Aborea L. Petray, SBN 240085 E-MAIL: Sportay WithBase.com FINCH, THORNTON & BAIRD, LLP Altorneys at Law V127 Executive Gailer & Source 700 SAN DIEGO, CALIFORNIA 92121.3107 TELEPHONE: (SBN 737-3101 LURA SWITH, SBN 018002 (Consection) INE SWITHE IN 01802 (Consection) INE SWITHE IN 02004 (Consection) INE SWITHE IN 02002 (C		Case 3:11-cv-01056-MDD Document 10	68 Filed 10/13/2	15 Page 1 of 6
FINCH, THORNTON & BAIRD, LLP ATTORNEYS AT LAW 474 FERCUIVE ORIVE 3 OUT E 700 SAN DIEGO, CALIFORNIA 92121-3107 TELEPHONE: (883) 737-3101 LURA SWITH, 58N 0128002 (connection) (Not admined in California) E-MAIL: Isonine function (connection) (Not admined in California) E-MAIL: Isonine function (connection) (Not admined in California) E-MAIL: Isonine function (Not admined in California) E-MAIL: Isonine function (Not admined in California) E-MAIL: Isonine function (PRO MAC VICE APPLICATION PURCINIA) (PRO MAC VIC				
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SAN DIEGO. CALIFORNIA 92121-3107 TELEPHONE: (868) 737-3100 TELEPHONE: (868) 737-3100 AURA SMITH. SBN c128002 (Connecticut) (Met admitted in California) E-MAIL: South Performance AMADISON, CONNECTICUT 06443 TELEPHONE: (203) 421-0210 Attorneys for Truth In Advertising, Inc. JULIE NEPVEU (ADMITTED IN VIROINA) (PRO HAG VICE APPLICATION PRODING) E-MAIL: JNEOPUSAL 2010 ATTO DATION ALTICATION MAIS SOUTHERN DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA NICK PEARSON, an Individual, NICK PEARSON, ANDIE Autor Comportion, Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by)	
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(Not admitted in California) E-MAIL: Ismith@truthadeveriliang.org TRUTH IN ADVERTISING, INC. Its SAMSON ROOK DRIVE - SUITE 2 MADISON. CONNECTICUT 06443 TELEPHONE: (201) 421-6210 Attorneys for Truth In Advertising, Inc. JULIE NEPVEU (ADMITTED IN VIRGINIA) (PRO IND ATION ALITIGATION BOILE STORY, NW Washington, DC 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, NITERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation, Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by				
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TRUTH IN ADVERTISING, INC. 115 SAMSON ROCK DRIVE - SUITE 2 MADISON, CONNECTICUT 06443 TELEPHONE: (203) 421-6210 Attorneys for Truth In Advertising, Inc. JULIE NEPYEU (ADMITTED IN VIRGINIA) (PRO HAC VICE APPLICATION PENDING) E-MAIL: JNOPOWERATD.OTG OT E Street. NW Washington, DC 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, NICK PEARSON, an Individual, ON Behalf of Themselves and All Others Similarly Situated, Plaintiffs, CASE NO: 11-cv-1056-MDD V. CASE NO: 11-cv-1056-MDD V. CASE NO: 11-cv-1056-MDD REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC., a Delaware Corporation and SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation, and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants. Assigned to: Magistrate Judge: Hon. Mitchell D. Dembin Date: October 30, 2015 Time: 10:00 a.m. Courtroom: 1E		(Not admitted in California)		
Attorneys for Truth In Advertising, Inc. JULIE NEPVEU (ADMITTED IN VIRGINIA) (PRO HAG VICE APPLICATION PENDING) E-MIL: JNEYFORM EATP.079 AARP FOUNDATION LITIGATION MODE ESTIGAT, NW Washington, DC 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, V. SCHIFF NUTRITION INTERNATIONAL, INC., a Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by MICK PEARSON, Inc., ("TINA.org") and AARP, stand by Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by SCHIFF NUTRIFICION IN Advertising, Inc. ("TINA.org") and AARP, stand by Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by NEW PARSON, Nather Advertising, Inc. ("TINA.org") and AARP, stand by Plantify Situated, Inc. ("TINA.org") and AARP, stand by Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by Plantify Situated, Inc. ("TINA.org") and AARP, stand by Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by Plantify Situated, Inc. ("TINA.org") and Plantify Situated, Inc. ("TINA			-	
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JULE NEPVEU (ADMITTED IN VIRGINIA) (PRO HAC VICE APPLICATION PENDING). E-MAIL: JNEPVEU @BARP.OF AAR FOUNDATION ATTIGATION DO 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, CASE NO: 11-cv-1056-MDD V. CASE NO: 11-cv-1056-MDD V. CASE NO: 11-cv-1056-MDD SCHIFF NUTRITION INTERNATIONAL, INC., a Delendants. CASE NO: 11-cv-1056-MDD Defendants. Case no: 11-cv-1056-MDD Michter Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Utah Corporation, Defendants. Assigned to: Magistrate Judge: Hon. Mitchell D. Dembin Date: October 30, 2015 Time: Dictober 30, 2015 Time: Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	/	Attorneys for Truth In Advertising Inc.		
(PR0 HAC VICE APPLICATION PENDING) E-MAIL: JNRPYRUR BARP.OFG AARP FONDDATION LITIGATION S01 E Strat. NW Washington, DC 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, CASE NO: 11-cv-1056-MDD V. CASE NO: 11-cv-1056-MDD V. REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND ARP IN OPPOSITION TO PROPOSE SETTLEMENT V. Assigned to: Magistrate Judge: Hon. Mitchell D. Dembin Defendants. Defendants.	F	Auomeys for frum in Auverusing, inc.		
AARP FOUNDATION LITIGATION BOILE Street, NW Washington, DC 20049 TELEPHONE: (202)434-2075 Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, Plaintiffs, V. SCHIFF NUTRITION INTERNATIONAL, INC., a Deleaware Corporation and SCHIFF NUTRITION GROUP, INC. a Utah Corporation, Defendants. Amici curiae, Truth in Advertisity, Inc. ("TINA.org") and AARP, stand by				
Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, V. SCHIFF NUTRITION INTERNATIONAL, INC., a Defendants. Amici curiae, Truth in Advertisity, Inc. ("TINA.org") and AARP, stand by				
Attorneys for AARP UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, v. SCHIFF NUTRITION INTERNATIONAL, INC., a Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by		601 E Street, NW		
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, v. SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants. CASE NO: 11-cv-1056-MDD REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND AARP IN OPPOSITION TO PROPOSE SETTLEMENT Assigned to: Magistrate Judge: Hon. Mitchell D. Dembin Date: October 30, 2015 Time: 10:00 a.m. Courtroom: 1E Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by		-		
SOUTHERN DISTRUCT OF CALIFORNIALUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs,CASE NO: 11-cv-1056-MDDV.REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND AARP IN OPPOSITION TO PROPOSE SETTLEMENTv.Assigned to: Magistrate Judge: Hon. Mitchell D. DembinDelaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.Date: October 30, 2015 Time: 10:00 a.m. Outroom: 1EAmici curiae, Truth in Advertisity, Inc. ("TINA.org") and AARP, stand by	Attorneys for AARP			
SOUTHERN DISTRICT OF CALIFORNIA LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, v. SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants. CASE NO: 11-cv-1056-MDD REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND AARP IN OPPOSITION TO PROPOSE SETTLEMENT Assigned to: Magistrate Judge: Hon. Mitchell D. Dembin Date: October 30, 2015 Time: 10:00 a.m. Courtroom: 1E Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by				
LUIS LERMA, an Individual, NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs, V. SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by		UNITED STATES	DISTRICT CO	DURT
NICK PEARSON, an Individual, On Behalf of Themselves and All Others Similarly Situated, Plaintiffs,REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND AARP IN OPPOSITION TO PROPOSE SETTLEMENTv.SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.REPLY BRIEF OF AMICI CURIAE TRUTH IN ADVERTISING, INC. AND Assigned to: Magistrate Judge: Hon. Mitchell D. DembinDate:October 30, 2015 Time: 10:00 a.m. Courtroom: 1EAmici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by		SOUTHERN DISTR	ICT OF CALIF	FORNIA
Others Similarly Situated, Plaintiffs,TRUTH IN ADVERTISING, INC. AND AARP IN OPPOSITION TO PROPOSE SETTLEMENTv.SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.Assigned to: Magistrate Judge: Hon. Mitchell D. DembinDefendants.Date: October 30, 2015 Time: Outroom: 1EAmici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	I	LUIS LERMA, an Individual,	CASE NO: 11	1-cv-1056-MDD
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Plaintiffs, v.SETTLEMENTv.Assigned to: Magistrate Judge: Hon. Mitchell D. DembinSCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.Attention Date: Date: 10:00 a.m. Courtroom: Defendants.Magistrate Judge: Hon. Mitchell D. DembinDate: Cotober 30, 2015 Time: Courtroom: Defendants.Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	C	Stuated,	TRUTH IN A	DVERTISING, INC. AND POSITION TO PROPOSED
SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.Magistrate Judge: Hon. Mitchell D. DembinDate: October 30, 2015 Time: Courtroom: 1EDate: October 30, 2015 Time: Courtroom: 1E		Plaintiffs,	SETTLEMEN	T
SCHIFF NUTRITION INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants.Magistrate Judge: Hon. Mitchell D. DembinDate: October 30, 2015 Time: Courtroom: 1EDate: October 30, 2015 Time: Courtroom: 1E	V	7.	Assigned to:	
INTERNATIONAL, INC., a Delaware Corporation and SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Defendants. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	S	SCHIFF NUTRITION	Magistrate Juc	lge: D Dembin
SCHIFF NUTRITION GROUP, INC., a Utah Corporation, Time: 10:00 a.m. Courtroom: 1E Defendants. Time: 10:00 a.m. Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	Ι	NTERNATIONAL, INC., a		
a Utah Corporation, Courtroom: 1E Defendants. Courtroom: 1E Amici curiae, Truth in Advertising, Inc. ("TINA.org") and AARP, stand by	S	SCHIFF NUTRITION GROUP, INC.,	Date: O Time: 10	0:00 a.m.
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		Defendants.		
	Amici curiae. Truth in Advertising Inc. ("TINA org") and AARP stand by			
their opposition to the proposed settlement in this case, which was timely filed or				

March 11, 2015 (Dkt. 127-1) and supplemented in response to the parties' 1 proposed amendments to the settlement agreement on May 8, 2015 (Dkt. 144). 2 In their response brief, Plaintiffs state that it is their understanding that "the 3 Objections/Amicus Brief filed by Truth in Advertising, Inc. ("TINA") and the 4 American Association of Retired Persons ("AARP") earlier in this litigation 5 (D.E. 127, 136, 144), are no longer pending before this Court."¹ (Dkt.166). 6 Defendants also state that "it is unclear whether the objection has been 7 withdrawn." (Dkt. 167). TINA.org and AARP have not withdrawn their 8 9 opposition to the settlement. Further, the Supplemental Brief filed by TINA.org and AARP on May 15, 2015 (Dkt. 144) specifically opposes the terms of the 10 proposed *amended* settlement agreement.² 11 In summary, TINA.org and AARP oppose the terms of the proposed 12 settlement agreement, which bans just six types of phrases from the labels of 13 14 defendants' glucosamine supplement for a mere two years: Repair/repairing/reparation/repairs joints; 15 Repair/repairing/reparation/repairs cartilage; 16 Rebuild/rebuilding/rebuilds joints; 17 Rebuild/rebuilding/rebuilds cartilage; 18 Rejuvenate/rejuvenating/rejuvenation/rejuvenates joints; and 19 Rejuvenate/rejuvenating/rejuvenation/rejuvenates cartilage. 20 Second Amended Settlement Agreement, ¶ IV.E. The amended settlement 21 continues to allow the use of deceptive marketing phrases, including, for example, 22 "build cartilage," "improve joint function," "reduce joint pain," and other 23 synonymous phrases. Thus, as explained in detail in TINA.org's and AARP's 24 25 previous filings, this insignificant injunctive relief, requiring only superficial and 26 AARP is the correct legal name of the organization. AARP no longer stands for the "American Association of Retired Persons." 27 ² Both parties stated in their respective Responses to Objections that they are addressing the arguments raised by TINA.org and AARP. Thus, neither party is disadvantaged by their alleged confusion. 28 2

FINCH, THORNTON & BAIRD, LLP 4747 Executive Drive - Suite 700 San Diego, CA 92121 (858) 737-3100

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1	incomplete labeling changes, doe	s not justify release of the class members' claims			
2	and an award of over \$6.5 million, or 33% of the settlement fund to plaintiffs'				
3	attorneys, while the majority of class members—those who did not retain receipts				
4	for every purchase—will have an opportunity to receive a maximum recovery of				
5	\$12.00, if they learn about the settlement in time to make a claim.				
6	For the foregoing reasons,	For the foregoing reasons, and those detailed in the previously filed			
7	pleadings, amici curiae TINA.org	g and AARP respectfully urge this Court to deny			
8	final approval of the proposed set				
9	DATED: October 13, 2015	Respectfully submitted,			
10		FINCH, THORNTON & BAIRD, LLP			
11					
12		By: s/ Andrea L. Petray			
13		ANDREA L. PETRAY			
14		Email: apetray@ftblaw.com Attorneys for Truth In Advertising, Inc.			
15	DATED: October 13, 2015	Respectfully submitted,			
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17		By: <u>s/ Julie Nepveu</u>			
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19		Attorneys for AARP			
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(858) 737-3100					

	Case 3:11-cv-01056-MDD Document 168 Filed 10/13/15 Page 4 of 6		
1	CERTIFICATE OF SERVICE		
2	The undersigned hereby certifies that this document has been filed		
3	electronically on this 13th day of October 2015 and is available for viewing and		
4	downloading to the ECF registered counsel of record:		
5	Via Electronic Service/ECF:		
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	Case 3:11-cv-01056-MDD Document 168 Filed 10/13/15 Page 5 of 6
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1		
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BAIRD, LLP 4747 Executive Drive - Suite 700 San Diego, CA 92121 (858) 737-3100		11-cv-1056-MDD