaintiff Yoon purchased the PULSE by Penny Pro monthly subscription for  
10 \$24.95 monthly to gain access to a Personal Website, expending approximately \$300 per year to  
11 maintain her website subscription. She was heavily encouraged to do this by her Sponsor because  
12 Consultants are only eligible to earn commissions and Achievement Rewards for online sales on R+F  
13 controlled websites, and almost all sales were transacted through one’s PWS, rather than the R+F  
14 general website. She spent over \$100 each month on Products and paid \$25 annually to renew her  
15 Consultant Agreement. In addition to the \$3,000-4,000, Plaintiff Yoon’s monthly business expenses  
16 included her monthly cell phone bill (\$150) and internet access (\$100), and she was not reimbursed  
17 any proportion of these expenses. Plaintiff Yoon spent, per month, approximately: \$65 cellphone  
18 bills, \$100 in internet, \$120 in electricity, \$100 in office supplies, and \$50 for gas. She also had to buy  
19 a laptop. Additionally, Plaintiff Yoon spent around \$350 on necessary R+F product for work .

20           354. Additionally, Plaintiff Yoon sometimes purchased monthly samples that R+F and her  
21 Upline encouraged her to. Not only did R+F not reimburse her for these business expenses, but these  
22 purchases did also not qualify for the monthly sales threshold she was required to meet before she  
23 was entitled to earn commissions from her Preferred Customers.

24           355. Plaintiff Yoon received, in a month, at most \$400 in commission, which includes the  
25 commission she made off of her own purchases under her mother’s name. Other months she received

1 \$50. Plaintiff Yoon estimates that she made in total a maximum of \$1000. These earnings include a  
2 small commission percentage of their Downlines' sales, as provided for in the R+F's Compensation  
3 Plan. R+F never provided transparency about the portion of her income was attributable to Downline  
4 sales. Notably, her net income was substantially lower when factoring in her expenses, and some  
5 months, she made no income from her work and therefore lost money. Plaintiff Yoon spent  
6 approximately \$900 out of pocket when she first started selling and/or recruiting others to join R+F.

7 356. No paystub was provided that identified hours worked, nor were any employment  
8 taxes withheld at any time. The paystubs did not identify the commission rate. Plaintiff Yoon did not  
9 receive any breakdown or calculation of monthly pay. For some of Plaintiff's sales, R+F did not pay  
10 her commissions because the customer returned the products.

### 11 **CLASS ALLEGATIONS**

12 357. Plaintiffs incorporate and reallege the above paragraphs.

13 358. Plaintiffs bring this action on their own behalf, as well as on behalf of each and all  
14 other persons similarly situated, and thus seeks class certification under California Code of Civil  
15 Procedure section 382.

16 359. All claims alleged herein arise under California law for which Plaintiffs seek relief  
17 authorized by California law.

18 360. Plaintiffs' proposed class consists of and is defined as follows:

19 All who entered into Consultant Agreements with Defendants in California for the  
20 purpose of selling Rodan+Fields's products in exchange for commissions, and who  
21 were classified by Rodan+Fields as "independent contractors" during the applicable  
22 statutes of limitations through the date a class is certified.

23 361. Plaintiffs also allege the following subclasses:  
24  
25

1        The Los Angeles County Subclass

2        All persons who entered into Consultant Agreements with Defendants in Los Angeles  
3        County for the purpose of selling Rodan+Fields's products in exchange for  
      commissions, and who were classified by Rodan+Fields as "independent contractors"  
      during the applicable statutes of limitations through the date a class is certified.

4        The Los Angeles City Subclass

5        All persons who entered into Consultant Agreements with Defendants in the City of  
6        Los Angeles for the purpose of selling Rodan+Fields's products in exchange for  
      commissions, and who were classified by Rodan+Fields as "independent contractors"  
      during the applicable statutes of limitations through the date a class is certified.

7        The San Francisco Subclass

8        All persons who entered into Consultant Agreements with Defendants in San  
9        Francisco for the purpose of selling Rodan+Fields's products in exchange for  
      commissions, and who were classified by Rodan+Fields as "independent  
      contractors" during the applicable statutes of limitations through the date a class is  
      certified

10       362.    Members of the Class will hereinafter be referred to as "Class Members." Plaintiffs  
11       reserve the right to redefine the Class and to add subclasses as appropriate based on further  
12       investigation, discovery, and specific theories of liability.

13       363.    ***Ascertainable and numerous.*** The Class is ascertainable and numerous such that  
14       joinder is impractical. The membership of the entire class is unknown to Plaintiffs at this time.  
15       However, the class will likely consist of thousands of members, the precise number which is within  
16       the knowledge of and can be readily ascertained through Rodan + Fields' records.

17       364.    ***Community of Interest.*** There is a well-defined community of interest amongst Class  
18       Members. A class action is superior to all other available methods for the fair and efficient  
19       adjudication of this lawsuit because the Class is both numerous and its membership is geographically  
20       widespread across California. A class action will achieve economies of time, effort and expense as  
21       compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can  
22       be adjudicated in the same manner and at the same time for the entire class. In addition:

- 23       a.    ***Predominating Common Questions.*** There are numerous questions of law and fact  
24       common to the Class which predominate over any questions affecting only individual  
25       members of the Class. Among the questions of law and fact common to the Class are:

- i. Whether Rodan + Fields misclassified its Consultants as independent contractors when in fact they were Rodan + Fields employees;
- ii. Whether Rodan + Fields failed to pay Plaintiff and Class Members the legally mandated minimum wage for all hours worked;
- iii. Whether Rodan + Fields failed to timely pay wages due to Plaintiff and Class Members during their employment;
- iv. Whether any misclassification by Rodan + Fields was voluntary and knowing;
- v. Whether Rodan + Fields Consultants' duties fall within the Direct Sales Exemption to AB5;
- vi. Whether Rodan + Fields controlled the manner and means of the Consultants' work;
- vii. Whether Rodan + Fields failed to reimburse Consultants' business expenses;
- viii. Whether Rodan + Fields failed to maintain accurate time records for its Consultants;
- ix. Whether Rodan + Fields failed to provide complete and accurate wage statements to its Consultants;
- x. Whether Rodan + Fields failed to pay Consultants their wages due at termination; and
- xi. Whether Rodan + Fields should be enjoined from continuing the practices described herein.

b. **Typicality.** Plaintiffs' claims are typical of the claims of Class Members because Plaintiffs, like all members of the Class, worked as a Consultant for Rodan + Fields in California, was required to adhere to Rodan and Field's policies, and was paid on a commission basis. Furthermore, like all members of the Class, Plaintiff sustained damages from Rodan + Fields's wrongful conduct. Accordingly, Plaintiffs have no interests antagonistic to the interests of any other member of the Class.

c. **Adequacy.** Plaintiffs will fully and adequately assert and protect the interests of the Class and has retained counsel who are experienced in prosecuting class actions. Plaintiffs acknowledge that they have an obligation to make known to the Court any

relationship, conflicts or differences with any Class Member. Plaintiffs' attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the Class.

**FACTS RELATING TO PLAINTIFF AS A PRIVATE ATTORNEY GENERAL**

365. At all times set forth herein, PAGA was applicable to Plaintiffs' employment by Defendants.

366. At all times set forth herein, PAGA provides that, notwithstanding any other provision of law, any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the California Labor & Workforce Development Agency ("LWDA") for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of the aggrieved employee and other current or former employees pursuant to procedures set forth in California Labor Code section 2699.3.

367. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

368. Plaintiffs were employed by Defendants and the alleged violations were committed against them and they are, therefore, aggrieved employees. Likewise, the other Consultants who worked within the relevant time are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are current or former employees of Defendants and one of more of the alleged violations were committed against them.

369. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiffs, may pursue a civil action arising under PAGA after the following requirements have been met:

- a. The aggrieved employee shall give written notice (hereinafter “Employee’s Notice”) to the LWDA and the employer of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.
- b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

370. Plaintiffs have satisfied these statutory exhaustion requirements. On February 6, 2024, Plaintiff Lauren Dann provided notice by electronic submission to the LWDA and by certified mail to Rodan + Fields regarding the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, pursuant to Labor Code section 2699.3. A true and correct copy of that notice letter is attached as “Exhibit J.” The LWDA has not expressly stated that it will intervene or investigate, or otherwise responded regarding Plaintiff Danns asserted PAGA claims against Rodan + Fields herein. Since the LWDA did not respond to the February 6, 2024 letter within 65 days, or elects to investigate but issues no citation within 120 days, Plaintiff Dann subsequently amended the complaint to assert PAGA claims seeking civil penalties against the remaining Defendants for violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800 and 2802.

1 **FIRST CAUSE OF ACTION**

2 (Recovery of Unpaid Minimum Wages and Liquidated Damages)

3 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
4 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
5 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

6 371. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
7 set forth herein.

8 372. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and  
9 1198 have provided that the minimum wage for employees fixed by the Industrial Welfare  
10 Commission is the minimum wage to be paid to employees, and the payment of a wage less than the  
11 minimum so fixed is unlawful. California law provides employees in California must be paid for all  
12 hours worked, up to 40 per week or eight (8) per day, at a regular time rate no less than the mandated  
13 minimum wage. Compensable work time is defined by the applicable wage order as “the time during  
14 which an employee is subject to the control of an employer, and includes all the time the employee  
15 is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8, section  
16 11070(2)(G) (defining “Hours Worked”).

17 373. As alleged herein, during the relevant time, Rodan + Fields maintained and still  
18 maintains a policy of requiring employees to work off-the-clock, without compensation. Rodan +  
19 Fields only compensates Consultants, including Plaintiffs, based on specific sales placed through  
20 Plaintiffs’ Consultant Sites, and does not pay wages for other hours worked. These hours include  
21 time spent:

- 22 a. in training and learning about R+F Products;
- 23 b. making and responding to social media posts;
- 24 c. preparing for and participating in team meetings and R+F organized activity;
- 25 d. communicating with other Rodan + Fields Consultants about policies, practices, and sales  
instructions and guidance, and conducting onboarding and training;

- e. communicating with customers after their purchases were made to handle routine customer service; and
- f. handling other responsibilities as needed as required in the P&P.

Plaintiffs and Class Members performed these activities throughout the day, nearly every day, often in short increments adding up to one to two hours a day.

374. Rodan + Fields provided no way for Plaintiffs and Class Members to log time spent and submit to Rodan + Fields.

375. Rodan + Fields's failure to pay Plaintiffs and Class Members for work, and failure to pay overtime wages owed, also resulted in failures to pay Plaintiffs and Class Members the minimum wage required, in violation of California Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198. In addition, Rodan + Fields's failure to pay for work and overtime is a violation of various municipal and county codes across the state, including, but not limited to City of L.A. Cal. Code art. 7-7.5; County of Los Angeles Code § 8.100.040, *et seq.*, San Francisco Cal. Code 12R.

376. California Labor Code § 558.1 states that any employer or person acting on behalf of an employer who causes a violation is liable, among other things, for minimum wage violations. *See* Cal. Labor Code § 558.1. Defendants THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive, failed to pay Plaintiff and other aggrieved employees the minimum wage and all Defendants are liable for causing this violation under Labor Code § 558.1.

377. As such, pursuant to California Labor Code sections 558(a) and 2699(f), Plaintiffs and Class Members are entitled to recover civil penalties, attorney's fees and costs pursuant to Labor Code section 2699(g), and interest pursuant to Labor Code section 218.6.



1 **SECOND CAUSE OF ACTION**

2 **(Failure to Provide Meal Periods or Meal Period Premium Wages)**

3 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
4 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
5 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

6 378. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
7 set forth herein.

8 379. Under Cal. Lab. Code §§ 226.7, 512(a), 1198, and IWC Wage Order 4-2001, Rodan +  
9 Fields was required to provide Plaintiffs and Class Members with one thirty-minute meal break free  
10 from all duties for all shifts longer than five (5) hours, and a second thirty-minute meal break free  
11 from all duties for all shifts longer than 10 hours and a third thirty-minute meal break free from all  
12 duties for all shifts longer than 15 hours. Employers covered by the Wage Orders have an obligation  
13 to both (1) relieve their employees for at least one meal period for shifts over five hours, and (2) to  
14 record having done so. If the employer fails to properly record a valid meal period, it is presumed no  
15 meal period was provided. Cal. Lab. Code § 226.7 also requires an employer to pay mandated  
16 premiums of an extra hour of wages to any employees who have not been provided with a timely  
17 meal or rest break.

18 380. As alleged herein, Plaintiffs and the Class regularly worked periods of more than five  
19 (5), ten and fifteen hours in a workday without being provided requisite mandatory timely, thirty-  
20 minute, duty-free meal periods. Rodan + Fields also failed to pay Plaintiffs and the Class an additional  
21 hour of wages at her regular rate for each workday a meal period and/or a legally compliant meal  
22 period was not provided.

23 381. California Labor Code § 558.1 states that any employer or person acting on behalf of  
24 an employer who causes a violation is liable, among other things, for meal period violations. *See* Cal.  
25 Labor Code § 558.1. Defendants THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC,  
DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA

1 BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100,  
2 inclusive, inclusive, failed to provide Plaintiffs and other aggrieved employees all meal periods or  
3 compensation in lieu thereof and all Defendants are liable for causing this violation under Labor  
4 Code § 558.1.

5 382. As a result, under Labor Code section 226.7, Plaintiffs and the Class are entitled to  
6 one additional hour's pay for each day a meal period was missed, late or interrupted, all in an amount  
7 according to proof.

### 8 **THIRD CAUSE OF ACTION**

#### 9 **(Failure to Provide Rest Periods or Rest Break Premium Wages)**

10 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
11 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
12 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

13 383. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
14 set forth herein.

15 384. Cal. Lab. Code § 226.7 requires an employer to authorize or permit an employee to  
16 take a rest period of ten net minutes for every four hours worked, or major fraction thereof, and such  
17 rest periods must be in the middle of the four-hour period insofar as practicable. If the employer fails  
18 to provide any required rest periods or fails to provide a fully compliant rest break for a net ten  
19 minutes wherein the employee is fully relieved of all duties and all employer control, the employer  
20 must pay the employee one hour of pay at the employee's regular rate of compensation for each  
21 workday the employer did not provide a legally required and/or fully compliant rest period.

22 385. Rodan + Fields failed to provide Plaintiffs and the Class all required and/or fully  
23 compliant rest periods, or compensation in lieu thereof. Rodan + Fields employed policies and  
24 procedures that ensured Plaintiffs and the Class would not receive all legally required rest periods as  
25 Rodan + Fields improperly classified Plaintiffs and the Class as independent contractors rather than  
as employees and did not authorize nor permit all required rest periods in strict accordance with the

1 timing requirements of all applicable Wage Orders. Rodan + Fields similarly employed policies and  
2 procedures that rendered rest periods non-compliant with the requirements of California law by, inter  
3 alia, failing to relieve Plaintiffs and the Class of all duties and all employer control. Rodan + Fields  
4 further employed policies and procedures ensuring Plaintiffs and the Class never received a rest  
5 period premium during employment.

6 386. California Labor Code § 558.1 states that any employer or person acting on behalf of  
7 an employer who causes a violation is liable, among other things, for rest period violations. *See* Cal.  
8 Labor Code § 558.1. Defendants THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC,  
9 DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA  
10 BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100,  
11 inclusive, failed to provide Plaintiffs and the Class all rest periods or compensation in lieu thereof  
12 and all Defendants are liable for causing this violation under Labor Code § 558.1.

13 387. As a result, under Labor Code section 226.7, Plaintiffs and the Class are entitled to  
14 one additional hour's pay for each day a rest break was missed, late or interrupted, all in an amount  
15 according to proof.

#### 16 **FOURTH CAUSE OF ACTION**

##### 17 **(Failure to Keep Requisite Payroll Records)**

18 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
19 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
20 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

21 388. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
22 set forth herein.

23 389. Cal. Labor Code § 1174(d) requires an employer to keep, at a central location in the  
24 state or at the plants or establishments at which employees are employed, payroll records showing  
25 the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and  
any applicable piece rate paid to, employees employed at the respective plants or establishments.

1 These records shall be kept in accordance with rules established for this purpose by the commission,  
2 but in any case, shall be kept on file for not less than two years.

3 390. At all times herein set forth, Cal. Labor Code § 1174.5 has imposed a civil penalty of  
4 \$500 per aggrieved employee for each willful failure “to maintain . . . accurate and complete records  
5 required by subdivision (d) of Section 1174[.]”

6 391. Rodan + Fields has intentionally and willfully failed to keep accurate and complete  
7 payroll records showing the hours worked daily and the wages paid to Plaintiffs and the Class. For  
8 example, any records kept by Rodan + Fields did not include the hours worked off-the-clock, the  
9 premium wages owed, and for missed and non-compliant meal and rest breaks.

10 392. Plaintiffs and the Class have been injured by Rodan + Fields’s intentional and willful  
11 violation of Cal. Labor Code § 1174(d) because they were denied both their legal right and protected  
12 interest, in having available, accurate and complete payroll records pursuant to Cal. Labor Code §  
13 1174(d).

#### 14 **FIFTH CAUSE OF ACTION**

##### 15 **(Failure to Provide Accurate Wage Statements)**

16 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
17 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
18 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

19 393. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
20 set forth herein.

21 394. At all relevant times herein set forth, Cal. Labor Code § 226(a) provides that, at the  
22 time of each payment of wages, the employer must provide each employee with an itemized statement  
23 showing gross wages earned, total hours worked, all deductions taken, net wages earned, the inclusive  
24 dates for which the employee is being paid, the employee’s name and last four digits of their social  
25 security number, the name and address of the legal entity that is the employer, and all applicable  
hourly rates in effect during the pay period and all hours worked at each rate.

1           395. Cal. Labor Code § 1198 provides that the maximum hours of work and the standard  
2 conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable  
3 IWC Wage Orders. Section 1198 further provides that “[t]he employment of any employees for  
4 longer hours than those fixed by the order or under conditions of labor prohibited by the order is  
5 unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time  
6 records showing when the employee begins and ends each work period and meal period.

7           396. At all times herein set forth, Cal. Labor Code § § 226.3 has imposed a civil penalty in  
8 addition to any other penalty provided by law of two hundred fifty dollars (\$250) per aggrieved  
9 employee for the first violation of Cal. Labor Code § 226(a), and one thousand dollars (\$1,000) per  
10 aggrieved employee for each subsequent violation.

11           397. As alleged herein, Rodan + Fields knowingly and willfully failed to provide Plaintiffs  
12 and the Class with proper, itemized wage statements. Wage statements provided to Plaintiffs and the  
13 Class did not show total/actual hours worked and all applicable hourly rates in effect during the pay  
14 period and all hours worked at each rate. The wage statements provided to Plaintiffs and the Class  
15 failed to reflect all time spent in training, crafting and responding to social media posts, preparing for  
16 and participating in team meetings and R+F organized activity, and communicating with other Rodan  
17 + Fields Consultants about policies, practices, and sales instructions and guidance. Rodan + Fields’s  
18 refusal to properly record this time, and to include it in its itemized wage statements, or to properly  
19 pay its employees for this time was willful and intentional. As a result of these violations, Plaintiffs  
20 and the Class suffered injury because they were not paid for all hours worked.

21           398. California Labor Code § 558.1 states that any employer or person acting on behalf of  
22 an employer who causes a violation is liable, among other things, for wage statement violations. *See*  
23 Cal. Labor Code § 558.1. Defendants THE RODAN + FIELDS COMPANY, RODAN + FIELDS  
24 LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA  
25 BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100,

1 inclusive, failed to provide Plaintiffs and the Class accurate wage statements and all Defendants are  
2 liable for causing this violation under Labor Code § 558.1.

3 399. Pursuant to Cal. Lab. Code § 226(e), Plaintiffs and the Class are entitled to a penalty  
4 in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurred, and a  
5 penalty of one-hundred dollars (\$100) for each violation in a subsequent pay period, up to an  
6 aggregate penalty of four-thousand dollars (\$4,000), as well as costs of suit and attorneys' fees, all in  
7 an amount according to proof.

### 8 **SIXTH CAUSE OF ACTION**

#### 9 **(Failure to Timely Pay Wages During Employment)**

10 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
11 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
12 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

13 400. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
14 set forth herein.

15 401. At all relevant times herein set forth, Cal. Labor Code § 204 provides that all wages  
16 earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar  
17 month, other than those wages due upon termination of an employee, are due and payable between  
18 the 16th and the 26th day of the month during which the labor was performed.

19 402. At all times herein set forth, Cal. Labor Code § 204 provides that all wages earned by  
20 any person in any employment between the 16th and the last day, inclusive, of any calendar month,  
21 other than those wages due upon termination of an employee, are due and payable between the 1st  
22 and the 10th day of the following month.

23 403. At all times herein set forth, Cal. Labor Code § 204 provides that all wages earned for  
24 labor in excess of the normal work period shall be paid no later than the payday for the next regular  
25 payroll period.

404. As alleged herein, during the relevant time period, Rodan + Fields intentionally and willfully failed to pay Plaintiffs and the Class all wages due to them, within any time period permissible under Cal. Labor Code § 204, including wages for minimum wage compensation, overtime compensation, meal period premiums, and rest period premiums.

## SEVENTH CAUSE OF ACTION

(Failure to Pay All Earned and Unpaid Wages Upon Separation of Employment)  
Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive

405. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully set forth herein.

406. At all times relevant herein set forth, Labor Code sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

407. Cal. Lab. Code § 203 provides that, at the time of termination of employment, the employer must pay an employee all wages due and owing within the time frames set forth in Cal. Lab. Code §§ 201, *et seq.* If an employer willfully refuses to pay, without abatement or reduction, in accordance with Cal. Lab. Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the employee's wages shall continue as a penalty for up to thirty (30) days from the due date, until paid or until an action to recover those wages is commenced.

408. As alleged herein, following his final day of employment, Rodan + Fields willfully failed to pay Plaintiffs and the Class all wages due and owing within the deadlines set forth in Cal.

1 Lab. Code §§ 201, *et seq.*, including unpaid overtime wages and wages for missed/noncompliant meal  
2 and rest periods.

3 409. California Labor Code § 558.1 states that any employer or person acting on behalf of  
4 an employer who causes a violation is liable, among other things, for failure to pay all wages at the  
5 time of termination. *See* Cal. Labor Code § 558.1. Defendants THE RODAN + FIELDS  
6 COMPANY, RODAN + FIELDS LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI  
7 HALOULOS, TIM ENG, LAURA BEITLER, DALIA STODDARD, JESSICA RAEFIELD,  
8 JANINE WEBER, and DOES 1–100, inclusive, inclusive, failed to pay all wages at the time of  
9 termination of Plaintiffs and Class Members and all Defendants are liable for causing this violation  
10 under Labor Code § 558.1.

11 410. Pursuant to Cal. Lab. Code § 203, Plaintiffs and the Class are entitled to recover waiting  
12 time penalties of up to thirty (30) days’ pay, plus attorneys’ fees and costs, in an amount according to  
13 proof.

#### 14 **EIGHTH CAUSE OF ACTION**

##### 15 **(Failure to Reimburse Business Expenses)**

16 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
17 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
18 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1–100, inclusive**

19 411. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
20 set forth herein.

21 412. At all times herein set forth, Cal. Lab. Code § 2802 has provided and provides that an  
22 employer must reimburse employees for all necessary expenditures and losses incurred by the  
23 employee in the performance of his or her job. The purpose of Labor Code section 2802 is to prevent  
24 employers from passing off their cost of doing business and operating expenses on to their  
25 employees. *Cochran v. Schwan’s Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014). The applicable  
wage order, IWC Wage Order 4-2001, ¶9(B) provides that: “When tools or equipment are required



1 by the employer or are necessary to the performance of a job, such tools and equipment shall be  
2 provided and maintained by the employer, except that an employee whose wages are at least two (2)  
3 times the minimum wage provided herein may be required to provide and maintain hand tools and  
4 equipment customarily required by the trade or craft.” Rodan + Fields’s conduct, in misclassifying  
5 Consultants as independent contractors and failing to reimburse them for expenses they paid that  
6 should have been borne by their employer, constitutes a violation of California Labor Code Sections  
7 450 and 2802.

8 413. Rodan + Fields violates Labor Code section 2802 by having failed, and failing, to  
9 reimburse Plaintiffs and the Class for their business-related expenses. Rodan + Fields charged  
10 Plaintiffs and the Class a “PULSE Subscription” fee of \$24.99/month, which Rodan + Fields did not  
11 reimburse. And during the relevant period, Rodan + Fields, required that Plaintiffs and the Class use  
12 their own personal cellular phones and/or cellular phone data to carry out Rodan + Fields’s business  
13 operations, but failed to reimburse them for the full costs of their work-related cellular phone  
14 expenses. For example, Plaintiffs and the Class were required to use a personal cellular phone to make  
15 social media posts, participate in team meetings and R+F organized activity, and communicate with  
16 customers and their Upline. Plaintiffs and the Class also incurred expenses associated with  
17 maintaining a home internet connection. Rodan + Fields did not reimburse Consultant for these  
18 expenses.

19 414. Rodan + Fields’s company-wide policy and/or practice of passing on their operating  
20 costs to Plaintiffs and the Class violates California Labor Code section 2802. At all times described  
21 herein, Rodan + Fields has acted willfully, and deliberately with oppression, fraud and malice to  
22 unlawfully deprive their employees of the employees’ own personal resources in furtherance of Rodan  
23 + Fields’s profits.

24 415. California Labor Code § 558.1 states that any employer or person acting on behalf of  
25 an employer who causes a violation is liable, among other things, for failure to reimburse business

1 expenses. *See* Cal. Labor Code § 558.1. Defendants THE RODAN + FIELDS COMPANY,  
2 RODAN + FIELDS LLC, DR. KATIE RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS,  
3 TIM ENG, LAURA BEITLER, DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER,  
4 and DOES 1–100, inclusive, failed to reimburse business expenses to Plaintiffs and the Class and all  
5 Defendants are liable for causing this violation under Labor Code § 558.1.

6 416. As a result of Rodan + Fields’s failure to reimburse Plaintiffs and the Class for all  
7 business-related expenses, pursuant to Cal. Lab. Code § 2802, Plaintiffs and the Class are entitled to  
8 recover unreimbursed business expenses, plus attorneys’ fees and costs, in an amount according to  
9 proof.

10 **NINTH CAUSE OF ACTION**

11 **(Unfair Competition)**

12 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, and DOES 1–  
100, inclusive**

13 417. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
14 set forth herein.

15 418. From a date unknown to Plaintiff and continuing to the present, Rodan + Fields has  
16 and continues to engage in business acts or practices that constitute unfair competition as defined in  
17 the Unfair Competition Law, Business and Professions Code § 17200 *et seq.*, in that such business  
18 acts and practices are unlawful and unfair within the meaning of that statute.

19 **Violation of the Unlawful Prong of the UCL**

20 419. Rodan + Fields has violated section 17200’s prohibition on unlawful conduct through  
21 the following violations:

- 22 a. Failing to pay minimum wages, as set forth in Paragraphs 264-70;
- 23 b. Failing to provide meal periods and/or pay associated premium wages, as set forth in  
24 Paragraphs 271-75;
- 25 c. Denying rest periods and/or failing to pay rest break premium wages, as set forth in  
Paragraphs 276-80;

- d. Failing to keep requisite payroll records, as set forth in Paragraphs 281-85;
- e. Failing to provide accurate wage statements, as set forth in Paragraphs 286-92;
- f. Failing to timely pay wages during employment, as set forth in Paragraphs 293-97;
- g. Failing to pay all earned and unpaid wages upon separation of employment, as set forth in Paragraphs 298-303;
- h. Failing to reimburse business expenses, as set forth in Paragraphs 304-09;
- i. Willfully misclassifying Consultants as independent contractors, in violation of Labor Code Section 226.8 and 2775, as set forth in Paragraphs 173-82.

420. Over the last four years, Rodan + Fields has also violated California's laws relating to the recovery of unpaid overtime. Specifically, Cal. Lab. Code § 510 provides employees in California must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or eight (8) per day and must be paid double wages for all hours worked in excess of 12 per day, unless they are exempt. California law also provides that any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. As alleged herein, during Plaintiffs' tenure, Plaintiffs worked more than eight (8) hours per day but were not paid all overtime wages, including but not limited to, "double time" wages, due and owing under California law.

421. The forgoing unlawful conduct of Rodan + Fields alleged herein constitutes unfair competition within the meaning of California Business and Professions Code section 17200 *et seq.*

#### **Violation of the Unfair Prong of the UCL**

422. Rodan + Fields has violated section 17200's prohibition on unfair conduct by engaging in each of the forgoing unlawful acts.

423. Furthermore, as set forth in Paragraphs 56-59, 93, 167, 191-92, Rodan + Fields has violated section 17200's prohibition on unfair conduct by unfairly and unconscionably structuring its Agreement and business activities in a way that does not create meaningful opportunities for

1 Consultants earn a fair wage and/or commission for their work. Rodan + Fields used its superior  
2 bargaining power, superior market power, and take-it-or-leave-it Agreement to prevent Consultants  
3 from exercising discretion and accessing tools and resources needed to market the Products  
4 effectively and competitively to generate profits. And Rodan + Fields further undermined  
5 Consultants' ability to earn compensation by engaging in activities in competition with the  
6 Consultants, by for example, maintaining the exclusive right to disseminate online advertising to any  
7 customer sales leads generated by the Consultants and selling Products via Amazon.com. By denying  
8 Consultants meaningful opportunities to earn fair commission, Rodan + Fields also unfairly  
9 incentivized Consultants to divert time and attention away from marketing the sale of products to  
10 retail customers to marketing the opportunity to become a Consultant to unsuspecting members of  
11 the California public. So long as Defendants continue these unfair practices, the California public  
12 remains at risk for being recruited into Rodan + Fields and similarly harmed.

13 424. Rodan + Fields's unfair acts were in contravention of public policy. California public  
14 policy encourages the proper classification of workers to ensure that workers are fairly compensated  
15 and provided the full benefits and protections of employment, competitors are operating in a fair and  
16 honest marketplace, and the state is not deprived of tax revenue.

17 425. Rodan + Fields's unfair acts were immoral, unethical, oppressive, unscrupulous, and  
18 substantially injurious to the Class and general public. Rodan + Fields knowingly and willfully  
19 classified the Consultants as independent contractors. And it knowingly and willfully structured an  
20 unfair and unconscionable Agreement that did not provide for meaningful opportunities to earn  
21 compensation, while engaging in business activities that would further frustrate Consultants' efforts  
22 to earn compensation.

23 426. The impact on the Class and general public is not outweighed by any countervailing  
24 benefits. To the extent any benefits inured to Plaintiffs, the Class, and the general public, those  
25 benefits are outweighed by the impact of Defendants' unfair acts. Consultants, including Plaintiffs,

1 incurred substantial costs in working as Consultants, and were not paid appropriately and fairly for  
2 their time and efforts. They could have chosen other opportunities or invested that time and money  
3 into other legitimate and fairly paying endeavors.

4 427. As a result of Rodan + Fields's unfair competition as alleged herein, Plaintiffs and the  
5 Class have suffered injury in fact and lost money or property, as described in more detail above.  
6 Pursuant to California Business and Professions Code section 17200, *et seq.*, Plaintiffs and the Class  
7 are entitled to restitution of all wages and other monies rightfully belonging to them that Rodan +  
8 Fields failed to pay and wrongfully retained by means of its unlawful and unfair business practices,  
9 and and/or all other equitable remedies that may be available.

10 428. To prevent Rodan + Fields from continuing to prey on the California public through  
11 their misclassification of their Consultants, and recruitment of new Consultants under these false  
12 pretenses, Plaintiffs and the Class also seek a public injunction against Defendants enjoining Rodan  
13 + Fields, and any and all persons acting in concert with them, from engaging in each of the California  
14 Labor Code violations set forth herein and from recruiting new Consultants or authorizing others to  
15 recruit new Consultants, under a misclassified status, including making representations about that  
16 status and the commission-based compensation structure.

#### 17 **TENTH CAUSE OF ACTION**

18 **(Violation of Labor Code §§ 2698-2699.8)**

19 **Against THE RODAN + FIELDS COMPANY, RODAN + FIELDS LLC, DR. KATIE**  
20 **RODAN, DR. KATHY FIELDS, DIMITRI HALOULOS, TIM ENG, LAURA BEITLER,**  
21 **DALIA STODDARD, JESSICA RAEFIELD, JANINE WEBER, and DOES 1-100, inclusive**

22 316. Plaintiffs reallege and incorporate by reference all preceding allegations as though fully  
23 set forth herein.

24 317. PAGA establishes that, notwithstanding any other provision of law, any provision of  
25 the California Labor Code which provides for a civil penalty to be assessed and collected by the  
LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a

violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

318. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

319. Plaintiffs and the other Consultant employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

320. Defendants’ conduct, as alleged herein, violates numerous sections of the California Labor Code, including, but not limited to, the following:

- a. Failing to pay minimum wages, as set forth in Paragraphs 264-70;
- b. Failing to provide meal periods and/or pay associated premium wages, as set forth in Paragraphs 271-75;
- c. Denying rest periods and/or failing to pay rest break premium wages, as set forth in Paragraphs 276-80;
- d. Failing to keep requisite payroll records, as set forth in Paragraphs 281-85;
- e. Failing to provide accurate wage statements, as set forth in Paragraphs 286-92;
- f. Failing to timely pay wages during employment, as set forth in Paragraphs 293-97;
- g. Failing to pay all earned and unpaid wages upon separation of employment, as set forth in Paragraphs 298-303;
- h. Failing to reimburse business expenses, as set forth in Paragraphs 304-09;
- i. Willfully misclassifying Consultants as independent contractors, in violation of Labor Code Section 226.8 and 2775, as set forth in Paragraphs 173-82.

321. Over the last four years, Rodan and Fields has also violated California’s laws relating to the recovery of unpaid overtime. Specifically, Cal. Lab. Code § 510 provides employees in California must be paid overtime, equal to 1.5 times the employee’s regular rate of pay, for all hours worked in excess of 40 per week or eight (8) per day and must be paid double wages for all hours

1 worked in excess of 12 per day, unless they are exempt. California law also provides that any work in  
2 excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less  
3 than twice the regular rate of pay of an employee. As alleged herein, during Plaintiffs' tenure as a  
4 Consultant with Rodan and Fields, Plaintiffs worked more than eight (8) hours per day but were not  
5 paid all overtime wages, including but not limited to, "double time" wages, due and owing under  
6 California law.

7 322. Pursuant to PAGA, and in particular Labor Code sections 2699(a), 2699.3, and 2699.5,  
8 Plaintiffs, acting in the public interest as a private attorney general, seeks assessment and collection  
9 of civil penalties for Plaintiffs, all other aggrieved employees, and the State of California against  
10 Defendants, in fixed amounts for each aggrieved employee for every pay period in which there was  
11 a violation, per section 2699(f), in addition to other remedies, for violations of Labor Code sections  
12 set forth herein.

13 323. Pursuant to California Labor Code section 2699(i), civil penalties recovered by  
14 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the LWDA for the  
15 enforcement of labor laws and education of employers and employees about their rights and  
16 responsibilities and twenty-five (25%) to the aggrieved employees.

17 324. Further, and as authorized by the California Labor Code sections 2699(g), Plaintiffs  
18 seek recovery of their attorneys' fees and costs.

19 **PRAYER FOR RELIEF**

20 WHEREFORE Plaintiffs and the Class pray for judgment and relief as follows:

- 21 (1) An order certifying that this action may be maintained as a class action, that Plaintiffs  
22 be appointed Class Representatives, and that Plaintiffs' counsel be appointed Class  
23 Counsel;  
24 (2) Statutory penalties and compensatory damages as authorized under the California  
25 Labor Code;  
(3) Civil penalties pursuant to California's Private Attorneys General Act;

- (4) Restitution and all other equitable remedies pursuant to California's Unfair Competition Law;
- (5) Public Injunctive relief, pursuant to California's Unfair Competition Law, prohibiting Rodan + Fields, its officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, whether acting directly or indirectly, in connection with the management, hiring, or coordination of Consultants, or the advertising, promotion, or recruitment of new Consultants, from:
- a. Engaging in the California Labor Code violations as alleged herein, including classifying Consultants as non-employees or independent contractors;
  - b. Recruiting new Consultants or authorizing others to recruit new Consultants, under a misclassified status, including making representations about that status and the commission-based compensation structure.
- (6) Punitive damages against the individual officer, director or managing agent Defendants pursuant to Cal. Civil Code § 3294;
- (7) Reasonable attorneys' fees pursuant to the California Labor Code, including section 226(e), and Code of Civil Procedure section 1021.5;
- (8) Pre- and post-judgment interest pursuant to Labor Code section 218.6; and
- (9) Such other and further relief as the Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiffs and the Class hereby demand trial by jury on all issues in this complaint that are so triable as a matter of right.

Dated: June 5, 2025

Respectfully submitted,

**CLARKSON LAW FIRM, P.C.  
& TYCKO & ZAVAREEI LLP**

/s/ Glenn A. Danas

Glenn A. Danas  
Kristen G. Simplicio  
Maxim Gorbunov  
Shana H. Kader  
Emily Feder Cooper

*Plaintiffs Lauren Dann, and all others similarly situated*



1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles. I am over the age of eighteen years and not a party to  
3 the within entitled action. My business address is 22525 Pacific Coast Highway, Malibu, CA 90265.

4 On **June 5, 2025**, I served a copy of the following document(s) on the interested party(ies) and/or  
5 person(s) identified on the Service List in the manner set forth below.

6 **Documents Served**

7  
8 **SECOND AMENDED CLASS ACTION COMPLAINT**

9 **Service List**

10

<b>ELLIS GEORGE LLP</b> Eric M. George <a href="mailto:egeorge@ellisgeorge.com">egeorge@ellisgeorge.com</a> Christopher T. Berg <a href="mailto:cberg@ellisgeorge.com">cberg@ellisgeorge.com</a> 2121 Avenue of the Stars, Suite 3000 Los Angeles, CA 90067  <i>Attorneys for Defendants</i>	<b>TYCKO &amp; ZAVAREEI LLP</b> Shana H. Khader <a href="mailto:skhader@tzlegal.com">skhader@tzlegal.com</a> 2000 Pennsylvania Avenue, Northwest, Suite 1010 Washington, District of Columbia 20006  <b>TYCKO &amp; ZAVAREEI LLP</b> Emily Feder Cooper <a href="mailto:ecooper@tzlegal.com">ecooper@tzlegal.com</a> 1970 Broadway, Suite 1070 Oakland, California 94612  <i>Attorneys for Plaintiff, the Putative Class, and all other Aggrieved Employees</i>
--	--

11  
12  
13  
14  
15  
16  
17  
18

19 **Method of Service**

20  
21 **[X] BY ELECTRONIC MEANS:** I caused to be transmitted a true and correct copy of the foregoing  
22 document(s) via File & Serve XPress to the interested party(ies)/person(s) as set forth on the above  
service list pursuant to court order.

23 I declare under penalty of perjury under the laws of the State of California that the above is true and  
24 correct.

25 Executed on **June 5, 2025**

26 /s/Antonia Smith  
27 Antonia Smith  
28