

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

APEEL TECHNOLOGY, INC.,

Plaintiff,

v.

ROBYN OPENSHAW and
GREENSMOOTHIEGIRL.COM INC.,

Defendants.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Apeel Technology, Inc. (“Apeel”), by and through its undersigned counsel, hereby files the following Complaint against Defendants Robyn Openshaw and GreenSmoothieGirl.com Inc. and in support of its Complaint, states as follows:

NATURE OF THE ACTION

1. In 2012, Apeel’s founders set out to make a difference in the world by creating a natural solution to meaningfully reduce global food waste. To this end, they established Apeel Technology, Inc. and developed plant-based protective coatings that could be applied to fresh produce to extend its shelf life and quality, ensuring that more produce would end up on tables and not in landfills.

2. Apeel’s products were revolutionary, and its success was astounding. By 2020, the company was valued at over \$1 billion.

3. Despite its humanitarian objectives, however, Apeel's potential to disrupt multi-billion dollar agricultural and food industries put a target on Apeel's back. Beginning in 2023, a massive, coordinated disinformation campaign was launched against Apeel for the purpose of destroying its business and reputation.

4. Defendants Robyn Openshaw and her company, GreenSmoothieGirl.com Inc., were at the center of this coordinated disinformation effort. Since July 2023, Defendants have made countless false, misleading, disparaging, and defamatory statements about Apeel and its products to hundreds of thousands of viewers in more than 60 posts on social media and in articles on Defendants' website, GreenSmoothieGirl.com.

5. Defendants' anticompetitive smear campaign gives rise to Apeel's claims for (1) false advertising in violation of the Lanham Act; (2) agricultural disparagement; (3) tortious interference with business relationships; (4) unfair competition; (5) trade libel; and (6) defamation.

6. Specifically, Defendants repeated and republished the false narratives that Apeel's products are "toxic," "poison[ous]," and made with solvents and heavy metals. Defendants also falsely accused Apeel of lying to consumers about the ingredients in its products.

7. There is no truth to these claims, and Defendants knew it when they made them. Apeel products are not toxic or poisonous. They are plant-based, edible

and have been generally recognized as safe by the FDA and food safety regulators in Europe and elsewhere. Likewise, Apeel products are not made with solvents, and the only heavy metals in them are trace amounts of naturally occurring heavy metals found in all agricultural products.

8. To lend credibility to their lies, Defendants knowingly and intentionally mischaracterized submissions Apeel made to the FDA in 2016 and 2020. They also disregarded widely and publicly available information from numerous credible sources that contradicted their preconceived false narrative about Apeel.

9. Defendants did not stop there. They mobilized an “army” of their followers on social media to boycott and complain to retailers about Apeel. Defendants even created pocket-sized laminated cards, which they sell on their website, with information about which retailers do and do not sell produce protected by Apeel’s products.

10. Defendants’ reasons for perpetuating these lies about Apeel are clear: They knew they could garner attention on social media, gain notoriety, and generate engagement by smearing Apeel, while simultaneously advertising their own products. On information and belief, Defendants’ smear campaign against Apeel has generated substantial revenue for Defendants.

11. Defendants' smear campaign also caused substantial economic and reputational harm to Apeel. As a direct result of Defendants' false and misleading claims, numerous retailers stopped selling produce protected by Apeel's products.

12. Prior to filing this lawsuit, Apeel wrote to Defendants to demand they set the record straight and correct their false statements. Defendants did not even respond. As a result, Apeel is left with no choice but to bring this action to vindicate its reputation, hold Defendants accountable for their unlawful and tortious conduct, and remedy the harm Defendants' disinformation campaign has caused.

PARTIES AND RELEVANT NON-PARTIES

13. Plaintiff Apeel is incorporated under the laws of Delaware, and its headquarters and principal place of business is located at 71 South Los Carneros Road, Goleta, California 93117.

14. Defendant Robyn Openshaw is a food, health, and wellness influencer who founded and runs GreenSmoothieGirl.com Inc. Openshaw, using the social media alias Green Smoothie Girl, has hundreds of thousands of followers on social media, including more than 236,000 followers on Facebook,¹ more than 42,000

¹ Green Smoothie Girl, Facebook, <https://www.facebook.com/GreenSmoothieGirl/>.

followers on Instagram,² more than 21,000 followers on Pinterest,³ more than 5,800 followers on X,⁴ and more than 57,000 subscribers on YouTube.⁵ Openshaw is domiciled in, resides in, and is a citizen of Florida.

15. Openshaw is the founder and CEO of GreenSmoothieGirl.com Inc., which is incorporated under the laws of Florida with its principal place of business located at 1615 State Road 13, Saint Johns, Florida 32259.⁶

16. Through the website GreenSmoothieGirl.com, Defendants offer for sale in interstate commerce supplements, tools and guides for growing produce, nutrition and wellness coaching sessions, nutrition and wellness videos and manuals, cookbooks, recipes, and more.

17. Since 2024, Defendants have also offered for sale on GreenSmoothieGirl.com so-called “genius guides,” which are printed, laminated cards that purportedly protect consumers from being “victim[s] of the deceitful and sneaky food industry” by advising consumers on “what to avoid, and how to prep

² Robyn Openshaw (@thegreensmoothiegirl), Instagram, <https://www.instagram.com/thegreensmoothiegirl/>.

³ GreenSmoothieGirl (@thegreensmoothiegirl), Pinterest, <https://www.pinterest.com/thegreensmoothiegirl/>.

⁴ GreenSmoothieGirl (@Robyn_Openshaw), X, https://x.com/robyn_openshaw/.

⁵ GreenSmoothieGirl, YouTube, <https://www.youtube.com/c/GreenSmoothieGirl>.

⁶ Fl. Dep’t of State, Div. of Corps., Detail by Entity Name: GreenSmoothieGirl.com, <https://search.sunbiz.org/Inquiry/CorporationSearch/ByName>.

meals.” One such “genius guide” Defendants offer for sale is a “pocket guide” about “Apeel-Sprayed Produce” that shows “the brands and stores publicly stating they won’t use [Apeel]” and “the ones who do.” Currently, Defendants are selling the set of genius guides that includes the Apeel pocket guide for \$19.97. The set was previously sold for \$39.94.⁷

18. Openshaw also makes blog posts and publishes podcasts and articles on GreenSmoothieGirl.com. These blog posts, podcasts, and articles directly advertise Defendants’ products, such as supplements and guides. They also advertise products that, on information and belief, Defendants have a stake in or are paid to promote. For example, Defendants have used their false and defamatory statements about Apeel to encourage readers and followers to purchase “Lettuce Grow,” a home gardening tool that Defendants offer as a so-called solution to avoiding the “petrochemical solvents” and “heavy metals” Defendants falsely claim are present in Apeel’s products.⁸

⁷ GreenSmoothieGirl.com, Shop, Genius Guides, <https://shop.greensmoothiegirl.com/products/genius-guides>.

⁸ *E.g.*, GreenSmoothieGirl.com, “5 Toxic Heavy Metals Found in Apeel and What to Do About it” (Updated July 22, 2024), (providing “Affiliate Links” and listing the “Lettuce Grow Farmstand” as a “Tip[] to Avoid Apeel”), <https://greensmoothiegirl.com/5-toxic-heavy-metals-found-in-peel/>.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Apeel's claims for false advertising in violation of the Lanham Act arise under the laws of the United States, 15 U.S.C. § 1125(a)(1).

20. This Court has supplemental subject matter jurisdiction over Apeel's state law claims for agricultural disparagement, tortious interference with business relationships, unfair competition, trade libel, and defamation pursuant to 28 U.S.C. § 1367 because Apeel's state law claims form part of the same case or controversy giving rise to Apeel's federal claims.

21. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there exists (and at all times since the commencement of this case has existed) complete diversity of citizenship between Apeel and Defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Specifically, as pleaded above, Plaintiff Apeel is a citizen of California, where it has its principal place of business, and Delaware where it is incorporated; Defendant Openshaw is a citizen of Florida, where she resides and is domiciled; and Defendant GreenSmoothieGirl.com Inc. is a citizen of Florida, where it maintains its principal place of business and is incorporated.

22. This Court has general personal jurisdiction over Defendants pursuant to the U.S. Constitution and Florida's long-arm statute, Fla. Stat. § 48.193, because Defendants are citizens of Florida.

23. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to Apeel's claims occurred in the Middle District of Florida, and all Defendants are subject to personal jurisdiction in Florida.

FACTUAL ALLEGATIONS

Apeel is founded to combat the global food waste crisis.

24. Apeel is a nature-inspired, U.S.-based agricultural innovation company founded in 2012 by James Rogers, Jenny Du, and Louis Perez. James, Jenny, and Lou wanted (and still seek today) to make a difference in the world. While studying at the University of California, Santa Barbara, they asked a simple question: How can we safely and sustainably end food waste and bring healthy, fresh, and affordable produce to more people around the world?

25. Each year, roughly one third of food produced worldwide is lost or wasted before it has a chance to be eaten. For healthy and highly nutritious fresh produce, it is worse—nearly half of the fresh produce harvested worldwide never makes it to tables. The cumulative cost of such food waste (including wasted energy, water, fertilizer, and more) is more than \$2.6 trillion each year. Food waste also harms the planet and is one of the largest sources of greenhouse gas emissions,

accounting for 8–10% of annual global greenhouse gas emissions—nearly four times the total emissions from the aviation sector. If food waste were a country, it would be the third highest emitter of greenhouse gas emissions (after only China and the United States).

26. Apeel’s founders recognized the large-scale challenges and threats posed by food waste, but also the opportunities to improve long-term health, livelihoods, and the environment if food waste and food access could be addressed in a thoughtful way. They made it their mission to reduce food waste and eradicate food insecurity for the people who are most vulnerable, and to do so in a way that sustains global health and the health of the environment for generations to come.

***Apeel develops plant-based products to improve
the quality and extend the shelf life of fresh produce.***

27. From the outset, James, Jenny, and Lou understood that a significant driver of food loss and waste is spoilage (i.e., produce spoils before it is consumed). The second fruit is picked from trees, or vegetables are pulled from the ground, they begin to spoil as they lose moisture, oxidize, or are attacked by mold or pests. Many fruits and vegetables—especially if picked at peak maturity or ripeness—must be eaten or processed within days of being harvested, limiting the ability to trade or commercialize such crops.

28. Commercial agriculture has tried to combat food spoilage for decades. But the methods and technologies traditionally used to protect produce after it is

harvested by farmers—such as refrigeration, designer pesticides, synthetic waxes, plastic wraps, chlorine washes, modified or controlled atmosphere storage, plant hormone inhibitors, and more—all have substantial drawbacks.

29. Refrigeration, for example, is energy intensive and expensive, and the necessary infrastructure does not exist in many places around the world. Pesticides can create long-term health and environmental harms.⁹ Waxes make produce look more attractive, but they do not meaningfully prevent produce from spoiling and are often petroleum- or animal-based.¹⁰ Plastic wraps provide a physical barrier to retain moisture and prevent oxidization, but increasing plastic usage adds to waste and environmental pollution, including the proliferation of microplastics. And, chlorine washes, modified or controlled atmosphere storage, and gassing with plant hormone inhibitors can come with operational safety risks (for workers and equipment) and can cause damage to produce if misused.

30. Because these traditional options were inadequate, James, Jenny, and Lou sought a better solution. They examined the protective barriers of fruit peels, and in doing so realized that if they could utilize the substances already there—

⁹ Common pesticides that Apeel products can reduce reliance on include chemicals like imazalil, pyrimethanil, and fludioxonil.

¹⁰ Traditional waxes, which Apeel's products can also reduce reliance on, are often made of chemicals like polyethylene, paraffins, and shellac.

consisting of mono- and diglycerides—they might be able to naturally extend the shelf life and quality of fresh produce.

31. All plants have a skin (or peel)—technically called the plant cuticle—that protects them against moisture loss, oxidation, and infection. The cuticle is made of fatty acid esters (namely, mono- and diglycerides). Mono- and diglycerides are also naturally occurring components of triglycerides (fats or oils commonly found in foods like olive oil or tree nuts). And, as the human body digests triglycerides, they are broken down into mono- and diglycerides as part of normal human digestion and metabolism. Further, mono- and diglycerides are commonly used ingredients with a long history of safe use in foods like peanut butter, infant formula, and pasta.

32. Through countless hours of research and development, James, Jenny, and Lou found a way to extract, purify, distill, and use mono- and diglycerides from plant materials left behind after fruits and vegetables are picked or processed—like tomato skins left over from tomato processing or grape skins and seeds left over from wine production—to create early versions of their products.

33. They mixed those mono- and diglycerides with other natural, widely used food ingredients like baking soda and citric acid (a natural pesticidal active ingredient and the primary acid naturally occurring in lemon juice) to create alternatives to existing post-harvest products.

34. Ultimately, when combined at the right recipes and applied, James, Jenny, and Lou created safe, sustainable, and plant-based formulas that kept produce fresher for longer by reinforcing the existing natural peel, retaining moisture, and reducing oxidation. They had accomplished what they set out to. They created a solution to safely and sustainably reduce food waste and bring healthy, fresh, and affordable produce to more tables around the world. It was the “lightbulb” moment that every innovator dreams of: turning an idea into a reality that could widely benefit people and the planet.

Apeel receives initial research grants and raises millions in private investments.

35. Apeel was—and remains—revolutionary, and the potential for the company to disrupt the food industry by significantly improving the quality and shelf life of produce while reducing food waste was quickly recognized.¹¹ In 2012, the Bill & Melinda Gates Foundation awarded Apeel a \$100,000, 18-month research grant “to substantially increase the sustainable productivity of smallholder farmers in developing countries.”

36. With these funds, Apeel developed a post-harvest treatment that substantially extended the shelf life and improved the quality of cassava, a widely produced crop across Africa and a key source of calories for the continent. The

¹¹ Upon information and belief, the market size of the post-harvest industry is over \$2 billion, nearly all of which is market-share held by incumbents other than Apeel.

ability to extend the shelf life of cassava, which enabled farmers to better commercialize their crops, had the potential to increase the market value of cassava by more than \$500 million in Nigeria alone.

37. By 2015, Apeel met the milestones set forth in its initial Gates Foundation grant proposal. As a result, it gained access to an additional \$1 million in grant money from the Gates Foundation, which Apeel used to further develop and refine its products, including conducting larger scale trials.

38. Apeel was not required to repay the grants it received from the Gates Foundation in 2012 and 2015, and neither the Gates Foundation nor Bill or Melinda Gates has ever acquired an ownership stake in, exercised control over, or had any involvement with Apeel.¹²

39. In parallel to its work in Sub-Saharan Africa on staple crops such as cassava, Apeel also realized the impact its products could have on other crop categories. If its products could be used to extend the quality and shelf life of specialty produce, Apeel could reduce food waste; decrease the use of pesticides; and increase the varieties, quality, and nutrition of fresh fruits and vegetables available on a more year-round basis in grocery stores worldwide.

¹² To date, Apeel has raised over \$640 million dollars. The grants from the Gates Foundation only account for about 0.2% of the total amount Apeel has raised.

40. Ultimately, Apeel shifted its focus to western retail markets. Apeel aspired to generate sufficient revenue through western retail sales to subsidize its work in emerging markets.

41. To that end, Apeel commercialized Edipeel: a safe, sustainable, and effective plant-based edible coating designed to be applied post-harvest through dipping or spraying produce during processing (as a replacement for the standard waxing step) to extend quality and shelf life.

Apeel markets safe coatings made using plant-based food ingredients and approved by regulators around the world to extend the quality and shelf life of commercial produce.

42. Apeel's Edipeel product is made of purified, food-grade, mono- and diglycerides that are free from regulated allergens, free of trans fats, and are derived from non-GMO, responsibly sourced plant oils that mimic and enhance the natural protection already provided by the existing peel of fruits and vegetables.¹³

43. Apeel's products are not manufactured using petroleum-derived solvents or heavy metals, and petroleum-derived solvents and heavy metals are not added to the final products. The ingredients are purified via distillation (heat and low pressure). After purification, plant-based mono- and diglycerides remain.

¹³ While Edipeel is an Apeel product suitable for conventional produce, Apeel previously also sold a product called Organipeel, which was approved for use on USDA organic-certified produce. Apeel no longer sells Organipeel.

44. Mono- and diglycerides naturally exist in all fruits and vegetables in their skins (or peels). Mono- and diglycerides have also been commonly used in everyday foods for decades (long before Apeel ever existed) and have repeatedly been evaluated and deemed safe by numerous regulatory agencies worldwide.

45. For example, in 1973, the Joint FAO/WHO Expert Committee on Food Additives evaluated these ingredients and declared that “mono- and diglycerides differed little from food so that their use need not be limited.” These same ingredients were affirmed as “generally recognized as safe” (“GRAS”) by the FDA in 1989—and codified in the Code of Federal Regulations—again, long before Apeel ever existed as a company.

46. The European Food Safety Authority also recently re-evaluated the safety of mono- and diglycerides and found no safety concerns. Thus, mono- and diglycerides continue to be allowed by the European Commission for use in many different food categories in the European Union, such as produce and infant formula.

47. Importantly, Apeel’s ingredients are not new or novel. Rather, Apeel simply uses longstanding, safe ingredients in a new way (i.e., as a thin layer applied to reinforce the existing natural peel of fresh fruits and vegetables to extend their freshness and shelf life, acting as a more effective replacement to traditional petroleum-, animal-, and plant-derived fruit and vegetable waxes).

48. Notably, Apeel's ingredient specifications are even more stringent than those required by the FDA. Apeel adheres to the most conservative regulatory specification for ingredients—which are currently European specifications. Apeel tests and ensures that the residual amounts of impurities, including naturally occurring heavy metals, in its products are below regulated EU limits.

49. Not surprisingly, given Apeel's adherence to the most stringent regulatory standards, Edipeel is allowed in the United States and European Union for use on fruits and vegetables and also in the United Kingdom, Canada, Chile, China, Colombia, Japan, Kenya, Mexico, Peru, South Africa, and other markets.

50. Apeel's products are applied to the surfaces of fresh fruits and vegetables after fruits and vegetables are harvested to create a thin, edible barrier, which reinforces the existing natural peel and slows water loss and oxidation. This helps to keep produce fresher for longer while retaining taste, texture, and nutrients, and Apeel's products are more effective than traditional waxes used in the industry today. By increasing the quality and shelf life of fresh produce, Apeel's products give suppliers more time to get produce from farms to tables, improving access to healthy whole foods for consumers, reducing waste, and saving money and resources.

51. Apeel's safe, edible, odorless, tasteless, and plant-based products not only slow down the visual decay of produce, but they also preserve produce's

nutrient density. Spoilage does not just negatively affect how fruits and vegetables look and taste; it also decreases antioxidant and nutrient content due to their breakdown. Apeel slows down external spoilage and maintains the internal quality of fruits and vegetables. Apeel-protected blueberries, for example, have been shown to maintain higher Vitamin C levels for longer compared to unprotected blueberries harvested at the same time from the same lot.

52. Very little of Apeel's products are required to create a highly effective barrier to protect produce. For example, Apeel uses 22 milligrams of product (a microscopic amount, equivalent to the weight of less than 1/10th of a small raisin) to coat an average avocado (200 grams).

53. Because they are edible and safe, Apeel's products do not need to be washed off. Nonetheless, Apeel's products can be washed off with water and a gentle scrub, either by hand or with a vegetable brush—practices advised for all produce purchased from a grocery store, or even a farmer's stand or market, regardless of whether the produce is treated with Edipeel, a traditional wax, or another post-harvest treatment.

Apeel-protected produce is introduced to commercial retailers nationwide.

54. In May 2018, Apeel introduced its first protected produce, avocados, to U.S. retailers. Apeel-protected avocados were initially sold in Costco and Harps Food Stores. Once Apeel's avocados were introduced to Harps Food Stores, Harps

saw a 60% reduction in waste, a 65% increase in margins, and a 10% increase in sales across its avocado stock.

55. In September 2019, after completing successful early pilot programs, Apeel-protected avocados were rolled out nationwide to over 1,000 Kroger locations throughout the United States as part of Kroger's "Zero Hunger Zero Waste" commitment.

56. Most consumers do not know whether and how their produce has been treated. While there are existing labeling laws that require the general disclosure of post-harvest coatings on packaged or loose fruits and vegetables, there is no requirement to specifically identify the manufacturer of the coating, the product name of the coating, or its list of ingredients.

57. When introducing Apeel-protected produce into retail stores, Apeel made an intentional decision to require that treated produce include an Apeel display placard, sticker, or logo so consumers would know what produce was protected with Apeel products. On information and belief, Apeel is the only company that follows this practice, going above and beyond mandatory labeling requirements.

58. Apeel wants consumers to see its logo, recognize its brand, and know what role Apeel plays in the post-harvest production process. Apeel also wants consumers to know the positive impact they have when choosing to purchase Apeel-protected produce. By choosing an Apeel-protected product, consumers know that

they have made a positive choice in the market that (1) is better than relying on traditional post-harvest materials such synthetic waxes, designer pesticides, plant hormone blockers, or single-use plastics; (2) reduces food loss and waste at all stages of the supply chain (including in consumers' homes); (3) conserves resources like energy and water; (4) reduces production and shipping waste; and (5) reduces greenhouse gas emissions by decreasing the amount of food rotting in landfills.

59. U.S. and EU retailers have nearly universally realized a 50% reduction in in-store food waste after introducing Apeel-protected produce for a given produce category, and growth in dollar sales of between 5% and 10%.

60. Furthermore, since Apeel started tracking in 2021, the use of Apeel products on fresh produce has resulted in 166 million pieces of produce prevented from going to waste, resulting in an avoidance of 29,100 mT CO₂-eq GHG emissions (equivalent to planting 485,000 trees) and a savings of 6.96 billion liters of water (equivalent to 2,800 Olympic-sized swimming pools).

Apeel receives numerous awards and accolades for revolutionizing commercial agriculture and reducing food waste.

61. Apeel has been widely recognized and lauded for its innovative approach to combating global food waste by extending the quality and shelf life of fresh produce through its plant-derived technology.

62. In June 2018, Apeel was named as a World Economic Forum Technology Pioneer. In 2019, Time Magazine named Apeel to its Best Inventions

list, and the World Resources Institute highlighted Apeel as one of “10 Breakthrough Technologies [That] Can Help Feed the World Without Destroying It.” From 2019–2021, CNBC named Apeel to CNBC’s Disruptor 50 list.

63. Apeel continues to receive recognition for the positive impact its products have on the global food chain. Earlier this year, Time Magazine recognized Apeel as one of the top three GreenTech Companies of 2025 in the world; Food & Wine recognized Apeel as one of its 2025 Game Changers; and Forward Fooding recognized Apeel as the number one FoodTech 500 company.

64. Since its founding, Apeel’s mission, products, and impact have also been highlighted by numerous credible and high-profile media outlets such as *The Wall Street Journal*, *Forbes*, *The New York Times*, *National Geographic*, *Fast Company*, *Wired*, and more.

65. But, despite Apeel’s humble beginnings and benevolent intentions, it was targeted, and its business was harmed, by a smear campaign waged by Defendants and others.

***Social media influencers, backed by an unknown adversary,
launch a disinformation campaign against Apeel.***

66. The smear campaign against Apeel kicked off with a series of coordinated social media posts and messages on April 10, 2023—mere weeks after Apeel successfully concluded a pilot program for plastic-free cucumbers, which would have reduced plastic use by eliminating the need for plastic wrap that

traditionally enveloped English cucumbers to prevent their spoilage. In similar pilot programs, Apeel-protected cucumbers showed tremendous sustainability and market impact: avoiding the use of the equivalent of 3.75 million plastic straws (or over 190,000 plastic bottles) over a short 16-week period and improving consumer perception of retailers carrying such sustainable products.

67. On April 10, numerous social media users made posts that contained identical language warning readers not to “eat anything with the ‘Apeel’ sticker on it.” The coordinated posts falsely claimed Apeel “can’t be washed off no mater [sic] how much scrubbing[,]” and “APEEL Hazard statements H318 Causes serious eye damage. H317 May cause an allergic skin reaction. H412 Harmful to aquatic life with long lasting effects. Precautionary statements P280 Wear protective gloves/protective coating/ eye protecting/ face protection. P302 + P352 IF ON SKIN: Wash with plenty of water.”

68. To create the illusion that these false claims were supported by facts, the messages linked to a “Safety Data Sheet” for a product called “Apeel.”

69. However, the linked document did not describe or relate to the product manufactured by Apeel at all. Rather, it referred to a neutral hard surface cleaner manufactured by Evans Vanodine, a completely separate company in the United Kingdom with no relation to or affiliation with Apeel. None of the sources cited in the posts actually supported the posters’ false claims.

70. On information and belief, the posters counted on viewers to notice the hyperlink, and take it at face value as support for the false claims, but not to read or otherwise independently investigate the linked contents.

71. The messages were posted in a coordinated manner across multiple social media platforms. The first two documented posts of this message occurred on two different Facebook accounts at the exact same time: 14:21:00 UTC+0 on April 10, 2023. That day, 23 additional social media accounts posted the same message on X, Facebook, and Telegram.

72. The timing, identical content, and breadth of posters and platforms on which the message appeared indicate this was a well-coordinated, sophisticated disinformation campaign backed by an unidentified, well-resourced adversary hoping to take down Apeel.

73. Defendants quickly latched on, spreading the false claims to their hundreds of thousands of social media followers and amplifying the harm caused by the disinformation campaign.

The “Green Smoothie Girl,” Robyn Openshaw, joins the disinformation campaign against Apeel, amplifying the harm exponentially.

74. Beginning in July 2023, nutrition and wellness influencer Robyn Openshaw, also known as the Green Smoothie Girl, latched on to, significantly amplified, and on information and belief, participated in and supported, the organization of the coordinated disinformation campaign.

75. Openshaw owns and operates GreenSmoothieGirl.com Inc., a company she founded in 2007 purportedly “to share [her] experiences with the world and help others feel and look younger and healthier than ever before.”¹⁴

76. Openshaw primarily advertises her website, and the products and services she sells on it, via social media, where she posts prolifically. Openshaw has hundreds of thousands of followers and subscribers across numerous social media platforms.

77. Through GreenSmoothieGirl.com, Openshaw publishes and sells recipes, a podcast series, online courses on “detoxification,” articles, a “blog dedicated to nutrition and wellness,” and more. She also operates an online “Shop,” which offers for sale in interstate commerce food products, nutrition supplements, and pocket guides to help customers avoid stores that sell Apeel-protected produce. Openshaw also uses GreenSmoothieGirl.com articles, blog posts, and social media posts to advertise and provide affiliate links for third-party products that, upon information and belief, she has a stake in or is paid to promote.

78. According to her website, Openshaw’s products can be purchased online and shipped to customers in the United States and Canada.

¹⁴ GreenSmoothieGirl.com, About, <https://greensmoothiegirl.com/about/>.

Openshaw misrepresents her credentials and qualifications to advertise her products and generate sales.

79. To market her products and services and generate sales, Openshaw has lied to consumers about the effectiveness of the products and services she offers and her credentials.

80. For example, Openshaw claims that her concepts, recipes, programs, and supplements—all of which she sells on her website, GreenSmoothieGirl.com—“eliminated ... all [her] 21 diagnosed diseases[.]” This claim is inherently false and misleading. The FDA, which regulates supplements and drugs, expressly distinguishes between drug claims (i.e., claims suggesting a product can diagnose, treat, cure, mitigate, or prevent disease) that require FDA pre-market approval and rigorous clinical testing, versus supplement claims (i.e., claims that relate to supplements’ effects on the “structure/function” of the body—for example, “helps support bone health”—or general well-being) that do not require pre-approval.

81. Another critical part of Defendants’ consumer deception is the myth they have created about Openshaw’s qualifications—portraying her as a credentialed doctor who consumers can trust for health advice.

82. Openshaw claimed on her public Facebook page that she earned a “doctorate degree” from the University of Utah in clinical psychology. She also included “PhD” after her name on promotional materials for a speaking tour on

“medical freedom” in Florida. On information and belief, Openshaw lied about her supposed doctoral degrees to market her products and services.

83. In 2022, Salt Lake City’s Fox 13 conducted an investigation concluding that Openshaw does not have a PhD. The University of Utah confirmed that she has a master’s degree in social work, but she never obtained a PhD from the university.

84. In addition, Openshaw claimed that she “work[ed] well over a quarter of a century ago at the Utah State Hospital.” But Fox 13 revealed that Utah’s Department of Human Services has no record of Openshaw ever working as an employee at the Utah State Hospital or any other state facility. Utah’s Department of Human Resource Management also confirmed it has no record of Openshaw ever being employed by the state.

85. As Fox 13 reported, according to the Utah Division of Occupational and Professional Licensing, Openshaw has never been professionally licensed as a psychologist or therapist in Utah, where Openshaw lived until 2022. Nonetheless, she still represents herself as a “former psychotherapist” on GreenSmoothieGirl.com.

86. Openshaw’s misrepresentations about her credentials are material. On information and belief, she lied about her educational background and professional experience to bolster her credibility and deceive consumers, making them more

likely to believe her claims about food, health, and wellness (including her false claims about Apeel) and to purchase her Green Smoothie Girl products.

***Defendants are sued for failing to disclose
that their products contain heavy metals.***

87. Not only has Openshaw misled consumers by exaggerating her credentials, but she also has misled consumers by failing to disclose heavy metals in some of the food products sold on her website in violation of California law.

88. Specifically, in 2021, GreenSmoothieGirl.com was sued by the Environmental Research Center, Inc. for failing to disclose that various products sold under the Green Smoothie Girl brand contained lead, a chemical listed under California Proposition 65 as a carcinogen and reproductive toxin.

89. On information and belief, that lawsuit was settled, and Defendants no longer sell the products named in the lawsuit on GreenSmoothieGirl.com.

***Defendants publish dozens of false, misleading, defamatory,
disparaging, and anticompetitive statements about Apeel.***

90. In her most recent scheme to deceive consumers and compete unfairly, Openshaw targeted Apeel. She latched onto and amplified the coordinated smear campaign that began in April 2023. On information and belief, she knew that by defaming and disparaging Apeel, she could benefit her own business by increasing her social media following and website traffic, allowing her to advertise and sell more of her food products, nutrition supplements, and nutrition-related services.

91. From April 2023 to May 2025, Openshaw posted about Apeel at least 60 times, on a semi-regular basis. Those posts reached her hundreds of thousands of online followers and resulted in countless engagements (e.g., likes, comments, reposts, etc.). They were published to a global internet audience and remain available online.¹⁵

92. Openshaw's posts made and repeated numerous false claims about Apeel, each designed to dissuade retailers from carrying, and the public from purchasing, produce protected by Apeel products.

Openshaw claims that Apeel's products are toxic, and Apeel is lying to consumers about its product being plant based.

93. One of Openshaw's most common, damaging narratives is that Apeel products are made with or have added to them heavy metals and solvents, including chemicals found in gasoline. This claim is demonstrably false, and Openshaw knew as much.

94. That did not stop Openshaw from repeating this false claim dozens of times since July 2023 across multiple platforms (including her website, Instagram, X, Rumble, YouTube, Pinterest, and Substack).

¹⁵ Earlier this year, Apeel's Wikipedia page was edited to include some of the false and defamatory claims published by Defendants, including that Apeel is "poison." The Wikipedia page was also edited to include a misleading description of Apeel's GRAS notices, similar to Defendants' false claims about the GRAS notices.

95. Specifically, she has claimed that Apeel's products are made with "petrochemical solvents" and "heavy metals" that are "well-known, highly toxic chemicals," poisonous, and not safe for human beings.

96. Openshaw's claims are based on intentionally inaccurate, deceptive, misleading, selective citations to and quotations from technical dossiers that Apeel submitted to the FDA in 2016 and 2020 for a determination that its products were "generally recognized as safe" ("GRAS"). Indeed, those GRAS submissions are the sources on which Openshaw relies ostensibly to support her false statements about Apeel. In reality, the GRAS submissions completely contradict Openshaw's claims.

97. In its 2016 and 2020 GRAS submissions, Apeel described certain manufacturing processes involving safe solvents and catalysts that Apeel *could* use to make its products. The notice further described how, if such solvents or catalysts were used in the manufacturing process, they would also be *removed* as part of that process, resulting in safe residue levels below regulated limits. Openshaw wholly omitted these key facts from her false, defamatory, and disparaging statements about Apeel and its products.

98. Moreover, the manufacturing processes described in Apeel's 2016 and 2020 GRAS submissions were *not* used commercially by Apeel. The FDA acknowledged this, specifically, in a publicly available letter published in 2024. In its letter, the FDA confirmed that the processes described in Apeel's earlier GRAS

notices were “in a proof-of-concept stage of development, had not been commercialized, and that Apeel ha[d] no plans to commercialize” those processes.

99. The FDA further confirmed in its letter that the mono- and diglycerides used commercially by Apeel are manufactured via the FDA-approved process described in 21 CFR § 184.1505—which specifically describes how mono- and diglycerides widely used in other common, everyday foods (e.g., infant formula) are manufactured at commercial scale today.

100. Thus, the “solvents” Openshaw falsely claimed were present in Apeel’s products refer to a proof-of-concept process that Apeel never implemented. And even if it had implemented that process, Apeel would have removed the solvents from its final products, if solvents were used at all. The same documents Openshaw cited in her claims confirm as much. She purposefully mischaracterized Apeel’s GRAS submissions to lend credibility to her false claims meant to smear Apeel.

101. Openshaw’s claims about “heavy metals” were likewise false—and provably so. Heavy metals are inherently present on our planet and in our environment (e.g., soil, air, water). As a result, heavy metals occur naturally in *all* agricultural products. And, upon information and belief, Openshaw was aware of

this fact having had her own products subject to a claim under California Proposition 65 in 2021 due to the presence of lead.¹⁶

102. Apeel does not use or add any heavy metals in its manufacturing processes, nor are heavy metals added to Apeel's ingredients or products. Nothing in Apeel's FDA GRAS notices supports the notion that Apeel does or ever considered doing so. The FDA requires manufacturers to show that remaining residue levels of naturally occurring heavy metal contaminants in food ingredients are below regulated limits, which is why they are listed on a final specification sheet.

103. In short, nothing—and certainly not the documents Openshaw cited—support her repeated false and defamatory claims that Apeel products are made with “petrochemical solvents,” or that Apeel's products contain “unsafe” or “toxic” levels of “heavy metals.”

¹⁶ Defendants also sell on GreenSmoothieGirl.com products that include a California Proposition 65 warning due to the presence of lead in such products. *See, e.g.*, GreenSmoothieGirl.com, Shop, PreZyme Pro, <https://shop.greensmoothiegirl.com/products/prezyme-pro>.

104. That did not stop Openshaw from repeating her false claims countless times or falsely describing Apeel as “toxic” and “poison”—claims that dozens of other “health” influencers have seized on, repeated, and credited to Openshaw.¹⁷

105. Defendants also repeatedly accused Apeel of lying to consumers about the ingredients its products are made from. For example, in a December 19, 2023, Instagram Reel, Defendants stated: “It’s not food protecting food, as James Rogers tells Mark Hyman. It’s full of synthetic chemicals, metals, and solvents. It’s not the exact same as a lemon peel, as Rogers also says. It’s a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as

¹⁷ Searching “Apeel” on YouTube or social media shows that numerous social media “influencers” in the food and nutrition space have proliferated and expanded on Defendants’ false and damaging narratives about Apeel and its products. As one example, Valerie “Chef Val” Wilson has stated publicly that she received information about Apeel products being a “toxic substance” from Defendants. As another example, Alison Steinberg, then a reporter for One America News (“OAN”), went on air in June of 2024 accusing Apeel of using “hazardous chemicals” in its manufacturing process “known to seriously damage internal organs,” and calling Apeel’s products “literal poison.” Though OAN has taken down this video, Steinberg continues to spread it using her personal social media accounts. On information and belief, the video has been viewed over 1.5 million times. Even celebrity commentators like Rob Schneider have repeated these falsehoods. Other influencers like Dr. Jane Ruby, Dr. Eric Berg, Dr. Josh Axe, and Dr. Daniel Pompa also have created content containing falsehoods about Apeel and its products that, on information and belief, is designed to drive consumer traffic to their own businesses capitalizing on Defendants’ false and defamatory narrative about Apeel—the same playbook Defendants created.

plant based.”¹⁸ Defendants published numerous other similar false and misleading statements accusing Apeel of greenwashing (i.e., the deceptive “act or practice of making a product, policy, activity, etc. appear to be more environmentally friendly or less environmentally damaging than it really is”).¹⁹

Openshaw urges the “Green Smoothie Girl army” to boycott Apeel, causing several retailers to stop selling Apeel-treated produce.

106. Once her false narrative gained traction, Openshaw repeatedly called on her hundreds of thousands of followers (whom she referred to as her “army”) to boycott retailers and produce suppliers that used Apeel’s products.

107. As part of this call to action, Openshaw targeted agricultural partners that protected their produce with Apeel; retail partners that carried Apeel-protected produce in their markets; and consumers that purchased Apeel-protected produce. Thus, Openshaw attacked Apeel’s business at every stage of its supply chain.

108. Openshaw did not just limit her calls to action to social media. She also reached out directly to, and encouraged her followers to contact, agricultural partners, retail partners, and other major industry players to discourage them from using Apeel products or carrying Apeel-protected produce.

¹⁸ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

¹⁹ Merriam-Webster, Greenwashing, <https://www.merriam-webster.com/dictionary/greenwashing>.

109. For example, Openshaw repeatedly wrote to Driscoll’s, the leading global seller of fresh berries, and “thank[ed] them for th[eir] commitment to not tainting the berries we eat with poisons.”²⁰

110. She likewise encouraged her followers to reach out to Limoneira, a leading producer of citrus and avocados, to demand it not partner with Apeel.

111. And she called on her followers to contact Houweling, the company with which Apeel partnered in its plastic-free cucumber pilot program, to tell it that they did not want “toxic additives” in their cucumbers.

112. In addition to targeting specific Apeel partners, Openshaw warned other produce companies that used Apeel to protect their produce that, if they continued to do so, she—and her hundreds of thousands of followers—would not purchase anything from those companies.

113. Openshaw also called on her followers to contact executives at Costco, Walmart, and other major U.S. grocery chains to protest their stocking of Apeel-protected produce. Openshaw repeatedly provided email addresses and direct phone numbers for those executives, effectively doxxing them and exposing them to

²⁰ Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, GreenSmoothieGirl.com (updated July 31, 2024), <https://greensmoothiegirl.com/these-companies-have-pledged-not-to-use-apeel/>.

harassing phone calls, emails, and in-store visits from her misinformed “Green Smoothie Girl Army.”

114. These statements relied on the same provably false premises Openshaw repeated countless times—that Apeel’s products are “toxic” and made with solvents and heavy metals.

115. But Openshaw’s largest effort was directed at consumers, themselves. In early 2024, Openshaw created—and offered for sale on her website—a guide and “wallet card,” which listed grocery stores and brands that do and do not carry Apeel-protected produce. She also created and circulated a “script,” which she encouraged her followers to use when discussing Apeel with the produce managers at their local grocery stores. That script repeated Openshaw’s usual false claims, including that “the Apeel company’s filing with the FDA is where I got this information about 5 heavy metals and 2 solvents involved in making the product with a little throwaway pulp from some plant, to be able to sell it as ‘plant based.’”²¹

116. Openshaw reveled in the damage she claimed these falsehoods caused to Apeel. On June 21, 2024, Openshaw published an article on her website titled “GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company.” In the article, she thanked her “army” for its support of her mission against Apeel.

²¹ *Id.*

Her article again promoted the Apeel “wallet card” as a means to avoid Apeel, and it included an ad that read: “Warning! Toxic Apeel Coating Being Sprayed on Your Produce! My wallet card helps you avoid it[.]”²²

117. Throughout her campaign, Openshaw stated that her goal is to “save people and children from eating toxic chemicals.” But Openshaw’s entire campaign rested on provably false premises—the facts of which she repeatedly acknowledged, but intentionally mischaracterized, in her own videos.

Defendants acted with actual malice because they ignored credible, publicly available information disproving their preconceived narrative about Apeel.

118. Defendants knew their claims were false when they published them. Notably, their claims had repeatedly been refuted by credible, publicly available information—both from Apeel directly and reliable third-party sources.

119. Apeel’s own website plainly lists the ingredients in its products. Apeel’s website further explains that its products are Generally Recognized as Safe by the FDA, authorized for use under EU regulatory requirements (viewed by many as more stringent than U.S. requirements), and approved by numerous other regulatory bodies around the world.

²² Robyn Openshaw, “GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company,” GreenSmoothieGirl.com (June 21, 2024), <https://greensmoothiegirl.com/apel-coating-limoneira-citrus/>.

120. In addition, several news outlets, including *Reuters*, *AP News*, *USA Today*, and *Politifact* “fact checked” and made independent conclusions regarding the ingredients in, and safety of, Apeel’s products. Each of those articles was published between April and May 2023—before Openshaw began her smear campaign against Apeel.

121. The *Reuters* fact check team specifically found that: “Edible food coatings from U.S. company Apeel Sciences are made of monoglycerides and diglycerides that are not ‘toxic’ to humans, contrary to posts on social media.”²³

122. The *AP News* fact check similarly found that “social media posts are distorting the safety of [Apeel’s] product,” and stated that “THE FACTS” were that “California-based Apeel Sciences markets that its plant-based solution can keep fruits and vegetables fresh and at their prime longer—and that it’s edible, too.”²⁴

²³ Reuters, *Fact Check: Compounds in Apeel’s edible food coating deemed safe by USDA*, Reuters (May 5, 2023), <https://www.reuters.com/article/factcheck-apeel-toxic-diglycerides-idUSL1N3721KC/>.

²⁴ Angelo Fichera, *Posts misrepresent safety of produce-protecting solution from Apeel*, AP Fact Check (Apr. 18, 2023), <https://apnews.com/article/fact-check-apeel-fruit-produce-safety-sheet-867075775325>.

123. *USA Today* relied on *the same FDA GRAS notices Openshaw repeatedly cited* to conclude that “Apeel produce coating [is] edible [and] considered safe by FDA.”²⁵

124. And *Politifact*, too, concluded that Apeel “is not poison[ous].”²⁶

125. But Openshaw disregarded these credible third parties—often misrepresenting sources that disproved her claims to bolster her false narratives.

126. As explained, Openshaw misrepresented Apeel’s GRAS notices, taking screenshots out of context and lying about the processes they explained.

127. Openshaw also disregarded and actively sought to discredit statements James Rogers, one of Apeel’s co-founders, made during a December 2023 interview with Dr. Mark Hyman, a functional medicine physician, author, and founder of the Ultra Wellness Center. Shortly after that interview, Openshaw once again published false and disparaging claims about Apeel’s products, stating that they are not “actually a natural product for food protecting food, as [Rogers] says.” Instead,

²⁵ Nate Trela, *Fact check: Apeel produce coating edible, considered safe by FDA*, *USA Today* (Apr. 21, 2023), <https://www.usatoday.com/story/news/factcheck/2023/04/21/fact-check-postconfuses-apeel-produce-coating-cleaning-solution/11688840002/>.

²⁶ Jeff Cercone, *Bill Gates is not poisoning your produce with Apeel*, *Politifact* (Apr. 24, 2023), <https://www.politifact.com/factchecks/2023/apr/24/instagram-posts/bill-gates-is-not-poisoning-your-produce-with-apeel/>.

according to Openshaw, Apeel's products are "full of glyphosate" and are "poisoning" consumers.²⁷

128. Worse, in an effort to further discredit Rogers, Openshaw falsely claimed that Apeel was "experimenting with Africans' food" and lamented that "third world people get experimented on with chemicals in their food by American manufacturers."²⁸

129. One week later, on December 27, 2023, Openshaw released another video intended to discredit Rogers as part of her campaign to harm Apeel. This video, which Openshaw published on YouTube and Rumble and linked to on X, was titled, "Mark Hyman Ridiculously Hying Apeel."²⁹ Openshaw—baselessly and without evidence—rejected the facts Rogers and Dr. Hyman presented about the contents of Apeel's products and the processes for creating them. Instead, she made knowingly false claims that Apeel products are "made with several petrochemical solvents containing heavy metals and many other toxins."³⁰

²⁷ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

²⁸ *Id.*

²⁹ GreenSmoothieGirl, *Mark Hyman Ridiculously Hying Apeel*, YouTube (Dec. 27, 2023), <https://www.youtube.com/watch?v=B87OveQwtlw>.

³⁰ *Id.*

130. In short, Openshaw repeatedly refused to let the facts get in the way of her false narrative against Apeel—which successfully brought an untold number of views, comments, and downloads to her social media pages and websites—increasing her fame and notoriety and helping her sell her products, just as she intended.

***Defendants acted with actual malice because
they were motivated by financial gain.***

131. On information and belief, Openshaw and her company, GreenSmoothieGirl.com, Inc., generate substantial income from their social media pages. For this reason, Openshaw posts prolifically—the more views, likes, shares, and comments she obtains, the more money she makes.

132. Openshaw quickly noticed that her false statements about Apeel resulted in massive engagement. Accordingly, Openshaw frequently posted the same videos or images about Apeel across multiple social media platforms, over the course of several days—ensuring the posts received maximum, unique engagement over a maximum period of time.

133. Openshaw also cross-referenced her previous posts as she continued to generate new false content about Apeel, encouraging viewers to “scroll” and engage with her earlier posts.

134. Defendants used social media posts to direct their followers to affiliate links, including for a product designed to grow produce at home called “Lettuce

Grow Farmstand.” In the same post on July 28, 2023, in which Openshaw falsely claimed Apeel contained “petrochemical solvents, and 5 heavy metals,” she urged viewers to “[v]isit the link in my bio to learn more about the Lettuce Grow Farmstand.”³¹

135. On information and belief, Defendants have a stake in or, or were paid to promote, Lettuce Grow products. In another article published on July 22, 2024 on GreenSmoothieGirl.com that disparaged Apeel and promoted (and linked to) the Lettuce Grow Farmstand, Defendants expressly acknowledged that the article advertised “affiliate content” (i.e., content Defendants were paid to promote and endorse). Defendants used their false claims about Apeel to encourage their followers to purchase those products they were paid to promote.³²

136. Openshaw’s prolific social media posts also directed followers to her website, GreenSmoothieGirl.com, where she sold “Apeel Wallet Cards” (currently \$19.97 for a set of 11 so-called “genius guides,” which includes a laminated Apeel wallet card) as well as books, other “guides,” supplements, and meal replacement bars and powders. Again, Defendants relied on false claims about Apeel to motivate

³¹ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/p/CvQMdSsAHs_/?hl=en.

³² Robyn Openshaw, *5 Toxic Heavy Metals Found in Apeel and What to Do About It*, GreenSmoothieGirl.com (updated July 22, 2024), <https://greensmoothiegirl.com/5-toxic-heavy-metals-found-in-apeel/>.

readers and followers to purchase wallet cards, guides, and the additional GreenSmoothieGirl.com products recommended in them.

137. Many of Defendants' false statements were in articles published on GreenSmoothieGirl.com. And those articles are littered with advertisements for Defendants' products and services (including their Apeel wallet cards).

138. And if Defendants' followers could not trust the produce in their market to obtain essential nutrients (as Defendants repeatedly claimed), they could safely (according to Openshaw) purchase "Ultimate Minerals" supplements, "Organic Sprouted Products," and other Green Smoothie Girl "Program Support Packs" that would offer and replace the same nutrients fresh produce provided.

139. In short, Defendants' social media posts and articles about Apeel garnered attention and increased traffic to Openshaw's social media pages and Defendants' website and online store. On information and belief, Openshaw's false and defamatory statements about Apeel were thus a massive boon for Defendants' business. Thus, Defendants were financially motivated to double down and amplify those false statements against Apeel.

Defendants' disinformation campaign causes irreparable economic and reputational harm to Apeel.

140. Due to the spread of disinformation among the American consumer base, Apeel lost over 15 retail customers and more than \$60 million in expected revenue. Upon information and belief, large U.S. retailers, including Costco,

Walmart, Albertsons, Trader Joe's, Kroger, Sprouts, Whole Foods, and others refused to stock Apeel-protected produce.

141. As a direct result of Defendants' false and misleading statements and direct outreach to retailers, Apeel lost existing and prospective economic benefits from deals it had or reasonably expected to finalize with Costco, Driscoll's, and Limoneira worth at least \$28.1 million. Defendants were aware of Apeel's existing and anticipated commercial relationships with these retailers (in part because Apeel affirmatively includes labels to identify produce treated with its products), bragging on their website and in social media posts about their outreach efforts to disrupt those commercial relationships.

142. From 2018 until Defendants launched their smear and outreach campaign, Costco had agreements with Apeel and/or purchased produce from produce suppliers whose products were protected by Apeel products. However, on information and belief, once Defendants and their "army" started complaining to Costco that Apeel products were toxic, poisonous, and made with solvents and heavy metals, Costco reversed course and stopped buying Apeel-protected produce.

143. In fact, Openshaw has bragged in social media posts and articles on her website about how her false and misleading outreach to Costco convinced Costco to stop carrying Apeel protected produce.

144. So too with Limoneira. Apeel had entered into a lucrative multiyear agreement with Limoneira. However, on information and belief, Limoneira stopped purchasing Apeel-protected produce specifically because of Defendants’ false and misleading claims about Apeel. In other words, Limoneira effectively ended its relationship with Apeel because of Defendants’ smear campaign.

145. Openshaw published an article on her website on June 21, 2024, in which she explicitly said that “Together, we”—referring to her Green Smoothie Girl Army—“got Limoneira – a huge citrus and avocado company buying from all over the world – to quit using Apeel.”³³ As a result, Apeel lost reasonably anticipated contracts and prospective sales from Limoneira that never materialized.

146. Apeel had also been in commercial discussions with Driscoll’s. But those discussions ceased once Defendants started publishing their false claims.

147. Coinciding with Openshaw’s pressure campaign, Apeel was forced to eliminate 134 jobs in 2023, which amounted to nearly half of all roles at Apeel. The following year, an additional 31 roles were eliminated. The impact of this disinformation campaign continues to reverberate throughout Apeel, and this year Apeel eliminated another 75 roles. Each layoff was not just a spreadsheet line—it

³³ Robyn Openshaw, *GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company*, GreenSmoothieGirl.com (June 21, 2024), <https://greensmoothiegirl.com/apel-coating-limoneira-citrus/>.

was a person with a family, a mortgage, and a career, upended by lies. Those team-members were mission-driven employees who came to Apeel to solve global food waste. Instead, they became collateral damage in a targeted smear campaign orchestrated by Defendants and others.

148. The unexpected revenue collapse also forced Apeel to eliminate approximately \$35 million in operating costs and led to a \$36 million write-down of fixed assets and inventory.

149. Thus, even as Apeel continues to receive accolades for the quality of its products and the positive impact it is having on produce nutrition and distribution around the globe, Defendants' lies have caused material damage to Apeel's business, operations, and reputation.

Defendants disregard Apeel's retraction demand.

150. On August 22, 2025, Apeel, through counsel, sent a written retraction demand to Defendants Openshaw and GreenSmoothieGirl.com Inc. by email and FedEx in accordance with Florida Statute sections 770.01-770.08.

151. Apeel's retraction demand specifically enumerated the hundreds of false statements Defendants made in more than 60 social media posts and articles published on GreenSmoothieGirl.com. It further explained the statements' falsity and demanded Defendants retract each statement.

152. Defendants ignored Apeel's retraction demand completely, and they have failed to retract any of the false, misleading, defamatory, and disparaging statements identified.

153. Accordingly, Apeel brings this suit to vindicate its reputation and hold Defendants accountable for the substantial harm their smear campaign caused to Apeel's business and reputation.

COUNT I – VIOLATIONS OF THE LANHAM ACT,
15 U.S.C § 1125(A)(1)(B)
(Against All Defendants)

154. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

155. Beginning in July 2023, Defendants arranged for false and deceptive advertising to be distributed in interstate commerce, online and on social media platforms, to hundreds of thousands of viewers and a global internet audience.

156. Defendants directed these advertisements to consumers and the public.

157. The advertisements contain false claims about Apeel and Apeel's products, including:³⁴

- a) “Here's the truth: there are 3 petrochemical solvents involved in making the product, which are highly toxic, including toluene, which is

³⁴ See also *infra* ¶¶ 218, 233 for Defendants' specific false, defamatory, misleading, and disparaging claims.

gasoline. There are also 4 heavy metals: palladium, arsenic, lead, cadmium, and mercury”;³⁵

- b) “It’s not just grapeseed, as the company would have you think”;³⁶
- c) Apeel’s products include “petrochemical solvents” and “heavy metals” that are “well-known, highly toxic chemicals” and not safe for human beings;³⁷
- d) Apeel’s products are “toxic”³⁸ and “poison[.]”;³⁹
- e) Apeel’s products are “toxic additive[s]”;⁴⁰
- f) Apeel’s FDA GRAS notices state that Apeel’s products include “5 heavy metals and 2 solvents involved in making the product with a little throwaway pulp from some plant, to be able to sell it as ‘plant-based’”;⁴¹

³⁵ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

³⁶ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

³⁷ Robyn Openshaw, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, GreenSmoothieGirl.com (updated May 14, 2025), <https://greensmoothiegirl.com/the-5-heavy-metals-and-2-industrial-solvents-in-apeel/>.

³⁸ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

³⁹ E.g., Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, Rumble (Aug. 24, 2023), <https://rumble.com/v3baq0l-these-companies-have-pledged-not-to-use-apeel.html>.

⁴⁰ E.g., GreenSmoothieGirl, *Walmart Cucumbers Coated With Apeel*, YouTube (July 23, 2024), <https://www.youtube.com/watch?v=1sddqEsbMOE>.

⁴¹ Robyn Openshaw, *Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?*, GreenSmoothieGirl.com (June 7, 2024), <https://greensmoothiegirl.com/fight-apeel-coating/>.

- g) Defendants' goal is to "save people and children from eating toxic chemicals";⁴²
- h) Apeel was "experimenting with Africans' food";⁴³ and
- i) Apeel's products "[are]n't actually a natural product for food protecting food, as [Rogers] says."⁴⁴

158. Defendants not only disparaged Apeel and its products, but they also advertised their own products and products they were paid to promote in the same social media posts and articles, for example by informing consumers: "Warning! Toxic Apeel Coating Being Sprayed on Your Produce! My wallet card helps you avoid it," and advertising affiliate products like the Lettuce Grow Farmstand as a means to "avoid Apeel."

159. Defendants also instructed their followers to contact executives at Costco, Walmart, and other major U.S. retailers to protest retailers' stocking of Apeel-protected produce. Defendants provided contact information and a script repeating their false claim that Apeel's FDA filing includes "information about 5 heavy metals and 2 solvents involved in making the product."

⁴² GreenSmoothieGirl, *Walmart Cucumbers Coated With Apeel*, YouTube (July 23, 2024), <https://www.youtube.com/watch?v=1sddqEsbMOE>.

⁴³ E.g., Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

⁴⁴ E.g., Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

160. Defendants' claims are false because they conflict with reality in several ways, as set forth above.

161. Defendants' claims had the tendency to deceive a substantial segment of the target audience. Defendants intended that their claims deceive the target audience. And Defendants' claims did in fact deceive the target audience.

162. Because Defendants' false claims focused on the safety of the ingredients in Apeel products, possible health risks, and inherent characteristics of Apeel's products, consumers necessarily found Defendants' claims to be material.

163. Further, the facts above show that individual and retail consumers in fact found Defendants' false claims to be material to their purchasing decisions. Defendants urged their followers to boycott Apeel and to pressure individual grocers, major retail chains, and produce suppliers to stop selling Apeel-protected produce, which they did.

164. For example, on June 21, 2024, Defendants published an article by Openshaw on their website titled "GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company."⁴⁵ In the article, Openshaw explained how she distributed the names and phone numbers of executives from Limoneira, an

⁴⁵ Robyn Openshaw, *GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company*, GreenSmoothieGirl.com (June 21, 2024), <https://greensmoothiegirl.com/apel-coating-limoneira-citrus/>.

agricultural production company, for her followers to use to protest Limoneira's use of Apeel-protected produce. Openshaw explained that only days later she received a text message from Limoneira's CEO saying that they "tested but never sold any products (avocados or lemons) with Apeel on them," and that they "stopped when the market told us it doesn't want Apeel."

165. Defendants used their false claims about Apeel to direct consumers to purchase items they created and sold on their website, GreenSmoothieGirl.com. For example, Defendants relied on falsities about Apeel to promote so-called "genius guides," which are printed, laminated cards that purportedly protect consumers from being "victim[s] of the deceitful and sneaky food industry" by advising consumers "what to avoid[.]" One such "genius guide" Defendants offer for sale is a "pocket guide" about "Apeel-Sprayed Produce" that shows "the brands and stores publicly stating they won't use [Apeel]" and "the ones who do." These guides further recommend other GreenSmoothieGirl.com products and supplements.

166. Defendants further used their false claims about Apeel to direct consumers to purchase produce products they endorsed and, on information and belief, hold a stake in or were paid to promote. For instance, Defendants repeatedly

used their false claims about Apeel to direct their followers to their “link in bio” to “learn more about the Lettuce Grow Farmstand,” a \$574 planter.⁴⁶

167. Thus, Defendants’ claims were not intended only to influence consumers not to purchase Apeel, but also to drive consumers to Defendants’ websites to purchase Defendants’ products.

168. Defendants’ false claims eroded Apeel’s goodwill among consumers and caused Apeel’s customers and prospective customers to cease doing business with Apeel.

169. Individual and retail consumers and suppliers chose not to purchase Apeel-protected produce or Apeel products because of Defendants’ false and misleading advertisements. Consumers chose instead to source produce without Apeel’s protection. Suppliers went back to using chemical post-harvest treatments offered by manufacturers other than Apeel (most of which consumers are unaware of). This caused substantial harm to of Apeel’s business and provided Defendants with ill-gotten gains.

170. Due to the spread of falsehoods among the American consumer base, Apeel lost over 15 retail store customers and more than \$60 million in expected revenue. Large U.S. retailers, including Costco, Walmart, Albertsons, Trader Joe’s,

⁴⁶ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

Kroger, Sprouts, and Whole Foods refused to stock Apeel-protected produce. Major produce suppliers, like Driscoll's and Limoneira, also refused to partner with Apeel.

171. Defendants should therefore be ordered to: pay Apeel for profits Apeel lost because of Defendants' false and misleading statements; disgorge Defendants' ill-gotten profits from the above-described wrongful acts; and pay Apeel's reasonable attorneys' fees. 15 U.S.C. §§ 1116–17. The Court should also issue an order multiplying or otherwise enhancing any award to Apeel and issue a narrowly tailored injunction prohibiting Defendants from repeating any of their false and misleading claims about Apeel.

**COUNT II – DISPARAGEMENT OF PERISHABLE
AGRICULTURAL FOOD PRODUCTS, FL STAT § 865.065 (2024)
(Against All Defendants)**

172. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

173. Defendants published the following false and deceptive statements of fact regarding Apeel's post-harvest agricultural products:⁴⁷

- a) Beginning in July 2023, Defendants willfully disseminated false statements to individual consumers, retail consumers, and potential consumers that Apeel's products were unfit for human consumption.
- b) On July 28, 2023, Defendants published the following false, misleading, and disparaging statements:⁴⁸

⁴⁷ See also *infra* ¶¶ 218, 233 for Defendants' specific false, defamatory, misleading, and disparaging claims.

⁴⁸ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

- i. “It’s not just grapeseed, as the company would have you think.”
- ii. “Here’s the truth: there are 3 petrochemical solvents involved in making the product, which are highly toxic, including toluene, which is gasoline. There are also 5 heavy metals: palladium, arsenic, lead, cadmium and mercury.”

174. Since then, Defendants have willfully repeated dozens of times, across multiple platforms, the provably false and disparaging claims that Apeel’s products include “petrochemical solvents” and “heavy metals” that are “well-known, highly toxic chemicals” that are not safe for human beings.⁴⁹

175. Defendants’ claims are false because they conflict with reality in several ways, as set forth above.

176. Defendants knew or should have known their claims were false because they had access to, and indeed often referenced, Apeel’s GRAS filings, which plainly contradict their claims. Instead, Defendants willfully used inaccurate, deceptive, misleading, and selective citations and quotations to Apeel’s GRAS filings to support their false narrative, as set forth above.

177. Further, Defendants’ false claims were publicly fact-checked—and refuted—by Apeel and credible third-party sources prior to Defendants’ publication of their false claims.

⁴⁹ Robyn Openshaw, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, GreenSmoothieGirl.com (updated May 14, 2025), <https://greensmoothiegirl.com/the-5-heavy-metals-and-2-industrial-solvents-in-apeel/>.

178. Defendants' statements were intended to and did falsely convey that Apeel's products are unfit for human consumption.

179. Defendants' false and disparaging claims eroded Apeel's goodwill among consumers and caused Apeel's customers and prospective customers to cease doing business with Apeel.

180. As described above, individual and retail consumers and suppliers chose not to purchase Apeel-protected produce or Apeel products because of Defendants' false and misleading claims. This caused substantial harm to Apeel's business and provided Defendants with ill-gotten gains.

181. Apeel demands that Defendants be ordered to pay Apeel actual, special, compensatory, presumed, and punitive damages caused by Defendants' disparaging statements.

**COUNT III – TORTIOUS INTERFERENCE WITH BUSINESS
RELATIONSHIPS
(*Against All Defendants*)**

182. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

183. Apeel developed valuable business and economic relationships with over 15 retailers and producers operating in the United States, including major retailers like Costco, Walmart, Albertsons, Trader Joe's, Kroger, Sprouts, and Whole Foods, all of which subsequently refused to stock Apeel-protected produce. Major produce suppliers, like Driscoll's and Limoneira, also refused to partner with Apeel.

184. On information and belief, Defendants knew that Apeel had developed and was developing those business and economic relationships, and Defendants specifically sought to disrupt Apeel's existing and reasonably anticipated business relationships with several of those retailers and suppliers, including Costco, Driscoll's, and Limoneira.

185. As early as August 2023, Defendants began mobilizing their hundreds of thousands of followers to tortiously interfere with and disrupt Apeel's current and potential partnerships with Costco, Driscoll's, and Limoneira.

186. In a video posted to her YouTube⁵⁰, Rumble⁵¹, and Instagram⁵² accounts, on August 24, 2023, Openshaw informed her followers that she recently heard from Driscoll's, and Driscoll's confirmed that they will not be using Apeel and do not intend to. She provided an email address for viewers to write to Driscoll's and "thank them for this commitment to not tainting the berries we eat with poisons."

187. In that same August 2023 video, Openshaw provided the name and phone number of a Costco employee who manages produce for the southwest region

⁵⁰ GreenSmoothieGirl, *These Companies Have Pledged Not to Use Apeel*, YouTube (Aug. 24, 2023), <https://www.youtube.com/watch?v=HlrlEpFltmM>.

⁵¹ Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, Rumble (Aug. 24, 2023), <https://rumble.com/v3baq0l-these-companies-have-pledged-not-to-use-apeel.html>.

⁵² Robyn Openshaw (@thegreensmoothiegirl), Instagram (Aug. 24, 2023), <https://www.instagram.com/reel/CwWMCJdAT-8/>.

of the company. Openshaw explained that she “left him a detailed voicemail about Apeel or Edipeel and told him why [she’s] concerned about this toxic coating on many produce items and asked for a call back.” She instructed her followers to “relentlessly write and call Costco” on this issue.

188. The following day, on August 25, 2023, Openshaw posted another video, updating viewers that she received a call back from a vice president at Costco, who oversees produce for the entire company.⁵³ She stated that the vice president confirmed a prior contract with Apeel for limes, avocados, and apples. She then informed her followers that the vice president “is now well aware of exactly what our concerns are,” but she instructed her followers to “write the company and tell them that your family depends on them for nutritious produce and that you would like them to provide it to you without toxic synthetic coatings to make it last longer, especially when you’re paying extra for organic produce.”

189. Openshaw encouraged such interference between Apeel and Costco for the next year across her social media platforms and website. She continued to provide contact information for specific executives at Costco and instructions about how to contact warehouses and submit feedback.

⁵³ GreenSmoothieGirl, *I talked to Produce VP at Costco about Apeel*, YouTube (Aug. 25, 2023), <https://www.youtube.com/watch?v=6fxmo7rXgVA>.

190. In an article on her website, updated on September 25, 2024, Openshaw (misleadingly) wrote that the “best argument, if you’re willing to call Costco, or whatever grocery store you go to (*and I really hope you will!*), is to tell them that produce rots on the inside, even if a preservative coating tricks the consumer because it looks better on the outside. Retailers don’t want us to be unhappy with produce that looked good but is inedible.”⁵⁴

191. In a video titled “You Did It! We The Consumers Win!” posted to her YouTube channel on June 18, 2024, Openshaw detailed how her army of followers “got an Apeel contract terminated!” Openshaw explained that, only a few days prior, she had posted instructions of who to call at Limoneira.⁵⁵ Then, “by the time [she] went to record this video, Limoneira had already abandoned its contract with Apeel. Telling [her] that they had heard us loud and clear and that they were going to stick with distributing citrus and avocados old-school.”

192. Her June video included a screenshot of a text message from Limoneira’s CEO that said that Limoneira “*stopped all activities with Apeel ... when the market told us it doesn’t want Apeel.* We have and continue to sell our avocados and lemons the way we always have for 131 years.”

⁵⁴ Robyn Openshaw, *Why the Apeel Coating is Toxic and Doesn’t Even Work*, GreenSmoothieGirl.com (updated Sept. 25, 2024), <https://greensmoothiegirl.com/apeel-doesnt-work/>.

⁵⁵ GreenSmoothieGirl, *You Did It! We The Consumers Win!*, YouTube (June 18, 2024), https://www.youtube.com/watch?v=_EHBMOZpi5Y.

193. A few days later, on June 21, 2024, Openshaw authored an article published on Defendants’ website thanking her followers “for joining me in fighting back against this toxic product, because it’s working!”⁵⁶

194. In that article, she informed her followers that “[t]ogether ***we got Limoneira – a huge citrus and avocado company buying from all over the world – to quit using Apeel products!***”

195. Throughout their smear campaign, Defendants encouraged their hundreds of thousands of followers “to contact the produce manager at every store you shop at” and tell them to stop sourcing Apeel-protected products.

196. Defendants acted intentionally to interfere with Apeel’s customers and prospective customers and to induce them to discontinue any existing or prospective business relationships with Apeel through the statements and actions set forth above.

197. Defendants knew that their conduct was substantially certain to interfere with Apeel’s business and economic relationships—namely its ability to retain its existing customers and obtain new customers. In fact, that was their stated intent. Defendants acted knowingly and intentionally and with reckless disregard of the foreseeable consequences of their actions.

⁵⁶ Robyn Openshaw, *GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company*, GreenSmoothieGirl.com (June 21, 2024), <https://greensmoothiegirl.com/apel-coating-limoneira-citrus/>.

198. Defendants' interference was unjustified. They were not a party to any of the business relationships between Apeel and its major retail partners at any time.

199. Defendants' wrongful conduct caused certain of Apeel's current and prospective customers—specifically, Costco, Driscoll's, Limoneira, and possibly others—to cease or curtail their relationships with Apeel. Apeel's contractual and other business and economic relationships with these third parties have been and continue to be, disrupted by Defendants' conduct.

200. As a result of Defendants' conduct, which disrupted Apeel's business relationships, Apeel has suffered injury to its reputation and lost substantial revenue of at least \$28.1 million.

201. As such, Apeel is entitled to recover compensatory, actual, and special damages resulting from the lost business relationships Defendants caused.

202. Because Defendants acted intentionally, or at least with gross negligence, Apeel is also entitled to recover punitive damages.

**COUNT IV – UNFAIR & DECEPTIVE TRADE
PRACTICES, FL STAT § 501, ET. SEQ.
(Against All Defendants)**

203. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

204. Beginning in July 2023, Defendants arranged for false and deceptive advertising to be distributed in interstate commerce online and via social media platforms to hundreds of thousands of followers and a global internet audience.

205. Defendants directed those advertisements to consumers and the public.

206. The advertisements contain false claims about Apeel and Apeel's products, including:⁵⁷

- a) "Here's the truth: there are 3 petrochemical solvents involved in making the product, which are highly toxic, including toluene, which is gasoline. There are also 5 heavy metals: palladium, arsenic, lead, cadmium, and mercury";⁵⁸
- b) "It's not just grapeseed, as the company would have you think";⁵⁹
- c) Apeel's products include "petrochemical solvents" and "heavy metals" that are "well-known, highly toxic chemicals" and not safe for human beings;⁶⁰
- d) Apeel's products are "toxic"⁶¹ and "poison[]";⁶²

⁵⁷ See also *infra* ¶¶ 218, 233 for Defendants' specific false, defamatory, misleading, and disparaging claims.

⁵⁸ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

⁵⁹ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

⁶⁰ Robyn Openshaw, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, GreenSmoothieGirl.com (updated May 14, 2025), <https://greensmoothiegirl.com/the-5-heavy-metals-and-2-industrial-solvents-in-apeel/>.

⁶¹ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 28, 2023), https://www.instagram.com/reel/CvQMdSsAHs_/.

⁶² E.g., Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, Rumble (Aug. 24, 2023), <https://rumble.com/v3baq0l-these-companies-have-pledged-not-to-use-apeel.html>.

- e) Apeel's products are "toxic additive[s]";⁶³
- f) Apeel's FDA GRAS notices state that Apeel's products include "5 heavy metals and 2 solvents involved in making the product with a little throwaway pulp from some plant, to be able to sell it as 'plant-based';"⁶⁴
- g) Defendants goal is to "save people and children from being forced to eat toxic chemicals";⁶⁵
- h) Apeel was "experimenting with Africans' food";⁶⁶ and
- i) Apeel's products are "not actually a natural product for food protecting food, as [Rogers] says."⁶⁷

207. Defendants not only disparaged Apeel and its products, but they also advertised their own products and products they were paid to promote in the same social media posts and articles, for example by informing consumers: "Warning! Toxic Apeel Coating Being Sprayed on Your Produce! My wallet card helps you avoid it," and advertising affiliate products like the Lettuce Grow Farmstand as a means to "avoid Apeel."

⁶³ E.g., GreenSmoothieGirl, *Walmart Cucumbers Coated With Apeel*, YouTube (July 23, 2024), <https://www.youtube.com/watch?v=1sddqEsbMOE>.

⁶⁴ Robyn Openshaw, *Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?*, GreenSmoothie.com (June 7, 2024), <https://greensmoothiegirl.com/fight-apeel-coating/>.

⁶⁵ GreenSmoothieGirl, *Walmart Cucumbers Coated With Apeel*, YouTube (July 23, 2024), <https://www.youtube.com/watch?v=1sddqEsbMOE>.

⁶⁶ E.g., Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

⁶⁷ E.g., Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

208. Defendants also instructed their followers to contact executives at Costco, Walmart, and other major U.S. retailers to protest retailers' stocking of Apeel-protected produce. Defendants provided contact information and a script repeating their false claim that Apeel's FDA filing includes "information about 5 heavy metals and 2 solvents involved in making the product."

209. Defendants' claims are false because they conflict with reality in several ways, as set forth above.

210. Defendants' claims had the tendency to deceive a substantial segment of the target audience. Defendants intended that their claims deceive the target audience. And Defendants' claims did in fact deceive the target audience.

211. Because Defendants' false claims focused on the safety of the ingredients in Apeel's products, possible health concerns, and inherent characteristics of Apeel's products, consumers necessarily found Defendants' claims to be material.

212. Further, as set forth above, individual and retail consumers and suppliers in fact found Defendants' false claims to be material to their purchasing decisions.

213. Defendants' false claims eroded Apeel's goodwill among consumers and caused harm to consumers by misleading consumers to their detriment and unethically persuading them not to purchase Apeel products that would have

otherwise: extended the shelf life of produce consumers purchased and brought home—providing more opportunities for healthy eating; reducing their costs; reduced food spoilage and waste—reducing their carbon footprint; and allowed consumers a safe alternative to pesticide-treated, chemically waxed, or plastic-protected produce—reducing their exposure to pesticides, petroleum-based waxes, and plastics. Had consumers known these facts, and not Defendants’ falsehoods, they would have purchased Apeel products that met their economic and environmental priorities. Instead, motivated by Defendants’ false statements, consumers, retailers, and suppliers purchased lower quality products and produce.

214. Defendants’ false claims further misled consumers to their detriment and unethically persuaded them to purchase products that would help them “avoid” Apeel—including Defendants’ own “guides,” “wallet cards,” and affiliate products. The utility and benefit of Defendants’ guides and wallet cards for consumers relied exclusively on the falsehood that Apeel was “unsafe” or “toxic.” If consumers knew the truth, they would not have purchased Defendants’ products.

215. Defendants should be ordered to pay Apeel its lost profits, actual damages, and reasonable attorneys’ fees.

COUNT V – TRADE LIBEL
(Against All Defendants)

216. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

217. Openshaw has willfully repeated dozens of times, across multiple platforms, the provably false and disparaging claim that Apeel's products include "petrochemical solvents" and "heavy metals" that are "well-known, highly toxic chemicals" that are not safe for human beings.

218. Beginning in and ongoing from August 2023, Defendants published false and deceptive statements of fact about Apeel and Apeel's product to hundreds of thousands of Openshaw's followers and a global internet audience across several social media platforms and Openshaw's website, including:

- a) On August 30, 2023, in a video posted to YouTube:⁶⁸
 - i. "It's not just grapeseed, as the company would have you think. It's got 3 petrochemical solvents, and 5 heavy metals in it. Here's what to do about it. When you're ready, simply choose a Lettuce Grow Farmstand model and then select a seedling variety pack. The seedling pack will show as 'free' in your cart. <https://shareasale.com/r.cfm?b=216623> ... Toxic Apeel sprayed on your produce! This handy wallet card helps you avoid it: <https://greensmoothiegirl.com/avoidtoxins/social/>."
 - ii. "Apeel is made with three solvents and five heavy metals."
 - iii. "If you write the company, they'll tell you that it's made from grapeseed. But here's the truth. There are three petrochemical solvents involved in making the product, which are highly toxic, including toluene, which is in gasoline. There are also five heavy metals, palladium, arsenic, lead, cadmium, and mercury."
 - iv. "Apeel sciences applied to the FDA for their GRAS, or generally regarded as safe notification, and were granted it based on the

⁶⁸ GreenSmoothieGirl, *Apeel Made With 3 Solvents, 5 Heavy Metals*, YouTube (Aug. 30, 2023), <https://www.youtube.com/watch?v=xWM4fH81QjM>.

claim that safe levels of these substances are left on the food. There is no safe level of mercury or lead or any of those other things, plus we're getting some of them from air pollution and other sources anyway, and it's cumulative in our bodies."

- v. "Since the produce doesn't even have to [have] an Apeel or Edipeel label, I don't even know whether what I'm buying has petrochemicals and heavy metals on it, and now I have to throw away some of my food, driving my food costs up and decreasing my ability to get good nutrition for my family. Leafy greens, raspberries, and tomatoes that we don't even peel are also being sprayed with Apeel."
 - vi. "The list of grocery stores carrying or about to carry produce sprayed with this toxic product is too long to list."
- b) On December 19, 2023, in a Reel posted to Instagram:⁶⁹
- i. Apeel's product "is full of glyphosate. It's poisoning you."
 - ii. Apeel's product is "synthetic."
 - iii. "It's not food protecting food, as James Rogers tells Mark Hyman. It's full of synthetic chemicals, metals, and solvents. It's not the exact same as a lemon peel, as Rogers also says. It's a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based."
- c) On December 19, 2023, in a video posted to YouTube titled, "Mark Hyman's Defense of Apeel and Gaslighting Followers for Questioning It":⁷⁰
- i. Apeel's product "is full of glyphosate. It's poisoning you."

⁶⁹ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

⁷⁰ GreenSmoothieGirl, *Mark Hyman's Defense of Apeel and Gaslighting Followers for Questioning It*, YouTube (Dec. 19, 2023), <https://www.youtube.com/watch?v=ABjrjKVobOg>.

- ii. Apeel's product is "synthetic."
 - iii. "It's not food protecting food, as James Rogers tells Mark Hyman. It's full of synthetic chemicals, metals, and solvents. It's not the exact same as a lemon peel, as Rogers also says. It's a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based."
- d) On December 20, 2023, in a video posted to Rumble titled, "Mark Hyman's Defense of Apeel and Gaslighting Followers for Questioning It":⁷¹
- i. Apeel's product "is full of glyphosate. It's poisoning you."
 - ii. Apeel's product as "synthetic."
 - iii. "It's not food protecting food, as James Rogers tells Mark Hyman. It's full of synthetic chemicals, metals, and solvents. It's not the exact same as a lemon peel, as Rogers also says. It's a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based."
- e) On December 27, 2023, in a video posted to YouTube titled, "Mark Hyman Ridiculously Hying Apeel":⁷²
- i. "The important topic they don't touch is that it's made with several petrochemical solvents containing heavy metals and many other toxins. Ironically, the Apeel Sciences founder says that we should be looking for solutions outside the petrochemical health solutions. I guess he's referring to drugs. And yet his manufacturing process for this miracle peel on food uses petrochemical solvents and other toxic chemicals."

⁷¹ Robyn Openshaw, *Mark Hyman's Defense of Apeel and Gaslighting Followers for Questioning It*, Rumble (Dec. 20, 2023), <https://rumble.com/v42dj4f-mark-hymans-defense-of-apeel-and-gaslighting-followers-for-questioning-it.html>.

⁷² GreenSmoothieGirl, *Mark Hyman Ridiculously Hying Apeel*, YouTube (Dec. 27, 2023), <https://www.youtube.com/watch?v=B87OveQwtlw>.

- ii. “And it’s also not the peel made in nature on the outside of a lemon like he says it is. It’s a synthetic product, again, with a variety of toxic chemicals and metals in it.”
 - iii. “Does he really think that we should accept that even our organic farm’s produce should then be sprayed with a preservative coating containing heavy metals and toxins and synthetic fat that we can’t remove?”
 - iv. “That is to talk about glyphosate, which isn’t in the product much, to deflect from all the actual toxins that are in the product.”
- f) On December 28, 2023, in a Reel posted to Instagram:⁷³
- i. “The important topic they don’t touch is that it’s made with several petrochemical solvents containing heavy metals and many other toxins. Ironically, the Apeel Sciences founder says that we should be looking for solutions outside the petrochemical health solutions. I guess he’s referring to drugs. And yet his manufacturing process for this miracle peel on food uses petrochemical solvents and other toxic chemicals.”
 - ii. “And it’s also not the peel made in nature on the outside of a lemon like he says it is. It’s a synthetic product, again, with a variety of toxic chemicals and metals in it.”
 - iii. “Does he really think that we should accept that even our organic farm’s produce should then be sprayed with a preservative coating containing heavy metals and toxins and synthetic fat that we can’t remove?”
 - iv. “That is to talk about glyphosate, which isn’t in the product much, to deflect from all the actual toxins that are in the product.”

⁷³ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 28, 2023), <https://www.instagram.com/reel/C1aIcnOOw6m/>.

- g) On December 29, 2023, in a video posted to Rumble titled, “Mark Hyman Ridiculously Hying Apeel”:⁷⁴
- i. “The important topic they don’t touch is that it’s made with several petrochemical solvents containing heavy metals and many other toxins. Ironically, the Apeel Sciences founder says that we should be looking for solutions outside the petrochemical health solutions. I guess he’s referring to drugs. And yet his manufacturing process for this miracle peel on food uses petrochemical solvents and other toxic chemicals.”
 - ii. “And it’s also not the peel made in nature on the outside of a lemon like he says it is. It’s a synthetic product, again, with a variety of toxic chemicals and metals in it.”
 - iii. “Does he really think that we should accept that even our organic farm’s produce should then be sprayed with a preservative coating containing heavy metals and toxins and synthetic fat that we can’t remove?”
 - iv. “That is to talk about glyphosate, which isn’t in the product much, to deflect from all the actual toxins that are in the product.”
- h) On January 5, 2024, in a Reel posted to Instagram:⁷⁵
- i. “Apeel is being sprayed on your food, and it has 2 solvents and heavy metals in it. What to know about it, and what to do.”
 - ii. “Apeel—why are 5 heavy metals in it?”
 - iii. “The five heavy metals and two industrial solvents in Apeel.”
 - iv. “These are the five heavy metals and two industrial solvents in the product,” while displaying a screenshot from Apeel’s FDA GRAS submission that lists the maximum daily exposure limits

⁷⁴ Robyn Openshaw, *Mark Hyman Ridiculously Hying Apeel*, Rumble (Dec. 29, 2023), <https://rumble.com/v442u8l-mark-hyman-ridiculously-hying-apeel.html>.

⁷⁵ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Jan. 5, 2024), <https://www.instagram.com/reel/C1uppxuuqw-/>.

for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.

- i) On January 15, 2024, in a video posted to YouTube titled, “The 5 Heavy Metals and 2 Industrial Solvents in APEEL”:⁷⁶
 - i. “Apeel is being sprayed on your food, and it has 2 solvents and heavy metals in it. What to know about it, and what to do.”
 - ii. “Apeel—why are 5 heavy metals in it?”
 - iii. “The five heavy metals and two industrial solvents in Apeel.”
 - iv. “These are the five heavy metals and two industrial solvents in the product,” while displaying a screenshot from Apeel’s FDA GRAS submission that lists the maximum daily exposure limits for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.
- j) On January 16, 2024, in a post on X:⁷⁷
 - i. “The 5 Heavy Metals and 2 Industrial Solvents in APEEL”
- k) On January 16, 2024, in a video posted to Rumble titled, “The 5 Heavy Metals and 2 Industrial Solvents in APEEL”:⁷⁸
 - i. “Apeel is being sprayed on your food, and it has 2 solvents and heavy metals in it. What to know about it, and what to do.”

⁷⁶ GreenSmoothieGirl, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, YouTube (Jan. 15, 2024), <https://www.youtube.com/watch?v=J0Ourm4d838>.

⁷⁷ GreenSmoothieGirl (@Robyn_Openshaw), X (Jan. 16, 2024), https://x.com/Robyn_Openshaw/status/1747359187708088694.

⁷⁸ Robyn Openshaw, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, Rumble (Jan. 16, 2024), <https://rumble.com/v47eh33-the-5-heavy-metals-and-2-industrial-solvents-in-apeel.html>.

- ii. “Apeel—why are 5 heavy metals in it?”
 - iii. “The five heavy metals and two industrial solvents in Apeel.”
 - iv. “These are the five heavy metals and two industrial solvents in the product,” while displaying a screenshot from Apeel’s FDA GRAS submission that lists the maximum daily exposure limits for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.
- l) On May 1, 2024, in a video posted to YouTube titled, “Apeel Doesn’t Work”:⁷⁹
- i. “[Apeel]’s toxic. It’s made with solvents and heavy metals.”
 - ii. “I think it’s a plus for us, the consumers, if this toxic coating we can’t wash off of our food actually fails in the marketplace.”
- m) On May 1, 2024, in a Reel posted to Instagram:⁸⁰
- i. “[Apeel]’s toxic. It’s made with solvents and heavy metals.”
 - ii. “I think it’s a plus for us, the consumers, if this toxic coating we can’t wash off of our food actually fails in the marketplace.”
- n) On May 1, 2024, in a video posted to Rumble titled, “Apeel Doesn’t Work”:⁸¹
- i. “[Apeel]’s toxic. It’s made with solvents and heavy metals.”

⁷⁹ GreenSmoothieGirl, *Apeel Doesn’t Work*, YouTube (May 1, 2024), <https://www.youtube.com/watch?v=2MXUqBSqNQQ>.

⁸⁰ Robyn Openshaw (@thegreensmoothiegirl), Instagram (May 1, 2024), <https://www.instagram.com/reel/C6cHyozyOit/>.

⁸¹ Robyn Openshaw, *Apeel Doesn’t Work*, Rumble (May 1, 2024), <https://rumble.com/v4sq2eo-apeel-doesnt-work.html>.

- ii. “I think it’s a plus for us, the consumers, if this toxic coating we can’t wash off of our food actually fails in the marketplace.”
- o) On June 4, 2024, in a video posted to YouTube titled, “How to Get Rid of Apeel”:⁸²
 - i. “[Apeel]’s a toxic preservative sprayed on produce by some companies that is marketed as plant-based, but in fact several heavy metals and petrochemicals are involved according to their own FDA filing.”
 - ii. “You may want to watch this video another time, maybe write down the words heavy metals and petrochemical solvents in your phone so that that’s in your vocabulary and ready to go when you talk to these people.”
 - iii. “The Apeel company’s filing with the FDA is where I got this information about five heavy metals and two solvents involved in making the product with a little throwaway pulp from some plant to be able to sell it as plant based.”
 - iv. “This is what the word greenwashing means you guys, calling your toxic chemical product plant-based[.]”
 - v. “[W]e need the Green Smoothie Girl army to be the resistance so that we don’t have to feed our kids and grandkids food coated with toxic synthetic chemicals that we cannot see and we cannot wash off.”
- p) On June 4, 2024, in a video posted to Rumble titled, “How to Get Rid of Apeel”:⁸³
 - i. “[Apeel]’s a toxic preservative sprayed on produce by some companies that is marketed as plant-based, but in fact several

⁸² GreenSmoothieGirl, *How to Get Rid of Apeel*, YouTube (June 4, 2024), <https://www.youtube.com/watch?v=vNUiNvg8xIg>.

⁸³ Robyn Openshaw, *How to Get Rid of Apeel*, Rumble (June 4, 2024), <https://rumble.com/v4zm3nr-how-to-get-rid-of-apeel.html>.

heavy metals and petrochemicals are involved according to their own FDA filing.”

- ii. “You may want to watch this video another time, maybe write down the words heavy metals and petrochemical solvents in your phone so that that’s in your vocabulary and ready to go when you talk to these people.”
- iii. “The Apeel company’s filing with the FDA is where I got this information about five heavy metals and two solvents involved in making the product with a little throwaway pulp from some plant to be able to sell it as plant based.”
- iv. “This is what the word greenwashing means you guys, calling your toxic chemical product plant-based[.]”
- v. “[W]e need the Green Smoothie Girl army to be the resistance so that we don’t have to feed our kids and grandkids food coated with toxic synthetic chemicals that we cannot see and we cannot wash off.”

q) On June 5, 2024, in a Reel posted to Instagram:⁸⁴

- i. “[Apeel]’s a toxic preservative sprayed on produce by some companies that is marketed as plant-based, but in fact several heavy metals and petrochemicals are involved according to their own FDA filing.”
- ii. “You may want to watch this video another time, maybe write down the words heavy metals and petrochemical solvents in your phone so that that’s in your vocabulary and ready to go when you talk to these people.”
- iii. “The Apeel company’s filing with the FDA is where I got this information about five heavy metals and two solvents involved in making the product with a little throwaway pulp from some plant to be able to sell it as plant based.”

⁸⁴ Robyn Openshaw (@thegreensmoothiegirl), Instagram (June 5, 2024), <https://www.instagram.com/p/C71s5i6ursE/?hl=en>.

- iv. “This is what the word greenwashing means you guys, calling your toxic chemical product plant based.”
 - v. “[W]e need the Green Smoothie Girl army to be the resistance so that we don’t have to feed our kids and grandkids food coated with toxic synthetic chemicals that we cannot see and we cannot wash off.”
- r) On June 7, 2024, in an article published on GreenSmoothieGirl.com:⁸⁵
- i. “What else is in Apeel? There are also 5 heavy metals and 2 petrochemical solvents in the product.”
 - ii. “Warning! Toxic Apeel Coating Being Sprayed on Your Produce! MY WALLET CARD HELPS YOU AVOID IT.”
 - iii. “The FDA and the U.S. government are NOT telling marketers and manufacturers what ‘plant-based’ even means. So, they can just call it that if they want to. It could have beef testicles, chicken skin, heavy metals, and oil and gas in it, and they could call it ‘PLANT-BASED.’ I’m not accusing Apeel of having beef testicles and chicken skin in their product. I’m saying that a label of ‘plant based’ DOESN’T mean there are no animal products in it. And I AM accusing them of having heavy metals and solvents in their product. That’s in their FDA filing.”
 - iv. “There’s also a bunch of other synthetic, toxic crap in the Apeel product, including 2 petrochemical solvents and 5 heavy metals. This is in their FDA filing, but it is NOT in their press release or marketing materials.”

⁸⁵ Robyn Openshaw, *Apeel Is Changing Their Story—What You Need to Know*, GreenSmoothieGirl.com (June 7, 2024), <https://greensmoothiegirl.com/apel-coating-updates/>.

- s) On June 7, 2024, in an article titled, “Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?” published on GreenSmoothieGirl.com:⁸⁶
- i. “Fresh fruits and vegetables may be sprayed with the Apeel coating – which is toxic and may not even be labeled.”
 - ii. “Now, I’m calling on the GreenSmoothieGirl army to be the resistance. Together, we can push back against Apeel, which isn’t necessary and is toxic to our health.”
 - iii. “Expect to have to educate them that it is a toxic preservative sprayed on produce by some companies, that is marketed as ‘plant-based’ – but in fact, several heavy metals and petrochemicals are involved, according to their own FDA filing.”
 - iv. “You can tell them this: Don’t take my word for it, the Apeel company’s filing with the FDA is where I got this information about 5 heavy metals and 2 solvents involved in making the product with a little throwaway pulp from some plant, to be able to sell it as ‘plant based.’”
 - v. “The Apeel company is using ‘greenwashing’ to promote its product. What is greenwashing? It’s calling your toxic chemical product ‘plant-based’ because there’s a little grapeseed mush that maybe grape juice companies sold you.”
 - vi. “So that we don’t feed our kids and grandkids food coated with toxic synthetic chemicals we can neither see nor wash off.”
- t) On June 11, 2024, in a video posted to YouTube titled, “Apeel’s Big Announcement”:⁸⁷

⁸⁶ Robyn Openshaw, *Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?*, GreenSmoothieGirl.com (June 7, 2024), <https://greensmoothiegirl.com/fight-apeel-coating/>.

⁸⁷ GreenSmoothieGirl, *Apeel’s Big Announcement*, YouTube (June 11, 2024), <https://www.youtube.com/watch?v=BauJo6rcMkE>.

- i. “There are also five heavy metals and two petrochemical solvents in the product.”
 - ii. “Apeel Sciences, which is a synthetic, toxic chemical product masquerading as plant based.”
 - iii. “I’m saying that a label of plant-based doesn’t mean that there’s no animal products in it is all, and I am accusing them of having heavy metals and solvents in their product. That I am accusing them of.”
 - iv. “I’ve seen Apeel customer support say various materials that are byproducts of food manufacturing industries may be in the product, and I’ve heard James Rogers himself say that any plant product will do, which makes me wonder if they’re just putting in a little pinch of any random plant product they can get, where the rest of the product is very synthetic and chemical.”
 - v. “There’s also a bunch of other synthetic toxic crap in the Apeel product, and two petrochemical solvents and five heavy metals are involved. This is in their FDA filing, but it’s not in their press release or their marketing materials.”
- u) On June 11, 2024, in a video posted to Rumble titled, “Apeel’s Big Announcement”:⁸⁸
- i. “There are also five heavy metals and two petrochemical solvents in the product.”
 - ii. “Apeel Sciences, which is a synthetic, toxic chemical product masquerading as plant based.”
 - iii. “I’m saying that a label of plant-based doesn’t mean that there’s no animal products in it is all, and I am accusing them of having heavy metals and solvents in their product. That I am accusing them of.”

⁸⁸ Robyn Openshaw, *Apeel’s Big Announcement*, Rumble (June 11, 2024), <https://rumble.com/v50vtwz-apeels-big-announcement.html>.

- iv. “I’ve seen Apeel customer support say various materials that are byproducts of food manufacturing industries may be in the product, and I’ve heard James Rogers himself say that any plant product will do, which makes me wonder if they’re just putting in a little pinch of any random plant product they can get, where the rest of the product is very synthetic and chemical.”
 - v. “There’s also a bunch of other synthetic toxic crap in the Apeel product, and two petrochemical solvents and five heavy metals are involved. This is in their FDA filing, but it’s not in their press release or their marketing materials.”
- v) On June 18, 2024, in a video posted to YouTube titled, “You Did It! We The Consumers Win!”:⁸⁹
- i. “Many companies try to put iterations of the word organic into the name of their product to make the consumer believe it’s a safe or even healthy product, when in this case, Apeel, Edipeel, and Organipeel are not whatsoever good for us, even if somewhere in the otherwise synthetic petrochemical-based product is a little bit of some kind of processed plant product.”
 - ii. “The monoglycerides and diglycerides, nobody knows what they’re made of, then there’s the two solvents and five metals disclosed in Apeel’s FDA filing.”
 - iii. “Apeel Sciences’ own FDA filing discloses 5 heavy metals and 2 petrochemical solvents used in the product’s manufacturing.” On screen is a table that lists the maximum daily exposure limits for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.
 - iv. “Let me say that again, I hope you write that down so you can talk to people in the produce department where you shop: 5 heavy metals and 2 petrochemical solvents.”

⁸⁹ GreenSmoothieGirl, *You Did It! We The Consumers Win!*, YouTube (June 18, 2024), https://www.youtube.com/watch?v=_EHBMOZpi5Y.

- v. “James Rogers says his goal is to reduce food waste, but I think having solvents and metals and synthetic harmful trans fats and God knows what else on our food waste just makes the plant’s remains toxic to the Earth.”
- w) On June 20, 2024, in a video posted to Rumble titled, “You Did It! We The Consumers Win!”:⁹⁰
- i. “Many companies try to put iterations of the word organic into the name of their product to make the consumer believe it’s a safe or even healthy product, when in this case, Apeel, Edipeel, and Organipeel are not whatsoever good for us, even if somewhere in the otherwise synthetic petrochemical-based product is a little bit of some kind of processed plant product.”
 - ii. “The monoglycerides and diglycerides, nobody knows what they’re made of, then there’s the two solvents and five metals disclosed in Apeel’s FDA filing.”
 - iii. “Apeel Sciences’ own FDA filing discloses 5 heavy metals and 2 petrochemical solvents used in the product’s manufacturing.” On screen is a table that lists the maximum daily exposure limits for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.
 - iv. “Let me say that again, I hope you write that down so you can talk to people in the produce department where you shop: 5 heavy metals and 2 petrochemical solvents.”
 - v. “James Rogers says his goal is to reduce food waste, but I think having solvents and metals and synthetic harmful trans fats and God knows what else on our food waste just makes the plant’s remains toxic to the Earth.”

⁹⁰ Robyn Openshaw, *You Did It! We The Consumers Win!*, Rumble (June 20, 2024), <https://rumble.com/v52rgp3-you-did-it-we-the-consumers-win.html>.

- x) On June 21, 2024, in an article published on GreenSmoothieGirl.com titled, “GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company”:⁹¹
 - i. Apeel contains “synthetic preservatives.”
 - ii. “Apeel Is Actually Made with Harmful Trans Fats.”
 - iii. “The monoglycerides and diglycerides in Apeel are well-known trans fats. They are so harmful that a warning label is required on foods that contain them.”
 - iv. “The monoglycerides and diglycerides in Apeel? Nobody knows precisely what they’re made of. Although the product may have started as a plant, the FDA filing shows it contains two solvents and five heavy metals. Plus, the company isn’t disclosing other ‘proprietary chemicals.’”
 - v. “The only reason any plant matter will do is if it’s a minor ingredient in an otherwise synthetic product!”
- y) On July 18, 2024, in a video posted to YouTube titled, “Help Save The Cucumbers!”:⁹²
 - i. “A company called Apeel Sciences wants to spray or dip your produce in a coating that their own filing with the FDA shows involves five heavy metals and two petrochemical solvents.”
 - ii. “Please also tell them that they should consult the FDA filing of Apeel Sciences so that they can learn for themselves that the synthetic spray they want to put on cucumbers is made with a variety of highly toxic materials, and isn’t, as this recent article claims, ‘just plants protecting plants.’”

⁹¹ Robyn Openshaw, *GreenSmoothieGirl Gets Apeel Shut Down at Billion-Dollar Produce Company*, GreenSmoothieGirl.com (June 21, 2024), <https://greensmoothiegirl.com/apeel-coating-limoneira-citrus/>.

⁹² GreenSmoothieGirl, *Help Save The Cucumbers!*, YouTube (July 18, 2024), <https://www.youtube.com/watch?v=R40e9SkJnfQ>.

- z) On July 19, 2024, in a video posted to Rumble titled, “Help Save The Cucumbers!”:⁹³
- i. “A company called Apeel Sciences wants to spray or dip your produce in a coating that their own filing with the FDA shows involves five heavy metals and two petrochemical solvents.”
 - ii. “Please also tell them that they should consult the FDA filing of Apeel Sciences so that they can learn for themselves that the synthetic spray they want to put on cucumbers is made with a variety of highly toxic materials, and isn’t, as this recent article claims, ‘just plants protecting plants.’”
- aa) On July 23, 2024, in a video posted to YouTube titled, “Walmart Cucumbers Coated With Apeel”:⁹⁴
- i. “Apeel’s manufacturing process and heavy metals and solvents in the manufacturing.”
 - ii. “We do not whatsoever trust FDA calling 5 metals and 2 solvents on our food safe and I hope that you’ll reconsider as hundreds of thousands of people who care about their children’s and their own health are about to hear about this partnership and you’ll be hearing from many of them.”
 - iii. “You cannot choose the wellbeing of your customers if you’re forcing us to eat, hardened synthetic fats, chemicals and a proprietary blend that Apeel has refused to disclose and metals and solvents that we are then forced to eat.”
 - iv. “Thank you for being part of the resistance. If you’re not, and you’re expecting someone else to do it, then I guess we deserve to eat vegetables and fruits coated with fake fats, solvents metals and actually, who really knows since they won’t say.”

⁹³ Robyn Openshaw, *Help Save The Cucumbers!*, Rumble (July 19, 2024), <https://rumble.com/v57j68d-help-save-the-cucumbers.html>.

⁹⁴ GreenSmoothieGirl, *Walmart Cucumbers Coated With Apeel*, YouTube (July 23, 2024), <https://www.youtube.com/watch?v=1sddqEsbMOE>.

- bb) On July 23, 2024, in a Reel posted to Instagram:⁹⁵
- i. “Apeel’s manufacturing process and heavy metals and solvents in the manufacturing.”
 - ii. “We do not whatsoever trust FDA calling 5 metals and 2 solvents on our food safe and I hope that you’ll reconsider as hundreds of thousands of people who care about their children’s and their own health are about to hear about this partnership and you’ll be hearing from many of them.”
 - iii. “You cannot choose the wellbeing of your customers if you’re forcing us to eat, hardened synthetic fats, chemicals and a proprietary blend that Apeel has refused to disclose and metals and solvents that we are then forced to eat.”
 - iv. “Thank you for being part of the resistance. If you’re not, and you’re expecting someone else to do it, then I guess we deserve to eat vegetables and fruits coated with fake fats, solvents metals and actually, who really knows since they won’t say.”
- cc) On July 23, 2024, in a video posted to Rumble titled, “Walmart Cucumbers Coated With Apeel”:⁹⁶
- i. “Apeel’s manufacturing process and heavy metals and solvents in the manufacturing.”
 - ii. “We do not whatsoever trust FDA calling 5 metals and 2 solvents on our food safe and I hope that you’ll reconsider as hundreds of thousands of people who care about their children’s and their own health are about to hear about this partnership and you’ll be hearing from many of them.”
 - iii. “You cannot choose the wellbeing of your customers if you’re forcing us to eat, hardened synthetic fats, chemicals and a

⁹⁵ Robyn Openshaw (@thegreensmoothiegirl), Instagram (July 23, 2024), <https://www.instagram.com/reel/C9xvw-5uoQs/?hl=en>.

⁹⁶ Robyn Openshaw, *Walmart Cucumbers Coated With Apeel*, Rumble (July 23, 2024), <https://rumble.com/v584my4-walmart-cucumbers-coated-with-apeel.html>.

proprietary blend that Apeel has refused to disclose and metals and solvents that we are then forced to eat.”

- iv. “Thank you for being part of the resistance. If you’re not, and you’re expecting someone else to do it, then I guess we deserve to eat vegetables and fruits coated with fake fats, solvents metals and actually, who really knows since they won’t say.”
- dd) On July 31, 2024, in an article published to GreenSmoothieGirl.com titled, “These Companies Have Pledged Not to Use Apeel”:⁹⁷
 - i. “I’ve previously covered this product as containing 5 heavy metals and 2 toxic petrochemical solvents, even if Apeel Sciences will tell you, if you write them, only that the product is ‘made from grapeseed,’ which is ‘greenwashing’ at its worst.”
- ee) On August 1, 2024, in an article published on GreenSmoothieGirl.com titled, “These Stores & Brands Refuse to Use Apeel”:⁹⁸
 - i. “Maybe you’ve seen that I’ve been investigating what’s really in Apeel that is sprayed on some of our produce, and which stores and brands tell customers they refuse to carry food from suppliers spraying this toxic synthetic coating.”
 - ii. “But [Apeel’s] filing with the FDA shows various chemical solvents and heavy metals used in the manufacture of the product.”

⁹⁷ Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, GreenSmoothieGirl.com (updated July 31, 2024), <https://greensmoothiegirl.com/these-companies-have-pledged-not-to-use-apeel/>.

⁹⁸ Robyn Openshaw, *These Stores & Brands Refuse to Use Apeel*, GreenSmoothieGirl.com (updated Aug. 1, 2024), <https://greensmoothiegirl.com/these-stores-and-brands-refuse-to-use-apeel/>.

- ff) On August 5, 2024, in an article published on GreenSmoothieGirl.com titled, “Will You Help Me Save Cucumbers from the Toxic Apeel Coating?”:⁹⁹
- i. “With the help of the GreenSmoothieGirl community, I’ve been researching and fighting back against the toxic Apeel preservative being sprayed at grocery stores.”
 - ii. “A company called Apeel Sciences wants to coat your produce in a preservative that, according to their filing with the FDA, involves five heavy metals and two petrochemical solvents.”
 - iii. “Thank you for every action you take to stop this company from coating all our foods and our children’s foods with toxins.”
- gg) On August 7, 2024, in a post to X:¹⁰⁰
- i. “With the help of the GreenSmoothieGirl community, I’ve been researching and fighting back against the toxic Apeel preservative being sprayed at grocery stores. Now we have to save cucumbers!”
- hh) On September 3, 2024, in a video posted to YouTube titled, “Breaking News on Apeel”:¹⁰¹
- i. “I just don’t wanna eat his toxic preservative on my food and I don’t want you to have to either.”
 - ii. “We have to tell the companies who put it on our food not to. We don’t directly buy the synthetic coating that involves a lot of trans fats, chemicals that they’re trying to pass off as natural, and they seem to be saying they’ve changed their formula since filing

⁹⁹ Robyn Openshaw, *Will You Help Me Save Cucumbers from the Toxic Apeel Coating?*, GreenSmoothieGirl.com (Aug. 5, 2024), <https://greensmoothiegirl.com/apeel-coating-cucumbers/>.

¹⁰⁰ GreenSmoothieGirl (@Robyn_Openshaw), X (Aug. 7, 2024), https://x.com/Robyn_Openshaw/status/1821037827817370079.

¹⁰¹ GreenSmoothieGirl, *Breaking News on Apeel*, YouTube (Sept. 3, 2024), <https://www.youtube.com/watch?v=f4ZTvIeEsk>.

their FDA GRAS statement where they disclosed five heavy metals and two solvents.”

- iii. “But they’ve posted a statement on their website that I have to share parts of it with you to show how they continue to try to pass off a toxic product we don’t want on our food as some kind of innocuous product so that they can keep getting companies to coat their produce in it and so that we just shut up and stop complaining to those companies reselling Apeel-coated produce. And the companies behind the scenes are actually dipping the fruits and vegetables in it. They’re saying the FDA document they filed showing five heavy metals and two solvents is outdated.”
- iv. “Back to Apeel, they claim they’re no longer using solvents. They very weirdly claim that heavy metals are not added to our product. Okay, so nobody’s ever accused them of adding heavy metals. They were in their FDA filing as being used in their manufacturing process.”
- v. “That makes it a substance that doesn’t have to be listed as an ingredient. Then it gets weirder. They say, in fact, we try to remove as many heavy metals as possible during the manufacturing process. I would love to know what brings heavy metals into their manufacturing process in the first place that they claim they’re trying to remove. But we still don’t know as they’ve still not disclosed a complete ingredient list. We just know about the trans fats and the citric acid now.”
- ii) On September 3, 2024, in a video posted to Rumble titled, “Breaking News on Apeel”:¹⁰²
 - i. “I just don’t wanna eat his toxic preservative on my food and I don’t want you to have to either.”
 - ii. “We have to tell the companies who put it on our food not to. We don’t directly buy the synthetic coating that involves a lot of

¹⁰² Robyn Openshaw, *Breaking News on Apeel*, Rumble (Sept. 3, 2024), <https://rumble.com/v5dkatp-breaking-news-on-apeel.html>.

trans fats, chemicals that they're trying to pass off as natural, and they seem to be saying they've changed their formula since filing their FDA GRAS statement where they disclosed five heavy metals and two solvents."

- iii. "But they've posted a statement on their website that I have to share parts of it with you to show how they continue to try to pass off a toxic product we don't want on our food as some kind of innocuous product so that they can keep getting companies to coat their produce in it and so that we just shut up and stop complaining to those companies reselling Apeel-coated produce. And the companies behind the scenes are actually dipping the fruits and vegetables in it. They're saying the FDA document they filed showing five heavy metals and two solvents is outdated."
- iv. "Back to Apeel, they claim they're no longer using solvents. They very weirdly claim that heavy metals are not added to our product. Okay, so nobody's ever accused them of adding heavy metals. They were in their FDA filing as being used in their manufacturing process."
- v. "That makes it a substance that doesn't have to be listed as an ingredient. Then it gets weirder. They say, in fact, we try to remove as many heavy metals as possible during the manufacturing process. I would love to know what brings heavy metals into their manufacturing process in the first place that they claim they're trying to remove. But we still don't know as they've still not disclosed a complete ingredient list. We just know about the trans fats and the citric acid now."

jj) On September 3, 2024, in a Reel posted to Instagram:¹⁰³

- i. "I just don't wanna eat his toxic preservative on my food and I don't want you to have to either."

¹⁰³ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Sept. 3, 2024), https://www.instagram.com/thegreensmoothiegirl/reel/C_dqkmduJm9/.

- ii. “We have to tell the companies who put it on our food not to. We don’t directly buy the synthetic coating that involves a lot of trans fats, chemicals that they’re trying to pass off as natural, and they seem to be saying they’ve changed their formula since filing their FDA GRAS statement where they disclosed five heavy metals and two solvents.”
- iii. “But they’ve posted a statement on their website that I have to share parts of it with you to show how they continue to try to pass off a toxic product we don’t want on our food as some kind of innocuous product so that they can keep getting companies to coat their produce in it and so that we just shut up and stop complaining to those companies reselling Apeel-coated produce. And the companies behind the scenes are actually dipping the fruits and vegetables in it. They’re saying the FDA document they filed showing five heavy metals and two solvents is outdated.”
- iv. “Back to Apeel, they claim they’re no longer using solvents. They very weirdly claim that heavy metals are not added to our product. Okay, so nobody’s ever accused them of adding heavy metals. They were in their FDA filing as being used in their manufacturing process.”
- v. “That makes it a substance that doesn’t have to be listed as an ingredient. Then it gets weirder. They say, in fact, we try to remove as many heavy metals as possible during the manufacturing process. I would love to know what brings heavy metals into their manufacturing process in the first place that they claim they’re trying to remove. But we still don’t know as they’ve still not disclosed a complete ingredient list. We just know about the trans fats and the citric acid now.”

- kk) On September 25, 2024, in an article published on GreenSmoothieGirl.com titled, “Why the Apeel Coating is Toxic and Doesn’t Even Work”:¹⁰⁴
 - i. “Apeel is toxic, it’s made with solvents and heavy metals.”
- ll) On December 5, 2024, in a video posted to YouTube titled, “What’s Really in Apeel?”:¹⁰⁵
 - i. “About what’s in it, he has, he’s on record as saying, it’s just plants protecting plants when very clearly it’s some kind of synthetic polymer or plastic type of product.”
- mm) On December 5, 2024, in a video posted to Rumble titled, “What’s Really in Apeel?”:¹⁰⁶
 - i. “About what’s in it, he has, he’s on record as saying, it’s just plants protecting plants when very clearly it’s some kind of synthetic polymer or plastic type of product.”
- nn) On December 5, 2024, in a Reel posted to Instagram:¹⁰⁷
 - i. “About what’s in it, he has, he’s on record as saying, it’s just plants protecting plants when very clearly it’s some kind of synthetic polymer or plastic type of product.”

¹⁰⁴ Robyn Openshaw, *Why the Apeel Coating is Toxic and Doesn’t Even Work*, GreenSmoothieGirl.com (updated Sept. 25, 2024), <https://greensmoothiegirl.com/apel-doesnt-work/>.

¹⁰⁵ GreenSmoothieGirl, *What’s really in Apeel?*, YouTube (Dec. 5, 2024), <https://www.youtube.com/watch?v=62NrUs-OU2o>.

¹⁰⁶ Robyn Openshaw, *What’s really in Apeel?*, Rumble (Dec. 5, 2024), <https://rumble.com/v5wh1kz-whats-really-in-apel.html>.

¹⁰⁷ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 5, 2024), <https://www.instagram.com/thegreensmoothiegirl/reel/DDNTRv6OhGu/>.

- oo) On May 14, 2025, in an article published on GreenSmoothieGirl.com titled, “The 5 Heavy Metals and 2 Industrial Solvents in APEEL”:¹⁰⁸
- i. “So, if it’s ‘just food protecting food,’ why is THIS in James Rogers’ filing with the FDA? These are the five heavy metals and two industrial solvents in the product.” Included is a screenshot from Apeel’s FDA GRAS submission that lists the maximum daily exposure limits for residues in a mixture of monoacylglycerides derived from grape seed, such as ethyl acetate, heptane, palladium, arsenic, lead, cadmium, and mercury.
 - ii. “They’re arguing, with this chart, that the amount is no big deal, it’s a ‘safe’ amount—but unfortunately the coating for produce isn’t your only exposure to these metals and chemicals, and the effect is cumulative in the human body. And absolutely no one is doing the research on what the effect is, of the combinations of these well-known highly toxic chemicals and metals, on human beings’ health. There is no safe amount of palladium, arsenic, lead, cadmium and mercury for living beings. They are extremely destructive in small amounts. If metals go in, normal metabolic functions do NOT bring them out.”
 - iii. “If we don’t talk to our grocers and everyone in the supply chain, we have access to, we can expect heavy metals and chemicals coating our healthiest foods, till forever, and we won’t even know it.”

219. Defendants’ statements were intended to and did falsely convey that Apeel’s products are toxic, poisonous, and contain petrochemical solvents and unsafe levels of heavy metals.

¹⁰⁸ Robyn Openshaw, *The 5 Heavy Metals and 2 Industrial Solvents in APEEL*, GreenSmoothieGirl.com (updated May 14, 2025), <https://greensmoothiegirl.com/the-5-heavy-metals-and-2-industrial-solvents-in-apeel/>.

220. These statements are reasonably understood to be statements of fact about Apeel and its products and were understood by people who read them to be statements of fact about Apeel.

221. Defendants' statements are false because they say that Apeel products are toxic, poisonous, and unsafe to consume because they contain solvents and heavy metals. Apeel's products are an innovative application of decades-approved, safe, food-grade products and ingredients. Apeel's products do not, as Defendant insists, contain "solvents" or "unsafe" levels of "heavy metals." Nor are they toxic, poisonous, or unsafe to consume.

222. Defendants' statements are defamatory per se—and at least a substantial and respectable minority of the community understood them to be defamatory—because they expose Apeel to hatred, ridicule, or contempt and tend to injure Apeel in its business and reputation.

223. Defendants' statements impugn Apeel in the conduct of its trade and business, and the defamatory meaning of Defendants' statements is apparent on the face of those statements without the need of extrinsic evidence.

224. Defendants acted with actual malice because they knew their claims were false. They had access to, read, and often referenced Apeel's GRAS filings, which plainly contradict their claims. Not only did they disregard these filings, but they also intentionally misrepresented them by using inaccurate, deceptive,

misleading, and selective citations to and quotations the GRAS filings to support their false claims, as set forth above.

225. Further, the falsehoods published by Defendants were publicly fact-checked by Apeel and third-party sources prior to Defendants' publication of their false claims. Defendants acted with actual malice by disregarding this credible, publicly available information that contradicted their preconceived false narrative.

226. Defendants also acted with actual malice because they were motivated by the prospect of financial gain and public acclaim.

227. Defendants also acted with actual malice because they refused to retract their false statements. Apeel sent a written retraction demand to Defendants on August 22, 2025. Apeel informed Defendants that their claims were demonstrably false. Defendants ignored Apeel's written demand and refused to retract their statements, and they never provided any justification to support their false claims about Apeel or its products.

228. Defendants had no applicable privilege or legal authorization to make these false and defamatory statements, or if they did, they abused that privilege.

229. Defendants' statements harmed Apeel's business and reputation. Their statements were calculated to (and did) deter current and prospective consumers from doing business with Apeel. Defendants actively and consistently urged their followers to boycott Apeel and pressure individual grocers, major retail chains, and

suppliers to stop selling Apeel-protected produce. Defendants provided instructions on how to do so, including detailed contact information and a template script.

230. Defendants' false claims eroded Apeel's goodwill among consumers and caused Apeel's customers and prospective customers to cease doing business with Apeel. Because of Defendants' false and misleading claims, Apeel lost at least \$28.1 million in reasonably anticipated revenue.

231. Apeel demands, and is entitled to recover, compensatory, actual, special, and presumed damages for the reputational and economic harm Defendants' statements caused. Because Defendants acted with actual and common law malice, Apeel further demands, and is entitled to recover, punitive damages.

COUNT VI – DEFAMATION
(Against All Defendants)

232. Apeel repeats and alleges paragraphs 1–153 as if set forth fully herein.

233. Beginning in and ongoing from July 2023, Defendants published false and defamatory statements of fact about Apeel and Apeel's product to hundreds of thousands of Openshaw's followers across several social media platforms and Openshaw's website, including:

- a) On December 19, 2023, in a Reel posted to Instagram:¹⁰⁹

¹⁰⁹ Robyn Openshaw (@thegreensmoothiegirl), Instagram (Dec. 19, 2023), <https://www.instagram.com/reel/C1CvsyHOADw/>.

- i. Apeel’s co-founder, James Rogers, began by “experimenting with Africans’ food, spraying it on their crops as they grew.”
 - ii. “I don’t know about you, but I get really sad when I read about how much third world people get experimenting on with chemicals in their food by American manufacturers.”
 - iii. “It’s not food protecting food, as James Rogers tells Mark Hyman. It’s full of synthetic chemicals, metals, and solvents. It’s not the exact same as a lemon peel, as Rogers also says. It’s a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based.”
- b) On December 19, 2023, in a video posted to YouTube titled, “Mark Hyman’s Defense of Apeel and Gaslighting Followers for Questioning It”:¹¹⁰
- i. Apeel’s co-founder, James Rogers, began by “experimenting with Africans’ food, spraying it on their crops as they grew.”
 - ii. “I don’t know about you, but I get really sad when I read about how much third world people get experimenting on with chemicals in their food by American manufacturers.”
 - iii. “It’s not food protecting food, as James Rogers tells Mark Hyman. It’s full of synthetic chemicals, metals, and solvents. It’s not the exact same as a lemon peel, as Rogers also says. It’s a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based.”

¹¹⁰ GreenSmoothieGirl, *Mark Hyman’s Defense of Apeel and Gaslighting Followers for Questioning It*, YouTube (Dec. 19, 2023), <https://www.youtube.com/watch?v=ABjrjKVobOg>.

- c) On December 20, 2023, in a video posted to Rumble titled, “Mark Hyman’s Defense of Apeel and Gaslighting Followers for Questioning It”:¹¹¹
 - i. Apeel’s co-founder, James Rogers, began by “experimenting with Africans’ food, spraying it on their crops as they grew.”
 - ii. “I don’t know about you, but I get really sad when I read about how much third world people get experimenting on with chemicals in their food by American manufacturers.”
 - iii. “It’s not food protecting food, as James Rogers tells Mark Hyman. It’s full of synthetic chemicals, metals, and solvents. It’s not the exact same as a lemon peel, as Rogers also says. It’s a bunch of synthetic chemicals and solvents with a pinch of some kind of greenwashing to be able to market it as plant based.”
- d) On June 4, 2024, in a video posted to YouTube titled, “How to Get Rid of Apeel”:¹¹²
 - i. “This is what the word greenwashing means you guys, calling your toxic chemical product plant-based because there’s a little bit of grapeseed mush that maybe some grape juice companies sold you because otherwise, they’d have to pay to send it away.”
- e) On June 4, 2024, in a video posted to Rumble titled, “How to Get Rid of Apeel”:¹¹³
 - i. “This is what the word greenwashing means you guys, calling your toxic chemical product plant-based because there’s a little

¹¹¹ Robyn Openshaw, *Mark Hyman’s Defense of Apeel and Gaslighting Followers for Questioning It*, Rumble (Dec. 20, 2023), <https://rumble.com/v42dj4f-mark-hymans-defense-of-apeel-and-gaslighting-followers-for-questioning-it.html>.

¹¹² GreenSmoothieGirl, *How to Get Rid of Apeel*, YouTube (June 4, 2024), <https://www.youtube.com/watch?v=vNUiNvg8xIg>.

¹¹³ Robyn Openshaw, *How to Get Rid of Apeel*, Rumble (June 4, 2024), <https://rumble.com/v4zm3nr-how-to-get-rid-of-apeel.html>.

bit of grapeseed mush that maybe some grape juice companies sold you because otherwise, they'd have to pay to send it away.”

- f) On June 5, 2024, in a Reel posted to Instagram:¹¹⁴
 - i. “This is what the word greenwashing means you guys, calling your toxic chemical product plant-based because there’s a little bit of grapeseed mush that maybe some grape juice companies sold you because otherwise, they’d have to pay to send it away.”
- g) On June 7, 2024, in article published on GreenSmoothieGirl.com titled, “Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?”:¹¹⁵
 - i. “The Apeel company is using ‘greenwashing’ to promote its product. What is greenwashing? It’s calling your toxic chemical product ‘plant-based’ because there’s a little grapeseed mush that maybe grape juice companies sold you.”
- h) On July 31, 2024, in an article published on GreenSmoothieGirl.com titled, “These Companies Have Pledged Not to Use Apeel”:¹¹⁶
 - i. “I’ve previously covered this product as containing 5 heavy metals and 2 toxic petrochemical solvents, even if Apeel Sciences will tell you, if you write them, only that the product is ‘made from grapeseed,’ which is ‘greenwashing’ at its worst.”

234. Defendants’ statements are reasonably understood to be statements of fact about Apeel, and those statements were understood by people who saw, heard,

¹¹⁴ Robyn Openshaw (@thegreensmoothiegirl), Instagram (June 5, 2024), <https://www.instagram.com/p/C71s5i6ursE/?hl=en>.

¹¹⁵ Robyn Openshaw, *Will You Join Me in Fighting the Toxic Apeel Coating Sprayed on Fresh Fruits and Vegetables?*, GreenSmoothie.com (June 7, 2024), <https://greensmoothiegirl.com/fight-apeel-coating/>.

¹¹⁶ Robyn Openshaw, *These Companies Have Pledged Not to Use Apeel*, GreenSmoothieGirl.com (updated July 31, 2024), <https://greensmoothiegirl.com/these-companies-have-pledged-not-to-use-apeel/>.

and read them to be statements of fact about Apeel. Defendant Openshaw purports to be a PhD-educated food and wellness expert, suggesting to readers that her pronouncements are researched, reliable, and based on facts. To further lend credibility to her false claims as facts, Openshaw represented they were based on FDA GRAS filings.

235. Defendants' statements convey, and are reasonably understood to convey, that Apeel exploited and experimented with African food supplies by introducing "chemicals" to their produce.

236. Defendants' statements are false. Apeel never "experimented" with the African food supply. In fact, Apeel's product for cassava, a staple crop in Africa, extended its shelf life. Not only did this reduce food waste in Africa, but it also allowed smallholder farmers to commercialize their crops by allowing those crops to last longer after harvest before spoiling. Thus, Apeel benefitted the health and businesses of African cassava consumers and farmers.

237. Defendants' statements convey, and are reasonably understood to convey, that Apeel "greenwashes" its products—in other words, that it lies to consumers about its products. While "greenwashing" typically refers to deceptive marketing practices that cause consumers to believe a company's policies are more environmentally friendly than they are, Defendants apparently intended to use this term to accuse Apeel of marketing its products to be healthier than they are.

238. Both interpretations are false. Apeel lives up to its environmental impact claims. Since Apeel started tracking in 2021, the use of Apeel products on fresh produce has resulted in 166 million pieces of produce prevented from going to waste, resulting in an avoidance of 29,100 mT CO₂-eq GHG emissions (equivalent to planting 485,000 trees) and a savings of 6.96 billion liters of water (equivalent to 2,800 Olympic-sized swimming pools). The methodologies used to arrive at these results are also third-party validated.

239. Apeel is also transparent about its ingredients and manufacturing processes. Apeel's products are an innovative application of decades-approved, safe, food-grade products and ingredients. Apeel's products do not, as Defendants insist, contain "solvents" or "unsafe" levels of "heavy metals."

240. Defendants' statements are defamatory per se—and at least a substantial and respectable minority of the community understood them to be defamatory—because they expose Apeel to hatred, ridicule, or contempt and tend to injure Apeel in its business and reputation. Any statement that Apeel exploited African food chains or lies to consumers about its products' contents harms Apeel's business reputation and damages its brand, particularly with consumers who seek out sustainable and healthy food options. The defamatory meaning of Defendants' statements is apparent on the face of those statements without the need of extrinsic information.

241. Defendants' false statements that Apeel exploited African food chains or lies to consumers about its products' contents are defamatory per se because they improperly call into question the safety of Apeel's ingredients, possible health risks caused by Apeel's conduct, and inherent characteristics of Apeel's product and marketing which tend to injure Apeel in its business.

242. As a direct and foreseeable result of Defendants' false and defamatory statements, Apeel has suffered significant reputational and economic harm as detailed above.

243. Defendants had no applicable privilege or legal authorization to publish their defamatory statements or, if they did, abused that privilege.

244. Defendants published their defamatory statements with actual malice. Defendants knew their statements were false when they made them or recklessly disregarded the truth or falsity of their statements. Specifically, Defendants acted with actual malice because: (1) Defendants ignored or mischaracterized obvious sources of information—including Apeel's publicly available FDA GRAS filings and numerous third party fact checks—that contradicted the narrative they concocted to take down Apeel; (2) Defendants had a financial motive to publish defamatory falsehoods about Apeel; and (3) Defendants refused to retract or correct their false and defamatory statements.

245. Defendants published their statements maliciously, willfully, wantonly,

heedlessly, with common law malice, with actual malice, and with a conscious, reckless, and willful indifference to Apeel's rights, and with a desire to cause injury to Apeel. Indeed, Defendants repeatedly stated their intent to cause Apeel to "fail as a company." Accordingly, punitive damages are appropriate.

246. In view of the foregoing, Defendants entitled to and demand actual, presumed, and punitive damages in amounts to be specifically determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Apeel respectfully requests that the Court enter judgment in Apeel's favor, and against Defendants, as follows:

- (a) awarding Apeel actual and presumed damages in amounts to be specifically determined at trial;
- (b) awarding Apeel lost profits of not less than \$28.1 million;
- (c) awarding Apeel damages for reputational harm in an amount to be specifically determined at trial;
- (d) awarding Apeel disgorgement of profits Defendants made from their false statements about Apeel in an amount to be specifically determined at trial;
- (e) awarding Apeel treble damages;
- (f) awarding Apeel punitive damages;
- (g) issuing a declaration that this is an "exceptional case" due to the willful nature of Defendants' unlawful conduct, and awarding Apeel damages, attorneys' fees, costs pursuant to 15 U.S.C. § 1117;
- (h) awarding Apeel all costs, disbursements, fees, and interest as authorized by applicable law;

- (i) issuing a narrowly tailored injunction prohibiting Defendants from repeating any statement adjudicated to be false and defamatory; and
- (j) such other and additional remedies as the Court may deem just and proper.

A JURY TRIAL IS DEMANDED.

Dated: August 29, 2025

Respectfully Submitted,

/s/ Jered T. Ede

Jered T. Ede (Florida Bar No. 1045898)

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