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Ulta Repackages Used Products As New, Consumers Say

By **Rachel Graf**

Law360 (March 8, 2018, 5:54 PM EST) -- Beauty supplies retailer Ulta Beauty Inc. repackages used and outdated products as new, prioritizing profits over consumers' well-being, according to a proposed class action filed Wednesday in Illinois state court.

Paula M. Ogurkiewicz alleges Ulta managers are under pressure to limit the amount of used products that are returned to stores and have made employees clean up and repackage old, returned products to resell them as new. These products include makeup, haircare, skincare and fragrance, the complaint said.

"The company's marketing and advertising of its beauty products is false, deceptive and misleading to reasonable consumers who believe that they are purchasing new, unused and previously unopened cosmetics," according to the complaint.

Ulta has known about the repackaging for at least two years but has failed to address it, the complaint alleges.

When consumers purchase beauty products from retailers, they expect the products to be new and sanitary, Ogurkiewicz said. Used beauty products are unhygienic, and testing has found they might be contaminated with harmful bacteria such as E. coli or the herpes simplex virus, according to the suit.

Ogurkiewicz said consumers would not have bought the products if they knew they had been used. Until Ulta stops repackaging used products, customers will be at risk of buying them again and suffering more harm, according to the complaint. Many of the purchasers are members of the company's loyalty program, and will continue to shop at the store, the suit said.

"Plaintiff has no way to distinguish between new beauty products, which she would be willing to purchase, and used beauty products, which she would not be willing to purchase," according to the suit.

Ulta discreetly sells expired products as well, the complaint alleges.

Ogurkiewicz seeks to represent a class of people nationwide and a subclass of Illinois residents who have bought used beauty products from Ulta, as well as a class of people who used points obtained through Ulta's rewards program to buy used beauty products. She also wants to represent a class of people nationwide and a subclass of people in Illinois who will buy Ulta products in the future.

"We deny the lawsuit's allegations, and intend to defend against this matter vigorously," an Ulta spokesperson said by email.

The company is facing several other suits related to the alleged repackaging, including a proposed class action alleging **shares of Ulta declined** following news reports about the practice.

Counsel for Ogurkiewicz didn't respond Thursday to a request for comment.

Ogurkiewicz is represented by Louis C. Ludwig, Patrick V. Dahlstrom, Gustavo F. Bruckner and Samuel J. Adams of Pomerantz LLP.

Counsel information for Ulta was not available Thursday.

The case is Paula M. Ogurkiewicz v. Ulta Beauty Inc., case number 2018-CH-03006, in the Circuit Court of Cook County, Illinois.

--Editing by Catherine Sum.

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