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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LINDA DAO, on behalf of herself and all others similarly situated,

Plaintiff,

v.

NATROL, INC. d.b.a DELAWARE NATROL, INC., a Delaware Corporation and Does 1 through 20,

Defendants.

Case No.: '13CV2433 BEN WMC

CLASS ACTION

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

Plaintiff Linda Dao brings this action on behalf of herself and all others similarly situated against Defendant Natrol, Inc. d.b.a Delaware Natrol, Inc. ("Natrol") and Does 1 through 20 ("Does or Doe Defendants") (collectively "Defendants") and states:

NATURE OF ACTION

1. Defendants distribute, market, and sell Natrol Glucosamine Chondroitin supplements[1] ("Natrol GC") a line of Glucosamine and Chondroitin based supplements that purportedly provides a variety of health benefits focused on improving joint health, mobility, flexibility, and lubrication. These claimed health benefits are the only reason a consumer would purchase Natrol GC. Defendants' advertising claims, however, are false, misleading, and reasonably likely to deceive the public.

2. The primary active ingredients in the Natrol GC products are glucosamine and chondroitin. Through an extensive, uniform and long-term nationwide advertising campaign, Defendants represent that Natrol GC, "Helps Rebuild Cartilage Tissue" and has "Clinically Tested Ingredients to Promote Optimal Joint Flexibility, Lubrication, Mobility and Comfort". *See generally* Exhibit "A", Product Labels.

3. All available scientific evidence demonstrates that the Natrol GC products have no efficacy at all: that they are ineffective in the improvement of joint health, provide no benefits related to the reduction of pain in human joints, and they do not protect cartilage from breakdown. Defendants do not have any competent, reliable, scientific evidence that substantiates their representations about the health benefits of consuming Natrol GC. In fact, numerous scientifically valid studies have been conducted on the ingredients, including the core or primary ingredients in Natrol GC, glucosamine hydrochloride and

[1] The Natrol Glucosamine Supplements include: Natrol Glucosamine Chondroitin MSM, and Natrol Glucosamine 1500 mg Chondroitin 1200 mg.

chondroitin sulfate, and they have universally demonstrated that those ingredients, either on their own or in combination, have absolutely no scientific value in the treatment of joint pain or discomfort. Simply stated, science has proven over the course of the last decade that the Natrol GC products are ineffective, do not and could not possibly relieve pain, rebuild cartilage tissue, improve joint comfort or flexibility as advertised.

4. Defendants represent that the active ingredients in the Natrol GC products provide relief for joint pain and discomfort. The product labeling on the Natrol GC products state that consuming Natrol GC will "regenerate and rebuild the cartilage tissue," and help "maintain the structural integrity of this tissue and promote[] lubricating fluids for the joints," and that a consumer's "joints will have the opportunity for optimal flexibility, mobility and comfort," attached as Exhibit A. These bold claims are in addition to the misrepresentations listed on the front of the packaging. Taken together, these statements explicitly and implicitly represent that the Natrol GC products are intended to improve overall joint health and comfort.

5. Defendants convey their uniform, deceptive message to consumers through a variety of media, including Defendant Natrol's website, online promotional materials, and, most importantly, at the point of purchase: on the front and back of the Natrol GC packaging/labeling where consumers cannot miss it. The only reason a consumer would purchase Natrol GC is to obtain the advertised joint-health benefits, which the Natrol GC products do not provide.

6. As a result of Defendants' deceptive advertising and false claims regarding the efficacy of the Natrol GC 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 Linda Dao is approximately $25.00 per bottle.

7. Plaintiff brings this action on behalf of herself and other similarly situated consumers who have purchased the Natrol GC products 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 the products. Based on violations of California's unfair competition laws and Defendants' breach of express warranty, Plaintiff seeks injunctive and monetary relief for consumers who purchased the Natrol GC products.

JURISDICTION AND VENUE

8. 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 it is a class action in which there are in excess of 100 class members, many of whom are citizens of a state different from Defendants.

9. 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 Natrol GC products in California, and Defendants have sufficient minimum contacts with this State and/or sufficiently avail themselves of the markets in this State through their promotion, sales, distribution, and marketing within this State to render the exercise of jurisdiction by this Court permissible.

10. Venue is proper under 18 U.S.C. § 1965(a) because Defendants transact substantial business in this District and Defendants market, distribute and sell the Natrol GC products in this District.

PARTIES

11. Plaintiff Linda Dao resides in San Diego County, California. In

approximately early March of 2013, Plaintiff purchased one bottle of Natrol GC at a Ralph's grocery store located on 1030 University Avenue, San Diego, California 92103. At the time of her purchase she was exposed to, read and relied upon Defendants' representations regarding the joint-health benefits of the Natrol GC products by reading the Natrol GC product label in a Ralph's store near her home in San Diego, California. In reliance on the claims listed on the product label described herein and above, and specifically those claims listed on the front and back of the product label, that Natrol GC products would help to "rebuild cartilage tissue," and promote "joint flexibility, lubrication, mobility and comfort," Plaintiff purchased the Natrol GC product. She paid approximately $25.00 for the product at Ralph's. Ms. Dao consumed the product regularly, as directed, but did not experience the intended, advertised benefits. As a result of her purchase, Plaintiff suffered injury in fact and lost money. Had Plaintiff known the truth about Defendants' misrepresentations and omissions, she would not have purchased the Natrol GC products. Plaintiff Dao is not claiming physical harm or seeking the recovery of personal injury damages. Plaintiff purchased the Natrol Glucosamine Chondroitin MSM product.

12. Defendant Natrol, Inc. d.b.a Delaware Natrol, Inc. is incorporated under the laws of the state of Delaware. Natrol's corporate headquarters is located at 21411 Prairie Street, Chatsworth, California 91311. Natrol researches, develops, manufactures, distributes, markets, and sells its Natrol GC products to tens of thousands of consumers in California and throughout the United States.

13. The true names and capacities, whether individual corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 20, inclusive, are currently unknown to Plaintiff.

14. Plaintiff is informed and believes, and based thereon alleges, that each of the defendants designated herein as a DOE is legally responsible in some

manner for the unlawful acts referred to herein. Plaintiff will file the requisite motion with this Court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known.

15. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto and mentioned herein, each defendant sued herein, was the agent, servant, employer, joint venturer, partner, division owner, subsidiary, division, alias, and/or alter ego of each of the remaining defendants and were, at all times, acting within the purpose and scope of such agency, servitude, employment, ownership, subsidiary, alias and/or alter ego and with the authority, consent, approval, control, influence, and ratification of each remaining defendant sued herein.

FACTUAL ALLEGATIONS

The Natrol GC products

16. Defendants manufacture, distribute, market, and sell the Natrol GC line of joint-health supplements on a nationwide basis.

17. Defendants presently offer two forms of the Natrol GC products: a) Natrol Glucosamine 1500mg Chondroitin 1200mg and b) Natrol Glucosamine Chondroitin MSM (purchased by Plaintiff Dao). The products are nearly identical in their chemical composition, the only difference is that Natrol Glucosamine Chondroitin MSM contains an additional ingredient, "Methylsulfonylmethane" (MSM). However, MSM does nothing to change or enhance the active ingredients common to both products, Glucosamine Hydrochloride and Chondroitin Sulfate. The MSM contained in the Natrol Glucosamine Chondroitin MSM product represents less than nine percent (9%) of the total ingredient composition for a single serving. The advertising and

marketing messages for the products are nearly identical. *See* Exhibit A. Both products claim to have clinically tested components, and both products claim they promote joint comfort, flexibility, and mobility. Id.

18. The Natrol GC products are sold throughout the country in major food, drug, and mass retail outlets and online retailers including, but not limited to: Ralph's, Vitamin Shoppe, Target and Wal-Mart. The Natrol GC products are also sold through online retailers such as amazon.com and Drugstore.com.

19. Since the launch of the Natrol GC products, Defendants have consistently conveyed the message to consumers throughout California and nationwide that the Natrol GC products will help "Rebuild Cartilage Tissue" and that they possess clinically tested ingredients to promote optimal joint flexibility, lubrication, mobility and comfort. These statements have been proven false by multiple, reputable, published scientific studies. Additionally, the product labeling for Natrol Glucosamine Chondroitin MSM, states that consuming the Natrol GC products will "regenerate and rebuild the cartilage tissue," and help "maintain the structural integrity of this tissue and promote[] lubricating fluids for the joints," and that a consumer's "joints will have the opportunity for optimal flexibility, mobility and comfort," attached as Exhibit "A". These representations have also been proven false by multiple, reputable, published scientific studies [set forth herein at ¶¶ 29 to 50.] As more fully set forth herein, the scientific evidence regarding the use of glucosamine and chondroitin, taken on their own or in combination, does not provide **<u>any</u>** of the joint-health benefits represented by Defendants.

20. In addition to the two primary ingredients that Defendants both prominently display on it packaging and diligently promote as providing the purported joint-health benefits, the Natrol GC products also contain miniscule amounts of other ingredients. As with glucosamine and chondroitin, these other

minor ingredients are also not effective in providing the joint-health benefits represented by Defendants. In any event, the focus is on the uniform false and deceptive representations and omissions that Defendants make about glucosamine and chondroitin on the package labeling of each Natrol GC products.

21. The primary active ingredients in both of the Natrol GC products are glucosamine hydrochloride and chondroitin sulfate. Glucosamine is an amino sugar that the body produces and distributes in cartilage and other connective tissue. Chondroitin sulfate is a complex carbohydrate found in the body's connective tissues.

22. 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.[2]

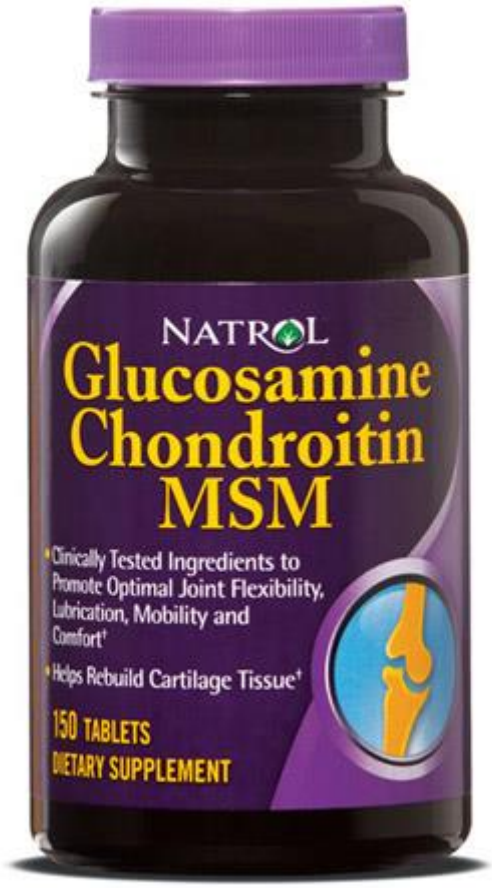
23. There is no competent scientific evidence that taking glucosamine hydrochloride and chondroitin sulfate, together or in isolation, let alone through oral administration, results in the body metabolizing it into something that provides the advertised joint-health and cartilage benefits, including relieving the major symptoms of arthritis. The symptoms of arthritis are inclusive and representative of the claims Defendants' products advertise to treat or otherwise benefit.

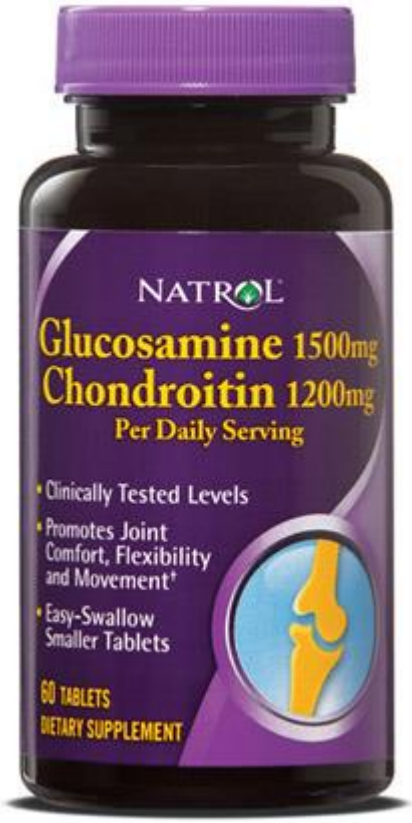
24. Contrary to the stated representations on all the Natrol GC products' labeling and packaging, Defendants do not possess (and have not possessed) competent scientific evidence that any of these ingredients, taken alone or in combination, are effective in providing the advertised joint-health and cartilage benefits, including treating the major symptoms of arthritis or any other joint-

[2]MayoClinic.com, Osteoarthritis, http://www.mayoclinic.com/health/osteoarthritis/DS00019 (follow "Symptoms" hyperlink) (last visited Sept. 18, 2013).

related ailments.

25. Despite scientific studies which demonstrate that the claims are false and deceptive, and no scientifically valid confirmation that the Natrol GC products are an effective joint-health supplement—let alone an effective treatment for *all* joints in the human body, for customers of *all* ages, and for *all* stages of joint problems and/or disease—Defendants state on the Natrol GC packaging and labeling that it will promote joint comfort, flexibility and movement or mobility. Representative Natrol GC product packaging and labeling appears as follows:





See also Exhibit A attached (Natrol GC product packaging and labeling exemplars containing the false and deceptive statements).

26. Contrary to the stated representations on all of the Natrol GC products' labeling and packaging and throughout Defendants' other advertising and marketing for the Natrol GC 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. Simply stated, there are multiple clinical studies relating to each of Defendants' misrepresentations demonstrating that the product advertising is false and misleading.

27. Defendants knew or should have known that glucosamine and chondroitin, taken alone or in combination with the other ingredients present in the Natrol GC products, have no actual medicinal value and do not provide any of the warranted benefits as represented by Defendants' Natrol GC products' packaging, labeling, and other advertising. In fact, there is no scientific study demonstrating that glucosamine or chondroitin can provide the claimed joint-health benefits; and every, reputable, published study on the ingredients has debunked Defendants' claims. And in the case of Glucosamine Chondroitin MSM, at least one scientific study concluded that damaged cartilage does not receive or benefit from blood flow; rendering it impossible to "rebuild cartilage tissue" as Defendant's product represents. *See* paragraph 30 below.

28. Independent studies confirm that the representations made on the Natrol GC product label, relied upon by Plaintiff in making her purchases, are false and misleading. Despite knowledge of these studies, Defendants continued to make the described representations, misleading Plaintiff and members of the Class into believing the Natrol GC products had actual efficacy and would

provide the benefits described in their advertising.

29. For example, a 1999 study involving 100 subjects by Houpt, et al., entitled *Effect of glucosamine hydrochloride in the treatment of pain of osteoarthritis of the knee*, 26(11) J. Rheumatol. 2423-30 (1999), found that glucosamine hydrochloride performed no better than placebo at reducing pain at the conclusion of the eight week trial.

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

31. Likewise, a 2004 study by McAlindon, et al., entitled *Effectiveness of Glucosamine For Symptoms of Knee Osteoarthritis: Results From an Internet-Based Randomized Double-Blind Controlled Trial*, 117(9) Am. J. Med. 649-9 (Nov. 2004), concluded that "glucosamine was no more effective than placebo in treating symptoms of knee osteoarthritis"—in short, that glucosamine is ineffective. *Id*. at 646 ("we found no difference between the glucosamine and placebo groups in any of the outcome measures, at any of the assessment time points").

32. A 2004 study by Cibere, et al., entitled *Randomized, Double-Blind, Placebo-Controlled Glucosamine Discontinuation Trial In Knee Osteoarthritis*, 51(5) Arthritis Care & Research 738-45 (Oct. 15, 2004), studied users of glucosamine who had claimed to have experienced at least moderate improvement after starting glucosamine. These patients were divided into two groups: one that continued using glucosamine and one that was given a placebo. For six months, the primary outcome observed was the proportion of disease flares in the glucosamine and placebo groups. A secondary outcome was the

time to disease flare. The study results reflected that there were no differences in either the primary or secondary outcomes for glucosamine and placebo. The authors concluded that the study provided no evidence of symptomatic benefit from continued use of glucosamine—in other words, any prior perceived benefits were due to the placebo effect and not glucosamine. *Id*. at 743 ("In this study, we found that knee OA disease flare occurred as frequently, as quickly, and as severely in patients who were randomized to continue receiving glucosamine compared with those who received placebo. As a result, the efficacy of glucosamine as a symptom-modifying drug in knee OA is not supported by our study.").

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

34. Subsequent GAIT studies in 2008 and 2010 reported that glucosamine and chondroitin did not rebuild cartilage and were otherwise ineffective—even in patients with moderate to severe knee pain for which the 2006 reported results were inconclusive. *See* Sawitzke, A.D., et al., *The Effect of Glucosamine and/or Chondroitin Sulfate on the Progression of Knee Osteoarthritis: A GAIT Report*, 58(10) J. Arthritis Rheum. 3183-91 (Oct. 2008); Sawitzke, A.D., *Clinical Efficacy And Safety Of Glucosamine, Chondroitin Sulphate, Their Combination, Celecoxib Or Placebo Taken To Treat Osteoarthritis Of The Knee: 2 Year Results* From GAIT, 69(8) Ann Rhem. Dis. 1459-64 (Aug. 2010).

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

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

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

38. In December 2008, the American Academy of Orthopaedic Surgeons published clinical practice guidelines for the "Treatment of Osteoarthritis of the Knee (Non-Arthroplasty)," and recommended that "glucosamine and sulfate or hydrochloride should not be prescribed for patients

with symptomatic OA of the knee." Richmond et al., *Treatment of osteoarthritis of the knee* (nonarthroplasty), J. Am. Acad. Orthop. Surg. Vol. 17 No. 9 591-600 (2009). This recommendation was based on a 2007 report from the Agency for Healthcare Research and Quality (AHRQ), which states that "the best available evidence found that glucosamine hydrochloride, chondroitin sulfate, or their combination did not have any clinical benefit in patients with primary OA of the knee." Samson, et al., *Treatment of Primary and Secondary Osteoarthritis of the Knee, Agency for Healthcare Research and Quality*, 2007 Sep 1. Report No. 157.

39. Even studies not concerning the type of glucosamine in the Natrol GC products demonstrate that glucosamine does not provide the joint-health benefits that Defendants represent. For example, a study by Rozendaal, et al., entitled *Effect of Glucosamine Sulfate on Hip Osteoarthritis*, 148 Ann. of Intern. Med. 268-77 (2008), assessing the effectiveness of glucosamine on the symptoms and structural progression of hip osteoarthritis during two years of treatment, concluded that glucosamine was no better than a placebo in reducing symptoms and progression of hip osteoarthritis.

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

Glycobiology 19(6):564-567 (2009).

41. In April 2009, the Journal of Orthopedic Surgery published an article entitled *Review Article: Glucosamine*. The article's authors concluded that, based on their literature review, there was "little or no evidence" to suggest that glucosamine was superior to a placebo even in slowing down cartilage deterioration, much less regenerating it. Kirkham, et al., *Review Article: Glucosamine*, *Journal of Orthopedic Surgery*, 17(1): 72-6 (2009).

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

43. In a separate opinion from 2009, an EFSA panel examined the evidence for glucosamine (either hydrochloride or sulfate) alone or in combination with chondroitin sulfate and maintenance of joints. The claimed effect was "joint health," and the proposed claims included "helps to maintain healthy joint," "supports mobility," and "helps to keep joints supple and flexible." Based on its review of eleven human intervention studies, three meta-analyses, twenty-one reviews and background papers, two animal studies, one *in vitro* study, one short report, and one case report, the EFSA panel concluded that "a cause and effect relationship has not been established between the consumption of glucosamine (either as glucosamine hydrochloride or as

glucosamine sulphate), either alone or in combination with chondroitin sulphate, and the maintenance of normal joints." EFSA Panel on Dietetic Products, Nutrition and Allergies, Scientific Opinion on the substantiation of health claims related to glucosamine alone or in combination with chondroitin sulphate and maintenance of joints and reduction of inflammation, EFSA Journal (2009), 7(9):1264.

44. A 2010 meta-analysis by Wandel, et al., entitled *Effects of Glucosamine, Chondroitin, Or Placebo In Patients With Osteoarthritis Or Hip Or Knee: Network Meta- Analysis*, BMJ 341:c4675 (2010), examined prior studies involving glucosamine and chondroitin, alone or in combination, and whether they relieved the symptoms or progression of arthritis of the knee or hip. The study authors reported that glucosamine and chondroitin, alone or in combination, did not reduce joint pain or have an impact on the narrowing of joint space: "Our findings indicate that glucosamine, chondroitin, and their combination do not result in a relevant reduction of joint pain nor affect joint space narrowing compared with placebo." *Id*. at 8. The authors further concluded "[w]e believe it unlikely that future trials will show a clinically relevant benefit of any of the evaluated preparations." *Id*.

45. On July 7, 2010, Wilkens, et al., reported that there was no difference between a placebo and glucosamine for the treatment of low back pain and lumbar osteoarthritis and that neither glucosamine nor a placebo was effective in reducing pain related disability. The researchers also concluded that "[b]ased on our results, it seems unwise to recommend glucosamine to all patients" with low back pain and lumbar osteoarthritis. Wilkens, et al., *Effect of Glucosamine on Pain-Related Disability in Patients With Chronic Low Back Pain and Degenerative Lumbar Osteoarthritis*, 304(1) JAMA 45-52 (July 7, 2010).

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

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

48. In 2012, a report by Rovati, et al., entitled *Crystalline glucosamine sulfate in the management of knee osteoarthritis: efficacy, safety, and pharmacokinetic properties*, Ther Adv Muskoloskel Dis 4(3) 167-180, noted that glucosamine hydrochloride "ha[s] never been shown to be effective."

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

50. To date, there are only two studies, both of which are more than a

decade old, purporting to claim that the ingestion of glucosamine can affect the growth or deterioration of cartilage, both sponsored by a glucosamine supplement manufacturer: Pavelka, et al., *Glucosamine Sulfate Use and Delay of Progression of Knee Osteoarthritis*, Arch. Intern. Med., 162: 2113-2123 (2002); and Reginster, et al., *Long-term Effects of Glucosamine Sulphate On Osteoarthritis Progress: A Randomised, Placebo-Controlled Clinical Trial*, Lancet, 357: 251-6 (2001). As noted in the April 2009 Journal of Orthopedic Surgery article, the methodologies in those studies had "inherently poor reproducibility," and even minor changes in posture by the subjects during scans could cause false apparent changes in cartilage. The authors of the Journal of Orthopedic Surgery article explained the manufacturer-sponsored studies' findings by noting that "industry-sponsored trials report positive effects more often than do non-sponsored trials and more find pro-industry results." No reliable scientific medical study has shown that glucosamine and chondroitin, alone or in combination, have a structure-modifying effect that will regenerate cartilage that has broken down or worn away. Furthermore, even if these studies were reliable scientific data, they did not analyze glucosamine ***hydrochloride*** and cannot be extrapolated to the Natrol GC products.

51. Plaintiff and Class members have been, and will continue to be, deceived or misled by Defendants' deceptive representations touting the effectiveness of the Natrol GC products. Plaintiff purchased and used the Elations products during the Class Period and in doing so, read, considered and based her decisions to buy Natrol GC on the above-cited label representations. Because the Natrol GC products' sole purpose is to provide joint relief for the major symptoms of arthritis---including joint pain and discomfort, Defendants' representations and omissions were a material factor in influencing Plaintiff's decision to purchase Natrol GC. There is no other reason for Plaintiff to have

purchased Natrol GC, and Plaintiff would not have purchased Natrol GC had she known that it was ineffective and that Defendants did not possess competent scientific evidence to support the claims they made about the Natrol GC products.

52. As a result, Plaintiff and the Class members have been damaged in their purchases of the Natrol GC products and have been deceived into purchasing products that they believed, based on Defendants' representations, were proven to be effective in treating the major symptoms of arthritis and other joint-related ailments, when, in fact, they are not.

53. Defendants, by contrast, reaped enormous profits from their false marketing and sale of the Natrol GC products.

CLASS DEFINITION AND ALLEGATIONS

54. Plaintiff brings this action on behalf of himself and all others 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 Natrol GC Products in California. Excluded from the Class are Defendants, their parents, subsidiaries, affiliates, officers, and directors, those who purchased the Natrol GC products for the purpose of resale, and those who assert claims for personal injury.

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

56. ***Existence and Predominance of Common Questions of Law and Fact***. 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 they made about the Natrol GC products;

ii. Whether the claims discussed herein that Defendants made about the Natrol GC products 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 relief; and

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

57. ***Typicality***. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Class, as the claims arise from the same course of conduct by Defendants, and the relief sought is common. Plaintiff and Class members suffered uniform damages caused by their purchases of the Elations products which were manufactured, marketed, and sold by Defendants.

58. ***Adequacy of Representation***. Plaintiff will fairly and adequately represent and protect the interests of the members of the Class. Plaintiff has retained counsel competent and experienced in both consumer-protection and

class-action litigation.

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

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

COUNT I

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

61. 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.

62. 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.

63. Plaintiff re-allege and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

64. This cause of action is brought under the Consumers Legal Remedies Act, California Civil Code §1750, *et seq.* (the "Act"). Plaintiff and the proposed class are consumers as defined by California Civil Code §1761(d). Defendant's Natrol GC products are goods within the meaning of the Act.

65. 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 Natrol GC products:

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

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

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

68. Pursuant to §1782 of the Act, Plaintiffs notified Defendants in writing by certified mail of the particular violations of §1770 of the Act and demanded that Defendants rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendants' intent to so act. A copy of the letter is attached hereto as Exhibit B.

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

70. Defendants' conduct is malicious, fraudulent and wanton, and provides misleading information.

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

COUNT II

Violation of Business & Professions Code §17200, *et seq.*

72. Plaintiff re-alleged and incorporated by reference the allegations contained in the paragraphs above as if fully set forth herein.

73. As alleged herein, Plaintiff has suffered injury in fact and lost money or property as a result of Defendants' conduct because she purchased the Natrol GC product.

74. In the course of conducting business, Defendants committed unlawful business practices by, *inter alia*, making the representations (which also constitute advertising within the meaning of §17200) and omissions of material

facts, as set forth more fully herein, and violating Civil Code §§1572, 1573, 1709, 1711, 1770, Business & Professions Code §§17200, *et seq.*, 17500, *et seq.*, and the common law.

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

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

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

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

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

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

81. Defendants' conduct caused and continues to cause substantial

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

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

COUNT III

Breach of Express Warranty

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

84. Plaintiff, and each member of the Class, formed a contract with Defendant at the time Plaintiffs and the other members of the Class purchased the Natrol GC products. The terms of that contract include the promises and affirmations of fact made by Defendants on the Natrol GC product labels and packages, as described above. These representations constitute express warranties, became part of the basis of the bargain, and are part of a standardized contract between Plaintiff and the members of the Class on the one hand, and Defendants on the other.

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

86. Defendants breached the terms of this contract, including the express warranties, with Plaintiff and the Class by not providing the Natrol GC products that could provide the benefits described above which was the only reason Plaintiff and Class members purchased the Natrol GC products.

87. As a result of Defendants' breach of warranty, Plaintiff and Class

members have been damaged in the amount of the purchase price of the Natrol GC products they purchased.

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

Plaintiffs demand a trial by jury on all issues so triable.

Dated: October 9, 2013

Carpenter Law Group

By: /s/ TODD D. CARPENTER
Todd D. Carpenter

CARPENTER LAW GROUP
TODD D. CARPENTER (CA 234464)
402 West Broadway, 29th Floor
San Diego, California 92101

Telephone: 619/347-3517

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

Attorneys for Plaintiff

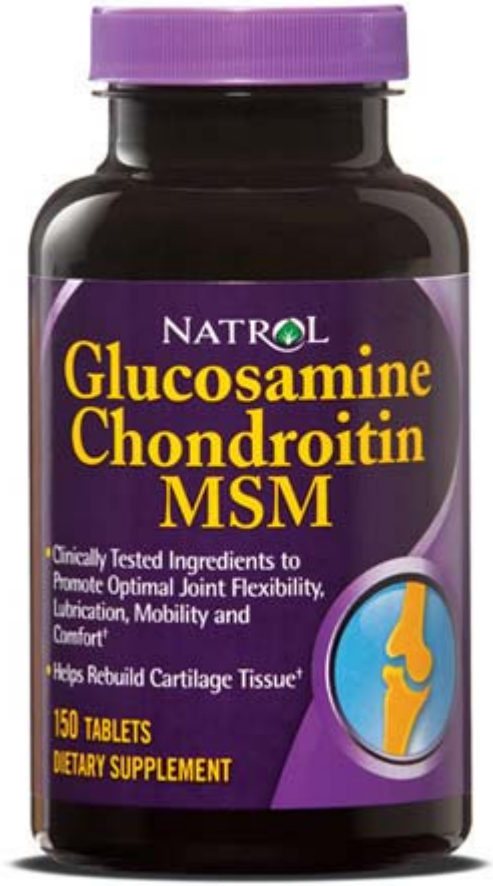
todd@carpenterlawyers.com

Attorneys for Plaintiff and the Class

EXHIBIT A

Exhibit A

Natrol Glucosamine Chondroitin MSM:



Natrol Glucosamine 1500 mg Chondroitin 1200 mg:

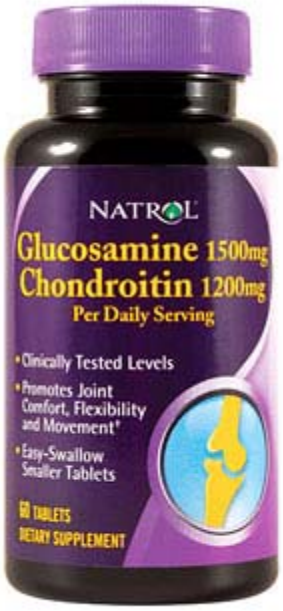

NATROL
Glucosamine 1500mg
Chondroitin 1200mg
Per Daily Serving
• Clinically Tested Levels
• Promotes Joint Comfort, Flexibility and Movement†
• Easy-Swallow Smaller Tablets
60 TABLETS
DIETARY SUPPLEMENT

EXHIBIT B

CARPENTER LAW GROUP
402 West Broadway, 29th Floor | San Diego, California 92101 | P. 619.347.3517 | Web: Carpenterlawyers.com

October 9, 2013

VIA CERTIFIED MAIL (RETURN RECEIPT)
(RECEIPT NO. _____)

Chief Executive Officer / President
Natrol, Inc. d.b.a Delaware Natrol, Inc.
21411 Prairie Street
Chatsworth, California 91311

Re: Linda Dao v. Natrol, Inc. d.b.a. Delaware Natrol, Inc., et al.

Dear Sir/Madame:

My law firm, the Carpenter Law Group represents Linda Dao and all other similarly situated California Residents in an action against Natrol, Inc. d.b.a. Delaware Natrol, Inc., ("Natrol"), arising out of, *inter alia*, misrepresentations, either express or implied to consumers that its Natrol Glucosamine Chondroitin ("Natrol GC") line of joint dietary supplements[1]:

- [Contain] Clinically tested ingredients to promote optimal joint flexibility, lubrication, mobility and comfort;
- Helps rebuild cartilage tissue;
- Natrol has combined three of the most beneficial joint health ingredients to your joints the support they need! Glucosamine works hard to regenerate and rebuild the cartilage tissue. Chondroitin helps maintain the structural integrity of this tissue and promotes lubricating fluids for the joints.

These bold claims are in addition to other misrepresentations on your website, repeated in marketing materials and advertising.

Ms. Dao and others similarly situated purchased the Natrol GC products unaware that representations found on the Natrol GC products' labels and packages are false. Several clinical studies have found no causative link between the ingredients in the Natrol GC products and joint renewal, 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.

Natrol's representations are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by Natrol with the

[1] The Natrol Glucosamine Supplements include: Natrol Glucosamine Chondroitin MSM, and Natrol Glucosamine 1500 mg Chondroitin 1200 mg.

intent to result in the sale of the Natrol GC products to the consuming public. The joint renewal, mobility and rejuvenation 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 [Natrol GC has] . . . characteristics, . . . uses [or] benefits. . . which [it does] not have.

* * *

> (7) Representing that [Natrol GC 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 [Natrol GC has] been supplied in accordance with a previous representation when [it has] not.

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

Natrol'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 clients and all other similarly situated California Residents that Natrol 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, Natrol should offer to refund the purchase price to all consumer purchasers of these Products, plus reimbursement for interest, costs, and fees.

Plaintiffs 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 Natrol address this problem immediately.

Natrol 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, Natrol 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 Natrol GC 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.

Very truly yours,

/s/ Todd D. Carpenter

Todd D. Carpenter

For the Firm

Enclosures

EXHIBIT C

CARPENTER LAW GROUP
Todd D. Carpenter (CA 234464)
402 West Broadway, 29th Floor
San Diego, California 92101
Telephone: (619) 347-3517

Attorneys for Plaintiff Dao
todd@carpenterlawyers.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LINDA DAO. on behalf of herself and all others similarly situated, Plaintiff, v. NATROL, INC. d.b.a DELAWARE NATROL, INC., a Delaware Corporation and Does 1 through 20, Defendants.	Case No.: CLASS ACTION **DECLARATION OF TODD D. CARPENTER RE: JURISDICTION**

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 plaintiffs in the above-entitled action

2. Defendant Natrol Inc., d.b.a. Delaware Natrol, Inc. ("Natrol") has done and is doing business in the Southern District of California. Such business includes the marketing, distributing and sale of its Natrol Glucosamine Chondroitin brand joint supplement products.

3. The Defendant Does, to the extent they exist, have done and are doing business in the Southern District of California. Such business includes the marketing, distributing and sale of its Natrol Glucosamine Chondroitin brand of joint supplement products.

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

Executed this Ninth Day of October, 2013 in San Diego, California.

By: /s/ TODD D. CARPENTER
Todd D. Carpenter

CARPENTER LAW GROUP
TODD D. CARPENTER (CA 234464)
402 West Broadway, 29th Floor
San Diego, California 92101
todd@carpenterlawyers.com

Attorneys for Plaintiff and the Class

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 NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
Linda Dao, on Behalf of Herself and All Others Similarly Situated

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Carpenter Law Group, Phone: 619-347-3517
402 West Broadway, 29th Floor, San Diego, Ca 92101

DEFENDANTS
Natrol, Inc. d.b.a. Delaware Natrol, Inc., a Delaware corporation and DOES 1 - 20

County of Residence of First Listed Defendant Los Angeles
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys *(If Known)*

'13CV2433 BEN WMC

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) (For Diversity Cases Only)*

	PTF	DEF		PTF	DEF
Citizen of This State	1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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

VI. CAUSE OF ACTION

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

Brief description of cause:
consumer class action case alleging false advertising of Defendant's joint health supplements

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ 5,000,000.00

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

VIII. RELATED CASE(S) IF ANY *(See instructions)*:

JUDGE _____ DOCKET NUMBER _____

DATE 10/09/2013

SIGNATURE OF ATTORNEY OF RECORD s/ Todd D. Carpenter

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.