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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DRAGAN VASIC, On Behalf of Himself  
and All Others Similarly Situated,

Plaintiff,

vs.

PREVENTION, L.L.C., a Delaware Limited  
Liability Company, NATURADE,  
OPERATING CORPORATION, a  
Delaware Corporation, and WALGREEN,  
CO., an Illinois Corporation,

Defendants.

Case No. '13CV0941 AJB KSC

CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF CONSUMERS  
LEGAL REMEDIES ACT, CIVIL  
CODE §1750 *et seq.*;
2. VIOLATION OF THE UNFAIR  
COMPETITION LAW, BUSINESS  
AND PROFESSIONS CODE §17200  
*et seq.*; and
3. BREACH OF EXPRESS  
WARRANTY.

DEMAND FOR JURY TRIAL

1 Plaintiff DRAGAN VASIC brings this action on behalf of himself and all others  
 2 similarly situated against Defendant Prevention, L.L.C., (“Prevention”), Naturade  
 3 Operating Corporation (“Naturade”), and Walgreen, Company. (“Walgreen”) (collectively,  
 4 “Defendants”) and states:

### 5 **NATURE OF ACTION**

6 1. Defendants distribute, market and sell “Flexaid Advanced Triple Action Joint  
 7 Formula” (hereafter, “FlexAid”), a glucosamine-based product marketed as a joint health  
 8 supplement. Defendants claim FlexAid provides a variety of significant health benefits  
 9 for the cartilage and joints of all consumers who ingest FlexAid. These claimed health  
 10 benefits are the only reason a consumer would purchase FlexAid. Defendants’ advertising  
 11 claims, however, are false, misleading, and reasonably likely to deceive the public.

12 2. Defendants represent that the primary active ingredient in its FlexAid product  
 13 is “glucosamine sulfate.” Through an extensive and uniform nationwide advertising  
 14 campaign, Defendants represent that Flexaid: 1) “Promotes Joint Comfort”; 2) “Promotes  
 15 Flexibility & Mobility”; 3) “Supports Joint Cartilage and Connective Tissue”; and 4)  
 16 “Shows improvement in Joint Comfort within 5 Days!” *See* FlexAid product label in ¶23  
 17 et seq.

18 3. All available scientific evidence demonstrates that the FlexAid products have  
 19 no efficacy at all, are ineffective in the improvement of joint health, and provide no  
 20 benefits related to the reduction of pain in human joints or protecting cartilage from  
 21 breakdown. In fact, Defendants do not have any competent, reliable scientific evidence  
 22 that substantiates their representations about the health benefits of consuming FlexAid.  
 23 Numerous scientifically valid studies have been conducted on the ingredients, including  
 24 the core or primary ingredient in FlexAid, glucosamine sulfate, and they have universally  
 25 demonstrated that glucosamine sulfate and glucosamine in combination with other  
 26 ingredients such as Chondroitin, Hyaluronic Acid, Methyl-Sulfonyl-Methane (MSM) and  
 27 Collagen Type II have absolutely no scientific value in the treatment of joint pain or  
 28 discomfort.

4. Defendants convey their uniform, deceptive message to consumers through a variety of media including their websites and online promotional materials, and, most important, at the point of purchase, on the front of the Products' packaging/labeling where it cannot be missed by consumers. The front of the FlexAid product label states in bold print, "Shows Improvement in Joint Comfort in 5 Days!". The only reason a consumer would purchase FlexAid is to obtain the advertised joint-health benefits, which the FlexAid product does not provide.

5. As a result of Defendants' deceptive advertising and false claims regarding the efficacy of the FlexAid product, Plaintiff and the proposed class have purchased a product which does not perform as represented and they have been harmed in the amount they paid for the product, which, in the case of Plaintiff Vasic is approximately twenty five dollars.

6. Plaintiff brings this action on behalf of himself and other similarly situated consumers who have purchased the FlexAid product to halt the dissemination of this false, misleading and deceptive advertising message, correct the false and misleading perception it has created in the minds of consumers, and obtain redress for those who have purchased FlexAid products. Based on violations of state unfair competition laws and Defendant's breach of express warranty, Plaintiff seeks injunctive and monetary relief for consumers who purchased FlexAid.

#### **JURISDICTION AND VENUE**

7. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which there are in excess of 100 class members and many members of the Class are citizens of a state different from Defendants.

8. This Court has personal jurisdiction over Defendants because Defendants are authorized to conduct and do conduct business in California. Defendants have marketed, promoted, distributed, and sold the FlexAid product in California and Defendants have sufficient minimum contacts with this State and/or sufficiently avail themselves of the

1 markets in this State through its promotion, sales, distribution and marketing within this  
2 State to render the exercise of jurisdiction by this Court permissible.

3 9. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(a) and (b)  
4 because a substantial part of the events or omissions giving rise to Plaintiff's claims  
5 occurred while he resided in this judicial district. Venue is also proper under 18 U.S.C.  
6 §1965(a) because Defendants transact substantial business in this District.

### 7 **PARTIES**

8 10. Plaintiff Dragan Vasic resides in San Diego County, California. In or around  
9 January of 2013, Plaintiff was exposed to and saw Defendant's representations regarding  
10 the joint health benefits of FlexAid Advanced Triple Action Joint Formula by reading the  
11 FlexAid Advanced Triple Action Joint Health Formula product label in a Walgreen store  
12 near his home in San Diego, California. In reliance on the claims listed on the product  
13 label described herein and above, and specifically those claims listed on the front of the  
14 product label, that FlexAid Advanced Triple Action Joint Formula: 1) "Promotes Joint  
15 Comfort"; 2) "Promotes Flexibility & Mobility"; 3) "Supports Joint Cartilage and  
16 Connective Tissue"; and 4) shows improvement in "Joint Comfort within 5 Days!"  
17 Plaintiff purchased the FlexAid product. He paid approximately \$25.00 for the product at  
18 Walgreen. Mr. Vasic purchased the product believing it would provide the advertised joint  
19 health benefits and improve his joint soreness and comfort. As a result of his purchase,  
20 Plaintiff suffered injury in fact and lost money. Had Plaintiff known the truth about  
21 Defendants' misrepresentations and omissions, he would not have purchased the FlexAid  
22 product. Plaintiff received no benefit from the consumption of the FlexAid product, and it  
23 did not improve his joint comfort within 5 days. Plaintiff Vasic is not claiming physical  
24 harm or seeking the recovery of personal injury damages.

25 11. Defendant Prevention, L.L.C. is incorporated under the laws of the state of  
26 Delaware. Prevention's corporate headquarters and principle place of business is located  
27 at 1 City Blvd. West Suite 1440 Orange, California 92868. Prevention researches,  
28 develops, manufactures, distributes, markets and sells nutritional supplements products

1 across the United States. Prevention marketed and sold the FlexAid product to tens of  
2 thousands of consumers in California.

3 12. Defendant Naturade Operating Corporation is incorporated under the laws of  
4 the state of Delaware. Naturade's corporate headquarters and principle place of business is  
5 located at 1 City Blvd. West Suite 1440 Orange, California 92868. Naturade researches,  
6 develops, manufactures, distributes, markets and sells nutritional supplements products  
7 across the United States. Naturade marketed and sold the FlexAid product to tens of  
8 thousands of consumers in California.

9 13. Defendant Walgreen Company ("Walgreen") is a corporation organized and  
10 existing under the laws of Illinois. Defendant's headquarters is at 200 Wilmot Road  
11 Deerfield, Illinois 60015. Walgreen distributed, promoted, marketed and sold the FlexAid  
12 product to consumers in California and throughout the United States.

### 13 **FACTUAL ALLEGATIONS**

#### 14 ***The FlexAid Product***

15 14. Defendants manufacture, distribute, and sell the FlexAid line of joint health  
16 supplements. The FlexAid product at issue in this lawsuit is solely, "FlexAid Advanced  
17 Triple Action Formula." FlexAid Advanced Triple Action Formula is sold over the  
18 internet and in Walgreen's stores throughout the country.

19 15. Since the launch of FlexAid, Defendants have consistently conveyed the  
20 message to consumers throughout California that the FlexAid products, will reduce joint  
21 pain, increase flexibility and protect the joint cartilage of all persons who ingest FlexAid.  
22 These claims are false and misleading, and are not supported by competent scientific  
23 evidence.

24 16. Walgreen markets and sells the FlexAid product at issue, and participated in  
25 the dissemination of the representations concerning the efficacy of the FlexAid products  
26 and adopted the representations as their own. Walgreen entered into marketing and sales  
27 agreements with one or more of the other Defendant(s) to further promote and repeat the  
28 false and deceptive statements at issue. By placing the FlexAid products on their store

shelves and on retail websites, and thereafter advertising and selling the Products to Plaintiff and other members of the Class, Walgreen adopted, and is responsible for, the representations Prevention and Naturade made on packaging regarding the efficacy of the FlexAid products.

17. Walgreen also promotes, markets and sells their own branded glucosamine products, which they market for joint health.

18. The primary active ingredient in all the FlexAid products is glucosamine sulfate. Glucosamine is an amino sugar that the body produces and distributes in cartilage and other connective tissue.

19. According to the Mayo Clinic, the signs and symptoms of osteoarthritis include joint pain, joint tenderness, joint stiffness, and the inability to move your joint through its full range of motion.<sup>1</sup>

20. There is no competent scientific evidence that taking glucosamine sulfate—let alone through oral administration—results in the body metabolizing it into something that provides the advertised joint health and cartilage benefits, including relieving the major symptoms of arthritis.

21. FlexAid also contains Chondroitin, Glucosamine, Hyaluronic Acid, Methyl-Sulfonyl-Methane (MSM) and Collagen Type II and “Univestin”. There is no competent scientific evidence that taking any of these ingredients—let alone through oral administration—results in the body metabolizing them into something that relieves pain, supports joint cartilage or improves flexibility.

22. Contrary to the stated representations on all the FlexAid products’ labeling and packaging, Defendant does not possess (and has not possessed) competent scientific evidence that any of these ingredients, taken alone or in combination, are effective in providing the advertised joint health and cartilage benefits, including treating the major symptoms of arthritis or any other joint related ailments.

<sup>1</sup> <http://www.mayoclinic.com/health/osteoarthritis/DS00019/DSECTION=> symptoms (last visited April 1, 2013).

1           23. Despite scientific studies which demonstrate that the claims are false and  
2 deceptive, Prevention and Naturade represent on the FlexAid products' packaging and  
3 labeling that FlexAid: 1) "Promotes Joint Comfort"; 2) "Promotes Flexibility &  
4 Mobility"; 3) "Supports Joint Cartilage and Connective Tissue"; and 4) shows  
5 improvement in "Joint Comfort within 5 Days!". Representative FlexAid product  
6 packaging and labeling appears as follows:

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1 **Front:**



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## Supplement Facts

18 Serving Size: 3 Capsules  
Servings Per Container 30

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	Amount Per Serving	%DV
Vitamin D3 (as Cholecalciferol)	1000 IU	250%
Glucosamine Sulfate	1500 mg	†
Triple Action Joint Support Blend	350 mg	†
Kolla2™ (Collagen Type II, Chondroitin, Hyaluronic Acid, Glucosamine), Methyl-Sulfonyl-Methane (MSM)		
Univestin®	250 mg	†
Chinese Skullcap ( <i>Scutellaria baicalensis</i> ) root extract, Cutch Tree ( <i>Acacia catechu</i> ) heartwood extract, Maltodextrin		

† Daily Value (DV) not established

26 **Other Ingredients:** Gelatin Capsules (gelatin, water, chlorophyll, titanium dioxide), Microcrystalline Cellulose, Magnesium Stearate, Silicon Dioxide.

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28



**Side packing label:****Safe and clinically studied ingredients**

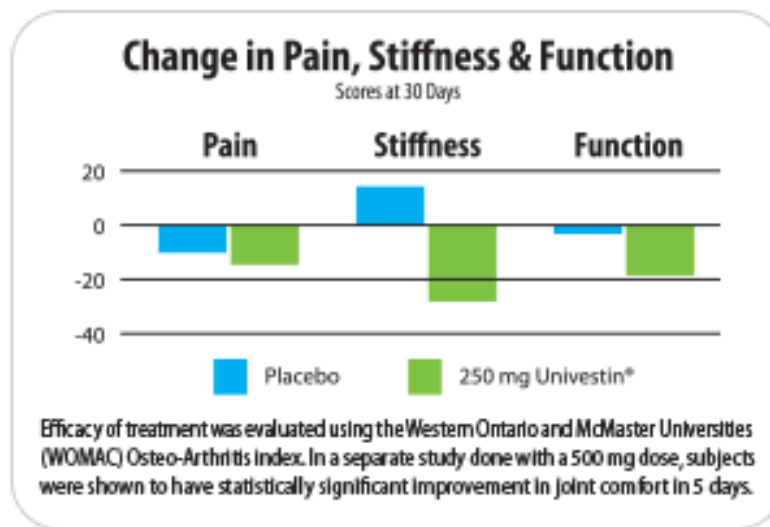
FlexAid by Naturade® is a natural and safe alternative solution to support joint comfort and mobility.\* FlexAid contains patented Univestin®, a natural blend of two traditional plants that have antioxidant effects on the body by helping to neutralize free radicals.\* In clinical studies, Univestin® was shown to promote joint comfort, reduce stiffness and improve mobility amongst test subjects as compared to placebo. (1)

(1) The Florida State University study on Univestin®, 2012

Glucosamine is a natural compound that is found in healthy cartilage. Preliminary studies suggest that Glucosamine may play a role in promoting joint comfort.\*

Vitamin D3, when taken with calcium (not included in in FlexAid) has been shown to enhance bone density and promote muscle health, important in supporting healthy joints.

FlexAid® also contains a proprietary Triple Action Joint Support Blend containing Collagen Type II and MSM to support and promote healthy joint function.\*



All Naturade products are quality tested to ensure freshness and potency through their expiration dates.

\*These statements have not been evaluated by the Food and Drug Administration. This Product is not intended to diagnose, treat, cure or prevent any disease.

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24. Defendant Prevention's and Naturade's statements on their website repeat and reinforce the false and misleading joint health statements made on the packaging and labeling<sup>2</sup>.

25. Likewise, in addition to providing pictures of the false and deceptive packaging and labeling for the FlexAid products, Walgreen makes additional statements on its website that repeat and reinforce the false and misleading joint health statements made on the packaging and labeling.

26. Walgreen's advertising statements about FlexAid include that it:

- "Promotes Joint Comfort;"
- "Supports Joint Cartilage & Connective Tissue;"
- "Promotes Flexibility & Mobility;" and
- "Joint Comfort within 5 Days!"

27. Additionally, Walgreen's Website repeats many of the claims made by Naturade, almost verbatim, thereby endorsing them and representing them to Walgreen's customers:

- "Could Joint Comfort Benefit Your Active Lifestyle?;"
- "If so, you're not alone. Less than optimal joint health, is for many of us, a natural part of the aging process. Additionally, repetitive strenuous joint activity, body weight and genetics have all been known to keep you from optimal joint health."
- "Medical professionals are increasingly recommending proper diet and regular physical exercise to help keep joints flexible, lubricated and mobile. However, those needing joint support may not be inclined to exercise as much as suggested."
- FlexAid™ by Naturade® contains ingredients that:

Promote Joint Comfort\*  
Support Joint Cartilage & Connective Tissue\*  
Promote Flexibility & Mobility\*

<sup>2</sup> <https://www.naturade.com/product/naturade-flexaid-advanced-90-capsules/>

- Safe and Clinically Studied Ingredients
- FlexAid by Naturade is a natural and safe alternative solution to support joint comfort and mobility.\* FlexAid contains patented Univestin®, a natural blend of two traditional plants that have antioxidant effects on the body by helping to neutralize free radicals.\* In clinical studies, Univestin® was shown to promote joint comfort, reduce stiffness and improve mobility amongst test subjects as compared to placebo
- Glucosamine is a natural compound that is found in healthy cartilage. Preliminary studies suggest that Glucosamine may play a role in promoting joint comfort.\*

28. Contrary to the stated representations on all the Products' labeling and packaging, and throughout Defendants' other advertising and marketing for the Products, Defendants do not possess (and have not possessed) competent scientific evidence that any of these ingredients, taken alone or in combination, are effective in treating the major symptoms of arthritis or any other joint related ailments.

**Glucosamine Sulfate, the primary ingredient in FlexAid, is ineffective in the treatment of joint pain and does not provide any of the represented benefits:**

29. The primary ingredient in FlexAid is Glucosamine Sulfate. The recommended daily serving (3 tablets) contains 1500 mg of Glucosamine Sulfate. Defendants knew or should have known that glucosamine sulfate alone and taken in combination with any of the other ingredients present in FlexAid have no actual medicinal value and do not provide any of the warranted benefits as represented by Defendants' FlexAid products' packaging, labeling and other advertising. In fact, there is no scientific study demonstrating that any glucosamine product can regenerate or "support" joint cartilage. To the contrary, as numerous studies have confirmed, neither glucosamine sulfate, the ingredients in the "Triple Action Support Blend" (Collagen Type II, Chondroitin, Hyaluronic Acid, Glucosamine) nor "Univestin" or any other supplements or

1 ingredients actually improve flexibility, support joint cartilage, provide joint comfort or  
2 relief from pain.

3 30. Independent clinical studies, published in reputable sources confirm that the  
4 Flexaid product is not effective. Independent studies published at least as early as 2004,  
5 have found that the Product's primary ingredient, glucosamine sulfate, is not effective in  
6 providing the represented joint health benefits.

7 31. For example, a 2004 study by McAlindon et al., entitled *Effectiveness of*  
8 *Glucosamine For Symptoms of Knee Osteoarthritis: Results From an Internet-Based*  
9 *Randomized Double-Blind Controlled Trial*, 117(9) Am. J. Med. 649-9 (Nov. 2004),  
10 concluded that glucosamine sulfate was no more effective than placebo in treating the  
11 symptoms of knee osteoarthritis - in short, it was ineffective.

12 32. Also as early as 2004, studies confirmed there is a significant "placebo"  
13 effect with respect to glucosamine consumption. A 2004 study by Cibere et al, entitled  
14 *Randomized, Double-Blind, Placebo-Controlled Glucosamine Discontinuation Trial In*  
15 *Knee Osteoarthritis*, 51(5) Arthritis Care & Research 738-45 (Oct. 15, 2004), studied  
16 users of glucosamine sulfate who claimed to have experienced at least moderate  
17 improvement after starting glucosamine. These patients were divided into two groups -  
18 one that continued using glucosamine and one that was given a placebo. For six months,  
19 the primary outcome observed was the proportion of disease flares in the glucosamine and  
20 placebo groups. A secondary outcome was the time to disease flare. The study results  
21 reflected that there were no differences in either the primary or secondary outcomes for  
22 glucosamine and placebo. The authors concluded that the study provided no evidence of  
23 symptomatic benefit from continued use of glucosamine - in other words, any prior  
24 perceived benefits were due to the placebo effect and not glucosamine.

25 33. A study by Rozendaal et al., entitled *Effect of Glucosamine Sulfate on Hip*  
26 *Osteoarthritis*, 148 Ann. of Intern. Med. 268-77 (2008), assessing the effectiveness of  
27 glucosamine on the symptoms and structural progression of hip osteoarthritis during 2  
28 years of treatment, concluded that glucosamine was no better than placebo in reducing

1 symptoms and progression of hip osteoarthritis.

2 34. In December 2008, the American Academy of Orthopaedic Surgeons  
3 published clinical practice guidelines for the "Treatment of Osteoarthritis of the Knee  
4 (Non-Arthroplasty)," and recommended that "glucosamine and sulfate or hydrochloride  
5 should not be prescribed for patients with symptomatic OA of the knee." Richmond et al.,  
6 *Treatment of osteoarthritis of the knee* (nonarthroplasty), J. Am. Acad. Orthop. Surg. Vol.  
7 17 No. 9 591-600 (2009). This recommendation was based on a 2007 report from the  
8 Agency for Healthcare Research and Quality (AHRQ), which states that "the best  
9 available evidence found that glucosamine hydrochloride, chondroitin sulfate, or their  
10 combination did not have any clinical benefit in patients with primary OA of the knee."  
11 Samson, et al., *Treatment of Primary and Secondary Osteoarthritis of the Knee*, Agency  
12 *for Healthcare Research and Quality*, 2007 Sep 1. Report No. 157.

13 35. In a separate opinion from 2009, an EFSA panel examined the evidence for  
14 glucosamine (either hydrochloride or sulfate) alone or in combination with chondroitin  
15 sulfate and maintenance of joints. The claimed effect was "joint health," and the proposed  
16 claims included "helps to maintain healthy joint," "supports mobility," and "helps to keep  
17 joints supple and flexible." Based on its review of eleven human intervention studies,  
18 three meta-analyses, 21 reviews and background papers, two animal studies, one in vitro  
19 study, one short report, and one case report, the EFSA panel concluded that "a cause and  
20 effect relationship has not been established between the consumption of glucosamine  
21 (either as glucosamine hydrochloride or as glucosamine sulphate), either alone or in  
22 combination with chondroitin sulphate, and the maintenance of normal joints." EFSA  
23 Panel on Dietetic Products, Nutrition and Allergies, Scientific Opinion on the  
24 substantiation of health claims related to glucosamine alone or in combination with  
25 chondroitin sulphate and maintenance of joints and reduction of inflammation, EFSA  
26 Journal (2009), 7(9):1264.

27 36. A 2010 meta-analysis by Wandel et al. entitled *Effects of Glucosamine,*  
28 *Chondroitin, Or Placebo In Patients With Osteoarthritis Of Hip Or Knee: Network Meta-*

1 *Analysis*, BMJ 341:c4675 (2010), examined prior studies involving glucosamine and  
2 chondroitin, alone or in combination, and whether they relieved the symptoms or  
3 progression of arthritis of the knee or hip. The study authors reported that glucosamine  
4 and chondroitin, alone or in combination, did not reduce joint pain or have an impact on  
5 the narrowing of joint space: "Our findings indicate that glucosamine, chondroitin, and  
6 their combination do not result in a relevant reduction of joint pain nor affect joint space  
7 narrowing compared with placebo." *Id.* at 8. The authors went as far to say, "We believe  
8 it unlikely that future trials will show a clinically relevant benefit of any of the evaluated  
9 preparations." *Id.*

10 37. In July 7, 2010, Wilkens et al., reported that there was no difference between  
11 placebo and glucosamine sulfate for the treatment of low back pain and lumbar  
12 osteoarthritis and that neither glucosamine nor placebo were effective in reducing pain  
13 related disability. The researchers also stated that, "Based on our results, it seems unwise  
14 to recommend glucosamine to all patients" with low back pain and lumbar osteoarthritis.  
15 Wilkens et al., *Effect of Glucosamine on Pain-Related Disability in Patients With Chronic*  
16 *Low Back Pain and Degenerative Lumbar Osteoarthritis*, 304(1) JAMA 45-52 (July 7,  
17 2010).

18 38. In 2012, EFSA examined the evidence to determine if glucosamine sulphate  
19 or glucosamine hydrochloride, could substantiate a claimed effect of "contributes to the  
20 maintenance of normal joint cartilage." Based on its review of 61 references provided by  
21 Merck Consumer Healthcare, the EFSA panel concluded that "a cause and effect  
22 relationship has not been established between the consumption of glucosamine and  
23 maintenance of normal joint cartilage in individuals without osteoarthritis." EFSA Panel  
24 on Dietetic Products, Nutrition and Allergies, *Scientific Opinion on the substantiation of a*  
25 *health claim related to glucosamine and maintenance of normal joint cartilage*, EFSA  
26 Journal 2012, 10(5): 2691.

27  
28 ///



1       **Numerous studies have determined that the oral administration of the**  
2       **ingredients present in FlexAid supplements is ineffective in the preservation or**  
3       **protection of joint cartilage.**

4       39. While hyaluronic acid has been proven to be effective when directly injected  
5       into joints, due to its high molecular weight, when taken orally, it cannot be absorbed into  
6       the human bloodstream let alone beneficially affect joints.

7       40. Additionally, in February 2004, a Supplement to the American Journal of  
8       Orthopedics published an article entitled "*Restoring Articular Cartilage in the Knee.*"  
9       The authors concluded that adult cartilage cannot be regenerated because it is not  
10      vascularized, meaning that blood does not flow to damaged cartilage which prevents any  
11      mechanism for regeneration.

12      41. In March 2009, Harvard Medical School published a study conclusively  
13      proving that the ingestion of glucosamine could not affect the growth of cartilage. The  
14      study took note of the foregoing 2006 and 2008 studies, which "cast considerable doubt"  
15      upon the value of glucosamine. The authors went on to conduct an independent study of  
16      subjects ingesting 1500 mg of glucosamine, and proved that ***only trace amounts of***  
17      ***glucosamine*** entered the human serum, far below any amount that could possibly affect  
18      cartilage (emphasis added). Moreover, even those trace amounts were present only for a  
19      few hours after ingestion. The authors noted that a 1986 study had found no glucosamine  
20      in human plasma after ingestion of four times the usual 1500 mg of glucosamine chloride  
21      or sulphate. Silbert, *Dietary Glucosamine Under Question*, Glycobiology 19(6):564-567  
22      (2009).

23      **The remaining "Triple Action Joint Support Blend" ingredients are equally**  
24      **ineffective:**

25      42. FlexAid also contains other trace ingredients described as the "Triple Action  
26      Joint Support," blend which purportedly is composed of Kolla2 (a patented supplement  
27      composed of Collagen Type II, Chondroitin sulfate, hyaluronic acid and Glucosamine)  
28      and Methylsulfonylmethane (MSM). None of these ingredients administered alone or in  
29      combination with each other have been proven effective in delivering on Defendant's



1 false claims.

2 43. For example, in connection with a four year review to determine health  
3 claims appropriate to place on food labels in the European Union, the European Food and  
4 Safety ("EFSA") reviewed health benefit claims concerning glucosamine sulfate, MSM  
5 and hyaluronic acid. After considering whether the subject of the claimed effect could be  
6 defined sufficiently for scientific assessment, whether the claimed effect was beneficial  
7 for health and whether relevant studies could allow for establishing a cause and effect  
8 relationship between the food and claimed effect, the EFSA concluded that: (1) there is  
9 no scientific proof that glucosamine sulfate reduces inflammation, rebuilds cartilage or  
10 improves joints mobility; (2) neither hyaluronic acid nor MSM increase mobility or  
11 function of the joints; and (3) MSM does not support cartilage repair. Consequently, the  
12 EFSA has prohibited these joint health benefit claims and mandated that they be removed  
13 from food labels by the end of the year.

14 44. Scientific studies also confirm that MSM is ineffective. *See, e.g., S. Brien, et.*  
15 *al., Systematic Review of the Nutritional Supplements (DMSO) and*  
16 *Methylsulfonylmethane (MSM) in the Treatment of Osteoarthritis* (Apr. 17, 2008)  
17 (concluding that there is no "definitive evidence that MSM is superior to placebo in the  
18 treatment of mild to moderate OA of the knee").

19 **The Univestin ingredient is equally ineffective in delivering on Defendant's**  
20 **joint health claims.**

21 45. Each daily recommended dose of FlexAid contains 250mg of Univestin.  
22 Univestin is the registered trademark for a combination of botanical extracts patented and  
23 sold by Unigen, Inc. Defendants Naturade and Prevention attempt to lend credibility to  
24 the FlexAid product by hand picking an industry sponsored study touting the joint health  
25 benefits of "Univestin®". However, this purported "study" does not support Defendant's  
26 advertising claims and is inherently biased and flawed. The "Univestin" study, touted by  
27 Defendants Naturade and Prevention on the packaging of FlexAid, was conducted by two  
28 "researchers," one of whom (Lidia A. Brownell) was employed by Unigen at the time the

1 study was conducted<sup>3</sup> and the study was funded by Unigen. *Id.*

2 46. The study itself admits to inconsistencies in the improvement of pain at the  
3 reporting benchmarks for the study at 30, 60 and 90 day intervals, recognizing: “[f]or  
4 example, the statistical findings in changes from baseline (p value < 0.05) were not  
5 consistent at the 30, 60 and 90 day time points for any of the study groups.” *Id.* at  
6 “Discussion”.

7 47. The authors concluded further research was required to achieve meaningful  
8 results. *Id.* at “Conclusion” (“Based on the preliminary evidence of this pilot study an  
9 additional study in larger patient population is currently underway to further assess the  
10 safety and efficacy of UP446”).

11 48. Far from a definitive clinical study establishing the efficacy of FlexAid in the  
12 treatment of joint pain or discomfort, Defendants’ citation to this study is further evidence  
13 of their intent to mislead and misinform consumers and to further profit from the sale of  
14 their ineffective product. Despite the fact this was an industry sponsored study by the  
15 manufacturer of a sub-ingredient to the FlexAid product (Univestin), Defendants’  
16 remarkably tout the study as having been performed and accredited to “Florida State  
17 University”. *See*, ¶23 (above) Side Packaging label, “FN (1) The Florida State University  
18 study on Univestin®, 2012.” The inclusion of Univestin in the ingredient package for  
19 FlexAid does not render it effective, nor serve the claims made on its product label.

20 49. Further the study measured its participant’s responses to pain and other  
21 purported “measurables” at 30, 60, and 90 days. Defendants represent Flexaid will show  
22 “improvement in Joint Comfort within 5 days!”. Defendant has no scientific evidence or  
23 support for this representation; all available scientific literature suggests the ingredients  
24 which compose the FlexAid product are ineffective at any interval of dosing, and certainly  
25 not within 5 days. Additionally, Plaintiff could not achieve any of the purported benefits

26  
27 <sup>3</sup> *See* “A randomized, double blind, placebo and active comparator controlled pilot study of UP446, a  
28 novel dual pathway inhibitor anti-inflammatory agent of botanical origin, Nutrition Journal, 2012 11:21;  
Published online, April 5, 2012 at ¶Competing Interests; “LB is an employee of Unigen; JSS received  
funds to conduct the clinical trial from Unigen.

1 listed in the study even at the earliest benchmark of thirty (30) days because the purchase  
2 of one single bottle of FlexAid contains only 90 tablets. The recommended daily dosing  
3 instructions call for six (6) tablets per day for the initial seven days and then three (3)  
4 tablets for each subsequent day. A single bottle of 90-count FlexAid would last only 23  
5 days.

6 50. Multiple studies examining the efficacy of Glucosamine Hydrochloride have  
7 reached similar conclusions, that Glucosamine is ineffective in the treatment of joint pain  
8 and does not regenerate or otherwise protect joint cartilage. Although FlexAid contains  
9 Glucosamine Sulfate, studies examining the efficacy of Glucosamine Hydrochloride are  
10 relevant and confirm Plaintiff's allegations that FlexAid is wholly ineffective<sup>4</sup>

11 51. For Example, a large (1,583 subjects), 24-week, multi-center RCT study  
12 sponsored by the National Institute of Health ("NIH"), published in the New England  
13 Journal of Medicine (the "2006 GAIT Study"), concluded: "[t]he analysis of the primary  
14 outcome measure did not show that either [glucosamine or chondroitin], alone or in  
15 combination, was efficacious. . . ." Clegg, D., et al., *Glucosamine, Chondroitin Sulfate,*  
16 *and the Two in Combination for Painful Knee Osteoarthritis*, 354 New England J. of Med.  
17 795, 806 (2006).

18 52. The 2006 GAIT Study authors rigorously evaluated the effectiveness of  
19 glucosamine hydrochloride and chondroitin, alone and in combination, on osteoarthritis  
20 for six months. According to the study's authors, "[t]he analysis of the primary outcome  
21 measure did not show that either supplement, alone or in combination, was efficacious. . .  
22 ." 2006 GAIT Study at 806.

23 53. Subsequent GAIT studies in 2008 and 2010 reported that glucosamine and  
24 chondroitin did not rebuild cartilage and were otherwise ineffective - even in patients with  
25 moderate to severe knee pain for which the 2006 reported results were inconclusive. *See*  
26

27 <sup>4</sup> Glucosamine Sulfate is derived from Glucosamine Hydrochloride by adding either sodium or potassium  
28 sulfate. Plaintiff contends neither are effective in the treatment of joint pain, and that studies for  
Glucosamine Hydrochloride should be given equal weight and effect because of their inherent similarity.

1 Sawitzke, A.D., et al., *The Effect of Glucosamine and/or Chondroitin Sulfate on the*  
 2 *Progression of Knee Osteoarthritis: A GAIT Report*, 58(10) J. Arthritis Rheum. 3183-91  
 3 (Oct. 2008); Sawitzke, A.D., *Clinical Efficacy And Safety Of Glucosamine, Chondroitin*  
 4 *Sulphate, Their Combination, Celecoxib Or Placebo Taken To Treat Osteoarthritis Of*  
 5 *The Knee: 2 Year Results From GAIT*, 69(8) Ann Rheum. Dis. 1459-64 (Aug. 2010).

6 54. The GAIT studies are consistent with the reported results of prior and  
 7 subsequent studies. For example, the National Collaborating Centre for Chronic  
 8 Conditions ("NCCCC") reported "the evidence to support the efficacy of glucosamine  
 9 hydrochloride as a symptom modifier is poor" and the "evidence for efficacy of  
 10 chondroitin was less convincing." NCCCC, *Osteoarthritis National Clinical Guideline*  
 11 *for Care and Management of Adults*, Royal College of Physicians, London 2008.  
 12 Consistent with its lack of efficacy findings, the NCCCC Guideline did not recommend  
 13 the use of glucosamine or chondroitin for treating osteoarthritis. *Id.* at 33.

14 55. In a 2007 report, Vlad, et al. reviewed all studies involving glucosamine  
 15 hydrochloride and concluded that "[g]lucosamine hydrochloride is not effective."  
 16 *Glucosamine for Pain in Osteoarthritis*, 56:7 Arthritis Rheum. 2267-77 (2007); *see also*  
 17 *id.* at 2275 ("we believe that there is sufficient information to conclude that glucosamine  
 18 hydrochloride lacks efficacy for pain in OA").

19 56. In October 2008, the American College of Rheumatology's Journal, Arthritis  
 20 & Rheumatism published a report on a double blind study conducted at multiple centers in  
 21 the United States examining joint space width loss with radiograph films in patients who  
 22 were treated with glucosamine hydrochloride. The authors concluded that after two years  
 23 of treatment with this supplement, the treatment did not demonstrate a clinically important  
 24 difference in joint space width loss. Sawitzke et al., *Glucosamine for Pain in*  
 25 *Osteoarthritis: Why do Trial Results Differ?*, Arthritis Rheum., 58:3183-3191 (2008).

26 57. In April 2009, the Journal of Orthopedic Surgery published an article  
 27 entitled, "Review Article: Glucosamine." The article's authors concluded that, based on  
 28 their literature review, there was "little or no evidence" to suggest that glucosamine was

1 superior to a placebo even in slowing down cartilage deterioration, much less regenerating  
2 it. Kirkham, et al., *Review Article: Glucosamine*, Journal of Orthopedic Surgery, 17(1):  
3 72-6 (2009).

4 58. In 2009, a panel of scientists from the European Food Safety Authority  
5 ("EFSA") (a panel established by the European Union to provide independent scientific  
6 advice to improve food safety and consumer protection), reviewed nineteen studies  
7 submitted by an applicant, and concluded that "a cause and effect relationship has not  
8 been established between the consumption of glucosamine hydrochloride and a reduced  
9 rate of cartilage degeneration in individuals without osteoarthritis." EFSA Panel on  
10 Dietetic Products, Nutrition and Allergies, *Scientific Opinion on the substantiation of a*  
11 *health claim related to glucosamine hydrochloride and reduced rate of cartilage*  
12 *degeneration and reduced risk of osteoarthritis*, EFSA Journal (2009), 7(10):1358.

13 59. In 2011, Miller and Clegg, after surveying the clinical study history of  
14 glucosamine and chondroitin, concluded that, "[t]he cost-effectiveness of these dietary  
15 supplements alone or in combination in the treatment of OA has not been demonstrated in  
16 North America." Miller, K. and Clegg, D., *Glucosamine and Chondroitin Sulfate*,  
17 *Rheum. Dis. Clin. N. Am.* 37 103-118 (2011).

18 60. In June 2011, the Journal of Pharmacy & Pharmaceutical Sciences published  
19 an article entitled, "*The Glucosamine Controversy; A Pharmacokinetic Issue*." The  
20 authors concluded that regardless of the formulation used, no or marginal beneficial  
21 effects were observed as a result of low glucosamine bioavailability. Aghazadeh-Habashi  
22 and Jamali, *The Glucosamine Controversy; A Pharmacokinetic Issue*, Journal of  
23 Pharmacy & Pharmaceutical Sciences, 14(2): 264-273 (2011).

24 61. To date, there are only two studies, both of which are more than a decade old,  
25 purporting to claim that the ingestion of glucosamine can affect the growth or  
26 deterioration of cartilage, both sponsored by a glucosamine supplement manufacturer:  
27 Pavelka et al. *Glucosamine Sulfate Use and Delay of Progression of Knee Osteoarthritis*,  
28 *Arch. Intern. Med.*, 162: 2113-2123 (2002); Reginster et al. *Long-term Effects of*

1 *Glucosamine Sulphate On Osteoarthritis Progress: A Randomised, Placebo-Controlled*  
2 *Clinical Trial*, Lancet, 357: 251-6 (2001).

3 62. As noted in the April 2009 Journal of Orthopedic Surgery article, the  
4 methodologies in those studies had “inherently poor reproducibility,” and even minor  
5 changes in posture by the subjects during scans could cause false apparent changes in  
6 cartilage. The authors of the Journal of Orthopedic Surgery article explained the  
7 manufacturer-sponsored studies’ findings by noting that “industry-sponsored trials report  
8 positive effects more often than do non-sponsored trials and more find pro-industry  
9 results.” No reliable scientific medical study has shown that glucosamine and  
10 chondroitin, alone or in combination, have a structure modifying effect that will  
11 regenerate cartilage that has broken down or worn away.

12 63. Plaintiff and Class members have been and will continue to be deceived or  
13 misled by Defendants’ deceptive representations touting the effectiveness of the FlexAid  
14 product. Plaintiff purchased and used the FlexAid product during the Class Period and in  
15 doing so, read, considered and based his decisions to buy FlexAid on the above cited label  
16 representations. Because the FlexAid products’ sole purpose is to provide joint relief for  
17 the major symptoms of arthritis, Defendants’ representations and omissions were a  
18 material factor in influencing Plaintiff’s decision to purchase FlexAid. There is no other  
19 reason for Plaintiff to have purchased FlexAid and Plaintiff would not have purchased  
20 FlexAid had he known that FlexAid was ineffective and Defendants did not possess  
21 competent scientific evidence to support the claims that it made about FlexAid.

22 64. As a result, Plaintiff and the Class members have been damaged in their  
23 purchases of the FlexAid products and have been deceived into purchasing products that  
24 they believed, based on Defendants’ representations, were proven to be effective in  
25 treating the major symptoms of arthritis and other joint related ailments when, in fact,  
26 they are not.

27 65. Defendants, by contrast, reaped enormous profits from their false marketing  
28 and sale of the FlexAid products.



## CLASS DEFINITION AND ALLEGATIONS

66. Plaintiff brings this action on behalf of himself and all other similarly situated pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure and seeks certification of the following Class:

All persons who purchased the FlexAid Products in the United States.

Excluded from the Class are Defendants, their parents, subsidiaries, affiliates, officers and directors, those who purchased the FlexAid products for the purpose of resale, and those who assert claims for personal injury.

67. Members of the Class are so numerous and geographically dispersed that joinder of all Class members is impracticable.

68. Plaintiff is informed and believes, and on that basis alleges, that the proposed Class contains many thousands of members. The precise number of Class members is unknown to Plaintiff. Common questions of law and fact exist as to all members of the Class and predominate over questions affecting only individual Class members. The common legal and factual questions include, but are not limited to, the following:

- i. Whether Defendants had competent scientific evidence to support each of the claims that it made about the FlexAid product;
- ii. Whether the claims discussed herein that Defendants made about the FlexAid product were or are misleading, or reasonably likely to deceive;
- iii. Whether Defendants' alleged conduct violates public policy;
- iv. Whether the alleged conduct constitutes violations of the laws asserted herein;
- v. Whether Defendants engaged in false and misleading advertising;
- vi. Whether Plaintiff and Class members have sustained monetary loss and the proper measure of that loss;
- vii. Whether Plaintiff and Class members are entitled to restitution, disgorgement of Defendants' profits, declaratory and/or injunctive



1 relief; and

2 viii. Whether Plaintiff and Class members are entitled to an award of  
3 compensatory damages.

4 69. The claims asserted by Plaintiff in this action are typical of the claims of the  
5 members of the Class, as the claims arise from the same course of conduct by Defendants,  
6 and the relief sought is common. Plaintiff and Class members suffered uniform damages  
7 caused by their purchase of the FlexAid product manufactured, marketed, and sold by  
8 Defendants.

9 70. Plaintiff will fairly and adequately represent and protect the interests of the  
10 members of the Class. Plaintiff has retained counsel competent and experienced in both  
11 consumer protection and class litigation.

12 71. A class action is superior to other available methods for the fair and efficient  
13 adjudication of this controversy. The expense and burden of individual litigation would  
14 make it impracticable or impossible for proposed Class members to prosecute their claims  
15 individually. It would thus be virtually impossible for the Class, on an individual basis, to  
16 obtain effective redress for the wrongs done to them. Furthermore, even if Class members  
17 could afford such individualized litigation, the court system could not. Individualized  
18 litigation would create the danger of inconsistent or contradictory judgments arising from  
19 the same set of facts. Individualized litigation would also increase the delay and expense  
20 to all parties and the court system from the issues raised by this action. By contrast, the  
21 class action device provides the benefits of adjudication of these issues in a single  
22 proceeding, economies of scale, and comprehensive supervision by a single court, and  
23 presents no unusual management difficulties under the circumstances here.

24 72. In the alternative, the Class also may be certified because Defendants have  
25 acted or refused to act on grounds generally applicable to the Class thereby making final  
26 declaratory and/or injunctive relief with respect to the members of the Class as a whole  
27 appropriate.  
28

**COUNT I****Violation of the Consumers Legal Remedies Act –Civil Code §1750 *et seq.***

73. Plaintiff seeks preliminary and permanent injunctive and equitable relief on behalf of the entire Class, on grounds generally applicable to the entire Class, to enjoin and prevent Defendants from engaging in the acts described, and requiring Defendants to provide full restitution to Plaintiff and Class members.

74. Unless a Class is certified, Defendants will retain monies that were taken from Plaintiff and Class members as a result of their conduct. Unless a Class-wide injunction is issued, Defendants will continue to commit the violations alleged, and the members of the Class and the general public will continue to be misled.

75. Plaintiff re-alleges and incorporates by reference the allegations contained in the paragraphs above as if fully set forth herein.

76. This cause of action is brought under the Consumers Legal Remedies Act, California Civil Code §1750, *et seq.* (the “Act”). Plaintiff is a consumer as defined by California Civil Code §1761(d). Defendant’s FlexAid product is a good within the meaning of the Act.

77. Defendants violated and continues to violate the Act by engaging in the following practices proscribed by California Civil Code §1770(a) in transactions with Plaintiff and the Class which were intended to result in, and did result in, the sale of the FlexAid product:

(5) Representing that [the Products] have . . . approval, characteristics, . . . uses [and] benefits . . . which [they do] not have . . . .

\* \* \*

(7) Representing that [the Products] are of a particular standard, quality or grade . . . if [they are] of another.

\* \* \*

(9) Advertising goods . . . with intent not to sell them as advertised.

\* \* \*

1 (16) Representing that [the Products have] been supplied in accordance with a  
2 previous representation when [they have] not.

3 78. Defendants violated and continue to violate the Act by representing and  
4 failing to disclose material facts on the FlexAid product labels and packages as described  
5 above when they knew, or should have known, that the representations were  
6 unsubstantiated, false and misleading and that the omissions were of material facts.

7 79. Pursuant to §1782(d) of the Act, Plaintiff and the Class seek a court order  
8 enjoining the above-described wrongful acts and practices of Defendants and for  
9 restitution and disgorgement.

10 80. Pursuant to §1782 of the Act, Plaintiff notified Defendants in writing by  
11 certified mail of the particular violations of §1770 of the Act and demanded that  
12 Defendants rectify the problems associated with the actions detailed above and give notice  
13 to all affected consumers of Defendants' intent to so act. Copies of the letters are attached  
14 hereto as Exhibit A.

15 81. If Defendants fail to rectify or agree to rectify the problems associated with  
16 the actions detailed above and give notice to all affected consumers within 30 days of the  
17 date of written notice pursuant to §1782 of the Act, Plaintiff will amend this complaint to  
18 add claims for actual, punitive and statutory damages, as appropriate.

19 82. Defendants' conduct is malicious, fraudulent and wanton, and provides  
20 misleading information.

21 83. Pursuant to §1780(d) of the Act, attached hereto as Exhibit B is the affidavit  
22 showing that this action has been commenced in the proper forum.

23 **COUNT II**  
24 **Violation of Business & Professions Code §17200, *et seq.***

25 84. Plaintiff re-alleges and incorporates by reference the allegations contained in  
26 the paragraphs above as if fully set forth herein.

27 85. As alleged herein, Plaintiff has suffered injury in fact and lost money or  
28 property as a result of Defendants' conduct because he purchased the Products.

1           86. In the course of conducting business, Defendants committed unlawful  
2 business practices by, *inter alia*, making the representations (which also constitute  
3 advertising within the meaning of §17200) and omissions of material facts, as set forth  
4 more fully herein, and violating Civil Code §§1572, 1573, 1709, 1711, 1770, Business &  
5 Professions Code §§17200, *et seq.*, 17500, *et seq.*, and the common law.

6           87. Plaintiff and the Class reserve the right to allege other violations of law,  
7 which constitute other unlawful business acts or practices. Such conduct is ongoing and  
8 continues to this date.

9           88. Defendants' acts, omissions, misrepresentations, practices and non-  
10 disclosures as alleged herein also constitute "unfair" business acts and practices within the  
11 meaning of Business and Professions Code §17200 *et seq.*, in that their conduct is  
12 substantially injurious to consumers, offends public policy, and is immoral, unethical,  
13 oppressive, and unscrupulous as the gravity of the conduct outweighs any alleged benefits  
14 attributable to such conduct.

15           89. As stated in this complaint, Plaintiff alleges violations of consumer  
16 protection, unfair competition and truth in advertising laws resulting in harm to  
17 consumers. Plaintiff asserts violations of the public policy of engaging in false and  
18 misleading advertising, unfair competition and deceptive conduct towards consumers.  
19 This conduct constitutes violations of the unfair prong of Business & Professions Code  
20 §17200 *et seq.*

21           90. There were reasonably available alternatives to further Defendants'  
22 legitimate business interests, other than the conduct described herein.

23           91. Defendants' claims, nondisclosures and misleading statements, as more fully  
24 set forth above, are also false, misleading and/or likely to deceive the consuming public  
25 within the meaning of Business & Professions Code §17200 *et seq.*

26           92. Defendants' labeling and packaging as described herein, also constitutes  
27 unfair, deceptive, untrue and misleading advertising.

28           93. Defendants' conduct caused and continues to cause substantial injury to

1 Plaintiff and the other Class members. Plaintiff has suffered injury in fact and has lost  
2 money as a result of Defendants' unfair conduct.

3 94. Plaintiff, on behalf of himself, and all other similarly situated California  
4 residents, seeks restitution of all money obtained from Plaintiff and the members of the  
5 Class collected as a result of unfair competition, an injunction prohibiting Defendants  
6 from continuing such practices, corrective advertising and all other relief this Court deems  
7 appropriate, consistent with Business & Professions Code §17203.

8 **COUNT III**  
9 **Breach of Express Warranty**

10 95. Plaintiff re-alleges and incorporates by reference the allegations contained in  
11 the paragraphs above as if fully set forth herein.

12 96. Plaintiff, and each member of the Class, formed a contract with Defendants  
13 at the time Plaintiff and the other members of the Class purchased the FlexAid product.  
14 The terms of that contract include the promises and affirmations of fact made by  
15 Defendants on the FlexAid product label and package, as described above. These  
16 representations constitute express warranties, became part of the basis of the bargain, and  
17 are part of a standardized contract between Plaintiff and the members of the Class on the  
18 one hand, and Defendants on the other.

19 97. All conditions precedent to Defendants' liability under this contract have  
20 been performed by Plaintiff and the Class.

21 98. Defendants breached the terms of this contract, including the express  
22 warranties, with Plaintiff and the Class by not providing the FlexAid product in a form  
23 that could provide the benefits described above which was the only reason Plaintiff and  
24 Class members purchased the FlexAid products.

25 99. As a result of Defendants' breach of warranty, Plaintiff and Class members  
26 have been damaged in the amount of the purchase price of the FlexAid products they  
27 purchased.  
28

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment:

- A. Certifying the class as requested herein;
- B. Awarding Plaintiff and the proposed Class members damages;
- C. Awarding restitution and disgorgement of Defendants' revenues to Plaintiff and the proposed Class members;
- D. Awarding declaratory and injunctive relief as permitted by law or equity, including enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with court supervision, victims of their conduct and pay them restitution and disgorgement of all monies acquired by Defendants by means of any act or practice declared by this Court to be wrongful;
- E. Ordering Defendants to engage in a corrective advertising campaign;
- F. Awarding attorneys' fees and costs; and
- G. Providing such further relief as may be just and proper.

///

///

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 19, 2013

**CARPENTER LAW GROUP**

By: /s/ Todd D. Carpenter

Todd D. Carpenter (CA 234464)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: 619.347.3517  
Facsimile: 619.756.6991  
[todd@carpenterlawyers.com](mailto:todd@carpenterlawyers.com)

**PATTERSON LAW GROUP**  
James R. Patterson (CA 211102)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: 619.398.4760  
Facsimile: 619.756.6991  
[jim@pattersonlawgroup.com](mailto:jim@pattersonlawgroup.com)

Attorneys for Plaintiff



## EXHIBIT "A"



PATTERSON LAW GROUP

JAMES R. PATTERSON  
619.756.6993 direct  
jim@pattersonlawgroup.com

April 19, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Rick Robinette  
Naturade Operating, Corporation  
1 City Blvd. West, Suite 1440  
Orange, California 92868

Re: Vasic v. Prevention, LLC, Naturade Operating Corporation, and Walgreen Co.

Dear Mr. Robinette:

Our law firm and Carpenter Law Group represent Dragan Vasic and all other similarly situated California Residents in an action against Naturade Operating, Corporation (hereafter, "Naturade") arising out of, *inter alia*, misrepresentations, either express or implied, to consumers about the efficacy and benefits of its FlexAid line of joint dietary supplements including but not limited to:

- 1) "Promotes Joint Comfort";
- 2) "Promotes Flexibility & Mobility";
- 3) "Supports Joint Cartilage and Connective Tissue"; and
- 4) "Shows improvement in Joint Comfort within 5 Days!"

Mr. Vasic and others similarly situated purchased the FlexAid products unaware that Naturade's representations found on the products' labels and packages are false. Several clinical studies have found no causative link between the ingredients in the FlexAid products and joint protection, mobility and comfort. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is enclosed and incorporated by this reference.

Naturade's representations are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by Naturade with the intent to result in the sale of the FlexAid products to the consuming public. The joint protection, cartilage protection, mobility, pain reduction and comfort representations do not assist consumers; they simply mislead them.

This practice constitutes a violation of California Civil Code §1770(a) under, *inter alia*, the following subdivisions:

- (5) Representing that [FlexAid has] . . . characteristics, . . . uses [or] benefits. . . which [it does] not have.

\* \* \*

- (7) Representing that [FlexAid is] of a particular standard, quality or grade, . . . if [it is] of another.

\* \* \*

- (9) Advertising goods . . . with the intent not to sell them as advertised.

\* \* \*

- (16) Representing that [FlexAid has] been supplied in accordance with a previous representation when [it has] not.

California Civil Code §1770(a)(5)-(16).

Naturade's representations also constitute violations of California Business and Professions Code §17200, *et seq.*, and a breach of express warranties.

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code §1782, we hereby demand on behalf of our client and all other similarly situated California Residents that Naturade immediately correct and rectify this violation of California Civil Code §1770 by ceasing the misleading marketing campaign and ceasing dissemination of false and misleading information as described in the enclosed Complaint. In addition, Naturade should offer to refund the purchase price to all consumer purchasers of these Products, plus reimbursement for interest, costs, and fees.

Plaintiff will, after 30 days from the date of this letter, amend the Complaint without leave of Court, as permitted by California Civil Code §1782, to include claims for actual and punitive damages (as may be appropriate) if a full and adequate response to this letter is not received. These damage claims also would include claims under already asserted theories of unlawful business acts, as well as the claims under the Consumers Legal Remedies Act. Thus, to avoid further litigation, it is in the interest of all parties concerned that Naturade address this problem immediately.

Naturade must undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

1. Identify or make a reasonable attempt to identify purchasers of the subject Products who reside in California;
2. Notify all such purchasers so identified that upon their request, Naturade will offer an appropriate correction, replacement, or other remedy for its wrongful conduct, which can include a full refund of the purchase price paid for such products, plus interest, costs and fees;
3. Undertake (or promise to undertake within a reasonable time if it cannot be done immediately) the actions described above for all FlexAid purchasers who so request; and
4. Cease from expressly or impliedly representing to consumers that these products are effective at improving joint mobility, rebuilding cartilage or improving joint function when there is no reasonable basis for so claiming, as more fully described in the attached Complaint.

We await your response.

Sincerely,

PATTERSON LAW GROUP

CARPENTER LAW GROUP

A handwritten signature in blue ink, appearing to read "James R. Patterson", is written over a light blue rectangular background.

James R. Patterson

Enclosure(s)



PATTERSON LAW GROUP

JAMES R. PATTERSON  
619.756.6993 direct  
jim@pattersonlawgroup.com

April 19, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Claude Tellis  
Prevention, LLC  
1 City Blvd. West, Suite 1440  
Orange, California 92868

Re: Vasic v. Prevention, LLC, Naturade Operating Corporation, and Walgreen Co.

Dear Mr. Tellis:

Our law firm and Carpenter Law Group represent Dragan Vasic and all other similarly situated California Residents in an action against Prevention, LLC (hereafter, "Prevention") arising out of, *inter alia*, misrepresentations, either express or implied, to consumers about the efficacy and benefits of its FlexAid line of joint dietary supplements including but not limited to:

- 1) "Promotes Joint Comfort";
- 2) "Promotes Flexibility & Mobility";
- 3) "Supports Joint Cartilage and Connective Tissue"; and
- 4) "Shows improvement in Joint Comfort within 5 Days!"

Mr. Vasic and others similarly situated purchased the FlexAid products unaware that Prevention's representations found on the products' labels and packages are false. Several clinical studies have found no causative link between the ingredients in the FlexAid products and joint protection, mobility and comfort. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is enclosed and incorporated by this reference.

Prevention's representations are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by Prevention with the intent to result in the sale of the FlexAid products to the consuming public. The joint protection, cartilage protection, mobility, pain reduction and comfort representations do not assist consumers; they simply mislead them.

This practice constitutes a violation of California Civil Code §1770(a) under, *inter alia*, the following subdivisions:

- (5) Representing that [FlexAid has] . . . characteristics, . . . uses [or] benefits. . . which [it does] not have.

\* \* \*

- (7) Representing that [FlexAid is] of a particular standard, quality or grade, . . . if [it is] of another.

\* \* \*

- (9) Advertising goods . . . with the intent not to sell them as advertised.

\* \* \*

- (16) Representing that [FlexAid has] been supplied in accordance with a previous representation when [it has] not.

California Civil Code §1770(a)(5)-(16).

Prevention's representations also constitute violations of California Business and Professions Code §17200, *et seq.*, and a breach of express warranties.

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code §1782, we hereby demand on behalf of our client and all other similarly situated California Residents that Prevention immediately correct and rectify this violation of California Civil Code §1770 by ceasing the misleading marketing campaign and ceasing dissemination of false and misleading information as described in the enclosed Complaint. In addition, Prevention should offer to refund the purchase price to all consumer purchasers of these Products, plus reimbursement for interest, costs, and fees.

Plaintiff will, after 30 days from the date of this letter, amend the Complaint without leave of Court, as permitted by California Civil Code §1782, to include claims for actual and punitive damages (as may be appropriate) if a full and adequate response to this letter is not received. These damage claims also would include claims under already asserted theories of unlawful business acts, as well as the claims under the Consumers Legal Remedies Act. Thus, to avoid further litigation, it is in the interest of all parties concerned that Prevention address this problem immediately.

*Vasic v. Prevention LLC et al*

April 19, 2013

Page Three

Prevention must undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

1. Identify or make a reasonable attempt to identify purchasers of the subject Products who reside in California;
2. Notify all such purchasers so identified that upon their request, Prevention will offer an appropriate correction, replacement, or other remedy for its wrongful conduct, which can include a full refund of the purchase price paid for such products, plus interest, costs and fees;
3. Undertake (or promise to undertake within a reasonable time if it cannot be done immediately) the actions described above for all FlexAid purchasers who so request; and
4. Cease from expressly or impliedly representing to consumers that these products are effective at improving joint mobility, rebuilding cartilage or improving joint function when there is no reasonable basis for so claiming, as more fully described in the attached Complaint.

We await your response.

Sincerely,

PATTERSON LAW GROUP

CARPENTER LAW GROUP

A handwritten signature in blue ink, appearing to read "James R. Patterson", is written over a light blue rectangular background.

James R. Patterson

Enclosure(s)





JAMES R. PATTERSON  
619.756.6993 direct  
jim@pattersonlawgroup.com

April 19, 2013

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Walgreen Company  
200 Wilmot Road  
Deerfield, Illinois 60015

Re: Vasic v. Prevention, LLC, Naturade Operating Corporation, and Walgreen Co.

Dear Sir or Madam:

Our law firm and Carpenter Law Group represent Dragan Vasic and all other similarly situated California Residents in an action against Walgreen Company (hereafter, "Walgreen") arising out of, *inter alia*, misrepresentations, either express or implied, to consumers about the efficacy and benefits of its FlexAid line of joint dietary supplements including but not limited to:

- 1) "Promotes Joint Comfort";
- 2) "Promotes Flexibility & Mobility";
- 3) "Supports Joint Cartilage and Connective Tissue"; and
- 4) "Shows improvement in Joint Comfort within 5 Days!"

Mr. Vasic and others similarly situated purchased the FlexAid products unaware that Walgreen's representations found on the products' labels and packages are false. Several clinical studies have found no causative link between the ingredients in the FlexAid products and joint protection, mobility and comfort. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is enclosed and incorporated by this reference.

Walgreen's representations are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by Walgreen with the intent to result in the sale of the FlexAid products to the consuming public. The joint protection, cartilage protection, mobility, pain reduction and comfort representations do not assist consumers; they simply mislead them.

This practice constitutes a violation of California Civil Code §1770(a) under, *inter alia*, the following subdivisions:

- (5) Representing that [FlexAid has] . . . characteristics, . . . uses [or] benefits. . . which [it does] not have.

\* \* \*

- (7) Representing that [FlexAid is] of a particular standard, quality or grade, . . . if [it is] of another.

\* \* \*

- (9) Advertising goods . . . with the intent not to sell them as advertised.

\* \* \*

- (16) Representing that [FlexAid has] been supplied in accordance with a previous representation when [it has] not.

California Civil Code §1770(a)(5)-(16).

Walgreen's representations also constitute violations of California Business and Professions Code §17200, *et seq.*, and a breach of express warranties.

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code §1782, we hereby demand on behalf of our client and all other similarly situated California Residents that Walgreen immediately correct and rectify this violation of California Civil Code §1770 by ceasing the misleading marketing campaign and ceasing dissemination of false and misleading information as described in the enclosed Complaint. In addition, Walgreen should offer to refund the purchase price to all consumer purchasers of these Products, plus reimbursement for interest, costs, and fees.

Plaintiff will, after 30 days from the date of this letter, amend the Complaint without leave of Court, as permitted by California Civil Code §1782, to include claims for actual and punitive damages (as may be appropriate) if a full and adequate response to this letter is not received. These damage claims also would include claims under already asserted theories of unlawful business acts, as well as the claims under the Consumers Legal Remedies Act. Thus, to avoid further litigation, it is in the interest of all parties concerned that Walgreen address this problem immediately.

Walgreen must undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

1. Identify or make a reasonable attempt to identify purchasers of the subject Products who reside in California;
2. Notify all such purchasers so identified that upon their request, Walgreen will offer an appropriate correction, replacement, or other remedy for its wrongful conduct, which can include a full refund of the purchase price paid for such products, plus interest, costs and fees;
3. Undertake (or promise to undertake within a reasonable time if it cannot be done immediately) the actions described above for all FlexAid purchasers who so request; and
4. Cease from expressly or impliedly representing to consumers that these products are effective at improving joint mobility, rebuilding cartilage or improving joint function when there is no reasonable basis for so claiming, as more fully described in the attached Complaint.

We await your response.

Sincerely,

PATTERSON LAW GROUP

CARPENTER LAW GROUP

A handwritten signature in blue ink, appearing to read "James R. Patterson", is written over a light blue rectangular background.

James R. Patterson

Enclosure(s)

**CARPENTER LAW GROUP**

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Telephone: 619.347.3517  
Facsimile: 619.756.6991  
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**PATTERSON LAW GROUP**

James R. Patterson (CA 211102)  
402 West Broadway, 29th Floor  
San Diego, California 92101  
Telephone: 619.398.4760  
Facsimile: 619.756.6991  
[jim@pattersonlawgroup.com](mailto:jim@pattersonlawgroup.com)

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DRAGAN VASIC, On Behalf of Himself  
and All Others Similarly Situated,

Plaintiff,

vs.

PREVENTION, L.L.C., a Delaware Limited  
Liability Company, NATURADE,  
OPERATING CORPORATION, a  
Delaware Corporation, and WALGREEN,  
CO., an Illinois Corporation,

Defendants.

Case No. '13CV0941 AJB KSC

**DECLARATION OF TODD D.  
CARPENTER REGARDING  
CALIFORNIA CIVIL CODE SECTION  
1780(d)**

I, Todd D. Carpenter, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am the principle and owner of the Carpenter Law Group, and the counsel of record for plaintiff in the above-entitled action.

2. Defendant Prevention, L.L.C., has done and is doing business in the Southern District of California. Such business includes the marketing, distributing and sale of its FlexAid joint health supplements. Furthermore, Plaintiff Vasic purchased the FlexAid Advanced Triple Action Joint Formula product in San Diego, California.

3. Defendant Naturade Operating Corporation has done and is doing business in the Southern District of California. Such business includes the marketing, distributing and sale of its FlexAid joint health supplements.

4. Defendant Walgreen Company has done and is doing business in the Southern District of California. Such business includes the marketing, distributing and sale of the FlexAid joint health supplements.

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

Executed this 19<sup>th</sup> Day of April, 2013 in San Diego, California.

/s/ Todd D. Carpenter  
Todd D. Carpenter

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

DRAGAN VASIC, On Behalf of Himself and All Others Similarly Situated,

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

CARPENTER LAW GROUP, 402 W. Broadway, 29<sup>th</sup> Floor  
San Diego, Ca 92101

PATTERSON LAW GROUP, 402 W. Broadway, 29<sup>th</sup> Floor  
San Diego, Ca 92101

**DEFENDANTS**

PREVENTION, L.L.C., a Delaware Limited Liability Company,  
NATURADE, OPERATING CORPORATION, a Delaware  
Corporation, and WALGREEN, CO., an Illinois Corporation

County of Residence of First Listed Defendant Delaware

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

**'13CV0941 AJB KSC**

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |  |  |                            |                            |
|--|--|----------------------------|----------------------------|
| <b>PTF</b>   | <b>DEF</b>   | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State <input type="checkbox"/> 1                   | Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2                | Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | Foreign Nation <input type="checkbox"/> 3  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <table border="0"> <tr> <td> <b>PERSONAL INJURY</b>  <input type="checkbox"/> 310 Airplane  <input type="checkbox"/> 315 Airplane Product Liability  <input type="checkbox"/> 320 Assault, Libel &amp; Slander  <input type="checkbox"/> 330 Federal Employers' Liability  <input type="checkbox"/> 340 Marine  <input type="checkbox"/> 345 Marine Product Liability  <input type="checkbox"/> 350 Motor Vehicle  <input type="checkbox"/> 355 Motor Vehicle Product Liability  <input type="checkbox"/> 360 Other Personal Injury           </td> <td> <b>PERSONAL INJURY</b>  <input type="checkbox"/> 362 Personal Injury—Med. Malpractice  <input type="checkbox"/> 365 Personal Injury—Product Liability  <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b>  <input type="checkbox"/> 370 Other Fraud  <input type="checkbox"/> 371 Truth in Lending  <input type="checkbox"/> 380 Other Personal Property Damage  <input type="checkbox"/> 385 Property Damage Product Liability           </td> </tr> </table>	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability					
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC § 1332 (d)(2)

Brief description of cause:

Violation of the the Unfair Competition Law, Violation of the Consumers Legal Remedies Act, Breach of Express Warranty

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE April 19, 2013 SIGNATURE OF ATTORNEY OF RECORD

/s/ Todd D. Carpenter

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_