

1 **LAW OFFICES OF**  
 2 **RONALD A. MARRON**  
 3 RONALD A. MARRON (SBN 175650)  
 4 *ron@consumersadvocates.com*  
 5 SKYE RESENDES (SBN 278511)  
 6 *skye@consumersadvocates.com*  
 7 MICHAEL T. HOUCHIN (SBN 305541)  
 8 *mike@consumersadvocates.com*  
 9 651 Arroyo Drive  
 10 San Diego, California 92103  
 11 Telephone: (619) 696-9006  
 12 Facsimile: (619) 564-6665  
 13 *Attorneys for Plaintiff*  
 14 *and the Proposed Class*

11 UNITED STATES DISTRICT COURT  
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 VEDA WOODARD on behalf of  
 14 herself, all others similarly situated, and  
 15 the general public,

16 Plaintiff,

17 v.

18 LEE LABRADA; LABRADA  
 19 BODYBUILDING NUTRITION, INC.;  
 20 LABRADA NUTRITIONAL  
 21 SYSTEMS, INC.; DR. MEHMET C.  
 22 OZ, M.D.; ENTERTAINMENT  
 23 MEDIA VENTURES, INC. d/b/a OZ  
 24 MEDIA; ZOCO PRODUCTIONS,  
 25 LLC; HARPO PRODUCTIONS, INC;  
 26 SONY PICTURES TELEVISION, INC;  
 27 NATUREX, INC.; and INTERHEALTH  
 28 NUTRACEUTICALS, INC.;

Defendants.

) Case No.:  
 )  
 )  
 ) **CLASS ACTION COMPLAINT**  
 )  
 )  
 ) **Demand for Jury Trial**

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1 Plaintiff Veda Woodard (“Plaintiff”), individually and on behalf of all others  
2 similarly situated and the general public, brings this action against Lee Labrada,  
3 Labrada Bodybuilding Nutrition, Inc., Labrada Nutritional Systems, Inc. (collectively  
4 “Labrada”), Dr. Mehmet C. Oz, M.D. (“Dr. Oz”), Entertainment Media Ventures, Inc.  
5 d/b/a Oz Media (“Oz Media”), Zoco Productions, LLC (“Zoco”), Harpo Productions,  
6 Inc. (“Harpo”), Sony Pictures Television, Inc. (“Sony”), Naturex, Inc. (“Naturex”), and  
7 Interhealth Nutraceuticals Incorporated (“Interhealth”) (collectively the “Defendants”)  
8 demanding a trial by jury, and alleges on information and belief or by investigation of  
9 her counsel as set forth in the preceding paragraphs.

#### 10 JURISDICTION AND VENUE

11 1. This Court has diversity jurisdiction over this action pursuant to the Class  
12 Action Fairness Act, 28 U.S.C. § 1332(d), because there are more than 100 class  
13 members and the aggregate amount in controversy exceeds \$5,000,000.00, exclusive  
14 of interest, fees, and costs, and at least one Class member is a citizen of a state different  
15 from Defendants.

16 2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391  
17 because Defendants are doing business throughout this District, and a substantial part  
18 of the events giving rise to Plaintiff’s claims took place within this judicial district.

#### 19 NATURE OF THE ACTION

20 3. This is a class action lawsuit on behalf of purchasers of Labrada weight-  
21 loss supplement products that include the “Labrada Garcinia Cambogia DUAL  
22 ACTION FAT BUSTER,” the “Labrada Green Coffee Bean Extract FAT LOSS  
23 OPTIMIZER,” the “Labrada Raspberry Ketones METABOLIC ENHANCER” and the  
24 Labrada FAT BUSTER FAT LOSS AID (collectively the “Labrada Products” or  
25 “Products”).

26 4. Through a comprehensive and uniform marketing scheme, Defendants  
27 have claimed that the Products are “*miracles in a bottle*” that will “*bust your body fat*  
28 *for good.*” Defendants also represent that the Products are backed by multiple scientific

1 “*references*” and are effective as “*Fat Loss Aids*” and powerful “*Fat Busters*.”  
2 However, the Products do not provide any weight loss benefits. Indeed, the Labrada  
3 Products are only effective at trimming the wallets of unsuspecting consumers.

4 5. The Labrada Products contain purported active ingredients that are  
5 derived from plant materials, fruit extracts, and other herbal ingredients. Some of these  
6 ingredients are also proprietary brands. For example, Svetol® is a Green Coffee Bean  
7 Extract used in the Labrada FAT LOSS OPTIMIZER. Svetol® is manufactured,  
8 distributed, and sold by Defendant Naturex, Inc. According to the Svetol® website,  
9 “Svetol® is the most studied and proven green coffee bean extract for losing weight  
10 and increasing lean body mass. Svetol®, developed by Naturex, is a natural plant  
11 extract of decaffeinated green coffee. Svetol® is derived from 100% premium Robusta  
12 beans that have undergone a proprietary processing technology which extracts a high  
13 concentration of key chlorogenic acids.” A product brochure states that “Svetol®  
14 inhibits glucose-6-phosphatase and increases fat release from the adipose tissue  
15 (scientifically tested).” Moreover, according to Naturex, its efficacy on weight  
16 management has been “clinically proven.”

17 6. The Labrada Garcinia Cambogia Product contains the proprietary active  
18 ingredient Supercitrimax®, which is manufactured, distributed, marketed, and sold by  
19 Defendant Interhealth. Supercitrimax® is a weight-loss supplement ingredient  
20 containing an extract of the *Garcinia cambogia* fruit. According to the Interhealth  
21 website, “Super CitriMax® is a patented, 60% hydroxycitric acid (HCA) water extract  
22 from Garcinia cambogia. It is uniquely bound to calcium and potassium for maximum  
23 stability, solubility, bioavailability, and efficacy. Super CitriMax® is an established  
24 brand supported by 4 peer-reviewed clinical research publications and extensive safety  
25 research.”

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# LABRADA<sup>®</sup>

## Wellness Line<sup>®</sup>

Your health is our business



1           7. Sales of weight-loss supplement products like the Labrada Products  
2 exploded after television broadcasts of *The Doctor Oz Show* featured a segment called  
3 the “Five Biggest Fat Busters for Five Body Types in Just Five Days.” During that  
4 series, celebrity Defendant Doctor Mehmet C. Oz touted the “magic” benefits of Green  
5 Coffee beans, Garcinia Cambogia, and Raspberry Ketones.<sup>1</sup>

6           8. For example, Dr. Oz stated the following about Green Coffee Bean  
7 Extract: “Magic is make believe, but [a] little bean has scientists saying they found a  
8 **magic weight-loss cure** for every body type. It's green coffee beans. When turned into  
9 a supplement this **miracle pill can burn fat fast.**” Similarly, Dr. Oz called Garcinia  
10 Cambogia a “**revolutionary fat buster**” and that “it could be the **magic ingredient that**  
11 **lets you lose weight without diet or exercise.**” With respect to Raspberry Ketones, Dr.  
12 Oz stated: “Now I've got the **number one miracle in a bottle to burn your fat,** it's  
13 raspberry ketone.”<sup>2</sup>

14           9. As one news article noted, “Products mentioned by Dr. Mehmet Oz on *The*  
15 *Doctor Oz Show* have a habit of being conspicuously absent from store shelves the  
16 following day. This phenomenon, termed the ‘Oz Effect,’ has taken retailers by storm—  
17 and by surprise—since store managers have no advance warning that a given product  
18 will be blasted into notoriety from a mention by the ‘celebri-doc.’”<sup>3</sup>

19  
20  
21  
22 <sup>1</sup> C.f. Bahar Gholipour, *Dr. Oz's 'Miracle' Diet Pills: Five Controversial Supplements*,  
23 LIVE SCIENCE (Jun. 18, 2014 06:39 PM), [http://www.livescience.com/46397-science-](http://www.livescience.com/46397-science-of-dr-oz-miracle-diet-pills.html)  
24 [of-dr-oz-miracle-diet-pills.html](http://www.livescience.com/46397-science-of-dr-oz-miracle-diet-pills.html) (Providing “a look at some of the supposedly  
25 metabolism-boosting, weight-loss supplements Oz has endorsed, for which there's  
26 scarce scientific data”).

26 <sup>2</sup> See, e.g., <http://goo.gl/w7bDVs> (episode featuring Green Coffee Bean Extract);  
27 <http://goo.gl/mZ55gF> (episode featuring raspberry ketones); <http://goo.gl/KuEOL8>  
28 (episode featuring garcinia cambogia).

28 <sup>3</sup> See Alice G. Walton, *The Oz Effect: Medicine or Marketing*, FORBES (June 6, 2006),  
<http://goo.gl/XM1rav>.

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10. Despite the representations made by Dr. Oz and the other Defendants, “there is no miracle pill that can help Americans lose excess weight, so [consumers] have to rely on responsible behavior – including eating right and being physically active.”<sup>4</sup> In fact, all credible scientific evidence shows that supplement products containing green coffee beans, Garcinia Cambogia, and Raspberry Ketones do not work to help users lose weight. One randomized-controlled study that evaluated the efficacy of Garcinia Cambogia as a weight-loss aid found that participants who were taking Garcinia Cambogia showed no significant difference in weight-loss than participants taking a placebo.<sup>5</sup>

11. As a renowned surgeon at Columbia University with specialized medical and scientific knowledge, Dr. Oz knew that the claims he was making about the supplements being “miracle fat busters” were patently false or misleading consumers. Dr. Oz concealed his fraud by affirmatively representing to consumers that he was

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<sup>4</sup> Staff Report, *Deception in Weight-Loss Advertising Workshop: Sizing Opportunities and Building Partnerships to Stop Weight-Loss Fraud*, FEDERAL TRADE COMMISSION (Dec. 2003), <https://goo.gl/2sevyj>.

<sup>5</sup> See Heymsfield *et al.*, *Garcinia cambogia (Hydroxycitric Acid) as a Potential Antiobesity Agent: A Randomized Controlled Trial*, J. AM. MED. ASS’N, VOL. 280, NO. 18 (1998), <http://goo.gl/iO2Njs>.

1 giving his objective opinion about the products based on his specialized knowledge.  
 2 Dr. Oz has consistently maintained that he does not promote any specific brand of  
 3 supplements. He even launched a campaign called “IT’S NOT ME” that is designed to  
 4 “warn viewers about rogue marketers engaged in copyright infringement by using the  
 5 Dr. Oz name.” On multiple episodes of *The Dr. Oz Show*, he also made statements like:  
 6 “I’M GOING TO SAY SOMETHING FOR EVERYBODY TO HEAR, I DON’T  
 7 SELL THE STUFF, I DON’T MAKE ANY MONEY OFF THIS, AND I’M NOT  
 8 GOING TO MENTION ANY SPECIFIC BRANDS.”<sup>6</sup>

9 12. But Dr. Oz does promote particular brands of weight-loss proprietary  
 10 ingredients like Supercitrimax® and Svetol® as well as supplement products like the  
 11 Labrada Products.

12 13. *The Dr. Oz Show* frequently features special guests who use their titles as  
 13 “doctors” and “nutrition experts” to mislead consumers about the effectiveness of the  
 14 Products. For example, Dr. Oz once featured Dr. Harry Preuss in an episode about  
 15 Garcinia cambogia. Dr. Oz stated “Revolutionary new research says [garcinia] could  
 16 be the magic ingredient that lets you lose weight without diet or exercise. Dr. Harry  
 17 Preuss is at the forefront of the research.” But Dr. Harry Preuss is a paid spokesperson  
 18 for Interhealth.<sup>7</sup> Defendants have omitted material facts about the “science” and their  
 19 “studies” supporting the products. One material fact that has been concealed from  
 20 consumers is that ***Dr. Preuss has co-authored over ninety clinical studies with Dr.***  
 21 ***Debasis Bagchi — Interhealth’s Senior Vice President of Research and***  
 22 ***Development.***<sup>8</sup> Almost every study finds that a herbal supplement extract of some kind

23 \_\_\_\_\_  
 24 <sup>6</sup> A clip of that episode is available at the following link beginning at the 03:35 mark  
 on the timeline: <http://goo.gl/eJXQgS>.

25 <sup>7</sup> See *Biography of ANH-USA Board Member Harry G. Preuss*, ALLIANCE FOR  
 26 NATURAL HEALTH, <http://goo.gl/ZVDjkg> (noting that Dr. Preuss is a “consultant” for  
 Interhealth).

27 <sup>8</sup> See *Biography of Debasis Bagchi*, iHEALTH TUBE.COM, <https://goo.gl/Zghpse>;  
 28 Curriculum Vitae of Harry G. Preuss, M.D., <http://www.ihtglobal.com/hgpcv.pdf>.

1 is “effective” or “novel,” as summarized on the following table:

<b>PRODUCT:</b>	<b>PREUSS WAS PAID BY:</b>	<b>RESULTS:</b>
Coenzyme Q10 to prevent free radicals. <sup>9</sup>	The manufacturer	It works!
A “novel” fenugreek extract to treat hormonal disorders <sup>10</sup>	The manufacturer	It works!
A “novel” extract of Trigonella Foenum-Graecum seed to treat diabetes <sup>11</sup>	The manufacturer	It works!
A “novel” grape seed extract to repair DNA damage <sup>12</sup>	The manufacturer	It works!
Konjac glucomannan for significant weight loss <sup>13</sup>	The manufacturer	It works!
Two coconut oils for treatment of staph infections <sup>14</sup>	The manufacturer	It works!
Maitake mushroom extracts to decrease hypertension <sup>15</sup>	The manufacturer	It works!

15 <sup>9</sup> <http://www.ncbi.nlm.nih.gov/pubmed/20213261>

16 <sup>10</sup> Pruess, et al., *Efficacy of a Novel Fenugreek Seed Extract (Trigonella foenum-*  
 17 *graecum, Furocyst) in Polycystic Ovary Syndrome (PCOS)*,  
 18 <http://www.ncbi.nlm.nih.gov/pubmed/20567593>

19 <sup>11</sup> Pruess, et al., *Safety, efficacy and toxicological evaluation of a novel, patented anti-*  
 20 *diabetic extract of Trigonella Foenum-Graecum seed extract (Fenfuro)*,  
 21 <http://www.ncbi.nlm.nih.gov/pubmed/25045923>

22 <sup>12</sup> Pruess, et al., *Mechanistic pathways of antioxidant cytoprotection by a novel IH636*  
 23 *grape seed proanthocyanidin extract*.  
 24 <http://www.ncbi.nlm.nih.gov/pubmed/12587719>

25 <sup>13</sup> Pruess, et al., *Konjac Glucomannan Dietary Supplementation Causes Significant*  
 26 *Fat Loss in Compliant Overweight Adults*.  
 27 <http://www.ncbi.nlm.nih.gov/pubmed/26492494>

28 <sup>14</sup> Pruess, et al *In vitro and in vivo effects of two coconut oils in comparison to*  
 29 *monolaurin on Staphylococcus aureus: rodent studies*,  
 30 <http://www.ncbi.nlm.nih.gov/pubmed/23767861>

31 <sup>15</sup> Pruess, et al *Maitake mushroom extracts ameliorate progressive hypertension and*  
 32 *other chronic metabolic perturbations in aging female rats.*,  
 33 <http://www.ncbi.nlm.nih.gov/pubmed/20567593>

1	Saw Palmetto to treat prostate growth <sup>16</sup>	The manufacturer	It works!
2			
3	A “novel” potassium bound form of HCA extracted from Garcinia cambogia <sup>17</sup>	Defendant Interhealth (The manufacturer)	It works!
4			

5 14. Many of the Preuss/Bachgi studies were also performed in India at a  
6 research center called the “Laila Impex.” However, the Laila Impex is operated by  
7 Laila Nutraceuticals— one of India’s largest supplement exporters.<sup>18</sup> Supercitrimax®  
8 is actually manufactured by Laila Nutraceuticals in India and then imported into the  
9 United States by Interhealth.<sup>19</sup> Defendants do not disclose this fact and instead make  
10 affirmative representations to the contrary by saying the Labrada Products are “Made  
11 in the USA.”

12 15. Interhealth was even assigned the patent rights to Supercitrimax® directly  
13 from Laila or its executives.<sup>20</sup> For example, at least two patents note that the assignor  
14 was “Ganga Raju, Gokaraju” and the assignee is Defendant Interhealth. Mr. Ganga  
15 Raju is the founder of the multi-billion dollar Laila Group of companies and is a  
16 member of India’s parliament.<sup>21</sup>

17 16. Defendants have also concealed material facts about the clinical studies  
18 supporting Green Coffee Bean extract. One study that was touted by Dr. Oz was  
19

20 <sup>16</sup> Preuss, et al., *Comparison of Saw Palmetto (extract and whole berry) and Cernitin*  
21 *on prostate growth in rats*, <http://www.ncbi.nlm.nih.gov/pubmed/12962139>

22 <sup>17</sup> Preuss, et al., *Efficacy of a novel calcium/potassium salt of (-)-hydroxycitric acid in*  
*weight control*, <http://www.ncbi.nlm.nih.gov/pubmed/16366421>.

23 <sup>18</sup> See *Laila Nutraceuticals in talks with global PEs to raise \$40 million, may offer 40*  
24 *percent stake*, THE ECONOMIC TIMES (Aug. 21, 2014), <http://goo.gl/00lgU0>.

25 <sup>19</sup> See *id.* (explaining that “Laila Nutra has its manufacturing facility in Vijayawada,  
26 Andhra Pradesh, [India] and supplies [its] ingredients to its overseas clients such as  
27 US-based PL Thomas Inc. and Interhealth Nutraceuticals Inc.”).

28 <sup>20</sup> See, e.g., U.S. Patent Nos. 6,875,891; 7,943,186; 7,858,128.

<sup>21</sup> See Gokaraju Ganga Raju, WIKIPEDIA.ORG,  
[https://en.wikipedia.org/wiki/Gokaraju\\_Ganga\\_Raju](https://en.wikipedia.org/wiki/Gokaraju_Ganga_Raju).

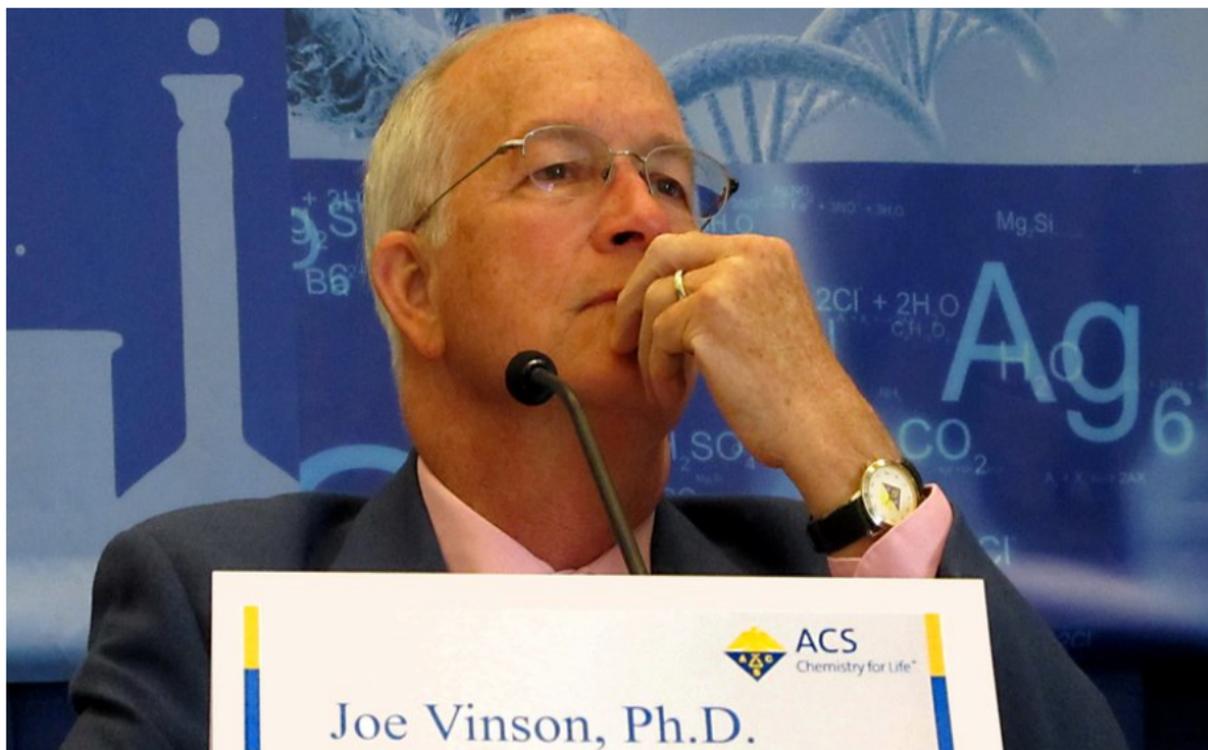
1 **retracted by the journal that published it** after an FTC investigation revealed that “the  
2 principal investigator repeatedly: (1) altered the weights and other key measurements  
3 of the subjects; (2) changed the length of the trial; and (3) confused which subjects took  
4 either the placebo or [Green Coffee Bean Extract] at various points during the trial.”<sup>22</sup>  
5 That same study actually **appears on the bottle of the Labrada Green Coffee Product.**



27 <sup>22</sup> See *FTC v. Applied Food Sciences, Inc.*, Civ. No., 1-14-cv-00851 (W.D. Tex. Sept.  
28 8, 2014), <https://www.ftc.gov/system/files/documents/cases/140908afscmpt.pdf>.



1  
2 18. The retracted *Vinson* study was first widely-disseminated to the public and  
3 the media by Doctor Joe Vinson himself at the 243<sup>rd</sup> National Meeting & Exposition  
4 of the American Chemical Society (ACS), which took place at the San Diego  
5 Convention Center on March 27, 2012.<sup>24</sup>



18 Dr. Joe Vinson announces results of a now-retracted study showing that green coffee beans can help dieters lose weight. Taken at the March 2012 meeting of the American  
19 Chemical Society in San Diego. *Bradley J. Fikes*

20 19. Other studies cited in support of Svetol®, Supercitrimax®, and Raspberry  
21 Ketones all suffer from similar flaws and Defendants conceal material facts about how  
22 the studies were conducted or misrepresent the studies altogether. Some of the more  
23 prominent flaws include the following:

- 24 • Multiple studies cited on the labels used rodents like “Sprague-  
25 Dawley rats” as the test subjects instead of actual human beings  
26 who are likely to use the products.

27 <sup>24</sup> See Bradley J. Fikes, *Study on coffee, weight loss retracted*, SAN DIEGO UNION-  
28 TRIBUNE (Oct. 22, 2014 1:03 PM), <http://goo.gl/sVZttB> (Providing a video recording  
of the presentation).

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- Each and every one of the studies suffers from flawed methodologies and are not the result of accepted scientific methodologies for conducting clinical studies.
- Several studies were completely funded by supplement manufacturers or were conducted in “research facilities” in India that are owned and operated by affiliated supplement manufacturers.
- The researchers who conducted several of the studies were employees of the ingredient manufacturers.
- Several studies were conducted *in Vitro* by using cell cultures instead of actual human beings.
- The test subjects in several studies were given other supplements *in addition to* Garcinia Cambogia and/or Green Coffee Bean Extract.

20. Defendants have misled the public about the true nature of their studies. Plaintiff and the Class relied on Defendants’ representations that the Products are supported by scientific “references” and are effective for use as weight loss aids.

21. Aside from the faulty and biased clinical studies touted by Defendants, no credible studies are showing that green coffee bean extract, Garcinia cambogia, and raspberry ketone supplements work at all to help users lose weight. In fact, several reliable and peer-reviewed studies show that the supplements do not work at all to aid weight loss as further discussed in this complaint.

22. The sale of fraudulent weight-loss supplements is a matter of national concern and sales of falsely labeled products— such as the Labrada Products— has become an epidemic. In fact, Dr. Oz was even called to testify before the United States Senate’s Consumer Protection, Product Safety, Insurance, and Data Security

1 Subcommittee regarding the marketing and sales of supplement products.<sup>25</sup> Committee  
2 Chairwoman, Senator Clair McCaskill of Missouri, was the first to question Dr. Oz  
3 about the science behind supplements containing Garcinia Cambogia, Green Coffee  
4 Bean Extract, and Raspberry Ketones.<sup>26</sup>

5 **SENATOR McCASKILL:**

6 I can't figure this out Dr. Oz...I get that you do a lot of good on your  
7 show. I understand that you give a lot of information that's great  
8 information about health, and you do it in a way that's  
9 understandable. You're very talented, you're obviously very bright.  
10 You've been trained in science-based medicine.

11 Now, here are three statements you've made on your show:

- 12 • **'YOU MAY THINK MAGIC IS MAKE-BELIEVE, BUT**
- 13 **THIS LITTLE BEAN HAS SCIENTISTS SAYING**
- 14 **THEY'VE FOUND THE MAGIC WEIGHT-LOSS CURE**
- 15 **FOR EVERY BODY TYPE. IT'S GREEN COFFEE**
- 16 **EXTRACT.'**
- 17 • **'I'VE GOT THE NUMBER ONE MIRACLE IN A BOTTLE**
- 18 **TO BURN YOUR FAT! IT'S RASPBERRY KETONES.'**
- 19 • **'GARCINIA CAMBOGIA: IT MAY BE THE SIMPLE**
- 20 **SOLUTION YOU'VE BEEN LOOKING FOR TO BUST**
- 21 **YOUR BODY FAT FOR GOOD.'**

22 I don't get why you need to say this stuff, because *you know it's not*  
23 *true!* So why, when you have this amazing megaphone, and this  
24 amazing ability to communicate, why would you cheapen your show  
25 by saying things like that?"

26 <sup>25</sup> *Protecting Consumers from False and Deceptive Advertising of Weight-Loss*  
27 *Products: Hearing Before the Subcomm. On Consumer Protection, Product Safety, And*  
28 *Insurance*, 113th CONG., 65–71 (2014), <https://goo.gl/xy6gVY>.

<sup>26</sup> See “*Sen. McCaskill Questions Dr. Oz on ‘Flowery’ Language on His Show,*” C-  
SPAN, <http://goo.gl/Dh4K1D>.

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**DR. OZ:**

Well, if I could disagree about whether they work or not, and I'll move on to the issue of the words that I used.

And just with regards to whether they work or not - take green coffee bean extract as an example - I'm not going to argue that it would pass FDA muster if it was a pharmaceutical drug seeking approval. But among the natural products that are out there, this is a product that has several clinical trials. There was one large one, one very good quality one, that was done the year we talked about this in 2012 [Referring to the Retracted *Vinson* Study].

**SENATOR McCASKILL:**

I want to know about that clinical trial. Because the only one I know was 16 people in India that were paid for by the company that was— at the point in time you initially talked about this being a 'miracle'— *the only study that was out there was the one with 16 people in India that was written up by somebody who was being paid by the company who was producing it.*

\*\*\*\*

**SENATOR McCASKILL:**

Well then why would you say something is a miracle in a bottle?

**DR. OZ:**

My job, I feel, on the show is to be a cheerleader for the audience. And when they don't think they have hope and when they don't think they can make it happen, I'm willing to look and I do look everywhere, including alternative healing traditions, for any evidence that might be supportive to them.



23. Plaintiff brings this class action on behalf of herself and all other similarly situated purchasers of Labrada brand weight loss products containing Garcinia Cambogia, Green Coffee Bean Extract, and Raspberry Ketones who were duped into paying for worthless weight-loss supplements. Plaintiff and the Class members hereby seek redress for Defendants’ intentional misrepresentations, fraudulent concealments, breaches of express and implied warranties, violations of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, violations of the California Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*, violations of the California False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.* and other unjust and inequitable conduct committed by Defendants.

### **THE PARTIES**

#### **I. Plaintiff Veda Woodard**

24. Plaintiff Veda Woodard, is a resident of Murrieta, California. Plaintiff Woodard purchased the “Labrada Garcinia Cambogia DUAL ACTION FAT BUSTER,” the “Labrada Green Coffee Bean Extract FAT LOSS OPTIMIZER,” and the “Labrada Raspberry Ketones METABOLIC ENHANCER” on multiple occasions

1 beginning on or around June of 2013 and continuing until approximately December of  
2 2013 from Vitamin Shoppe stores located in Murrieta, California and in Temecula,  
3 California. Plaintiff Woodard paid approximately \$14.99 to \$19.99 for each of the  
4 Products that she purchased.

5         25. Plaintiff Woodard saw the Misrepresentations prior to and at the time of  
6 purchase and understood them as representations and warranties that the Products were  
7 safe and effective for weight loss and fat loss as advertised. Ms. Woodard relied on  
8 the representations made on the Products' label in deciding to purchase the Products.  
9 Additionally, Plaintiff Woodard saw episodes of *The Doctor Oz Show* that promoted  
10 the products and relied on the representations made on *The Doctor Oz Show* in deciding  
11 to purchase the Products. These representations and warranties were part of her basis  
12 of the bargain, in that she would not have purchased the Products had she known the  
13 representations were false. She also understood that in making the sale, the retailer was  
14 acting with the knowledge and approval of and/or as the agents of Defendants. She also  
15 understood that the purchase involved a direct transaction between herself and the  
16 ingredient manufacturers because her purchase came with the ingredients  
17 manufacturers misrepresentations and warranties that the products were, in fact, safe  
18 and effective for weight loss and fat loss, among other things. Plaintiff Woodard would  
19 consider purchasing the Products again if the advertising statements made on the  
20 Product labels and in the Product advertisements were, in fact, truthful and represented  
21 in a manner as not to deceive consumers.

## 22         **II. Defendant Lee Labrada**

23         26. Defendant Lee Labrada is a resident of Tomball, Texas. Defendant Lee  
24 Labrada is the founder, president, and C.E.O. of both Defendant Labrada Body  
25 Building, Inc. and Defendant Labrada Nutritional Systems, Inc. Defendant Lee  
26 Labrada is a public figure who is recognized as a world-renowned bodybuilder.

27         27. Defendant Lee Labrada develops, manufactures, promotes, markets,  
28 distributes, and/or sells the Labrada Products across the United States, including to

1 hundreds of thousands of consumers in California. Lee Labrada has authorized and  
2 ratified the use of his name, image, and likeness to promote the Labrada Products and  
3 has reaped substantial profits thereby.

4 **III. Defendant Labrada Body Building, Inc.**

5 28. Defendant Labrada Bodybuilding Nutrition, Inc. is a corporation  
6 organized under the laws of the state of Texas that maintains its principal place of  
7 business at 333 North park Central Drive, Suite Z, Houston, Texas. Defendant Labrada  
8 Body Building, Inc. develops, manufactures, promotes, markets, distributes, and/or  
9 sells the Labrada Products across the United States, including to hundreds of thousands  
10 of consumers in California. Defendant Lee Labrada is the Chief Executive Officer and  
11 Founder of Labrada Bodybuilding Nutrition, Inc. According to the United States Patent  
12 and Trademark Office, Defendant Labrada Bodybuilding Nutrition is the owner of the  
13 “Labrada Nutrition” trademark. The labels and packaging for the Labrada Products  
14 uniformly state that the Labrada Products are “Developed and Manufactured for  
15 Labrada Nutrition.”

16 **IV. Defendant Labrada Nutritional Systems, Inc.**

17 29. Defendant Labrada Nutritional Systems, Inc. is a corporation organized  
18 under the laws of the state of Texas that maintains its principal place of business at 333  
19 North park Central Drive, Suite Z, Houston, Texas. Defendant Labrada Nutritional  
20 Systems, Inc. develops, manufactures, promotes, markets, distributes, and/or sells the  
21 Labrada Products across the United States, including to hundreds of thousands of  
22 consumers in California. Defendant Lee Labrada is the Chief Executive Officer and  
23 Founder of Labrada Nutritional Systems, Inc.

24 **V. Defendant Dr. Mehmet C. Oz, M.D.**

25 30. Defendant Dr. Mehmet C. Oz, M.D. (“Dr. Oz”) is a resident of New York  
26 City, New York. Defendant Dr. Mehmet C. Oz has been called “America’s Doctor”<sup>27</sup>

27  
28 <sup>27</sup> “AMERICA’S DOCTOR” is a registered trademark owned by Dr. Mehmet C. Oz.

1 by Oprah Winfrey and was a frequent guest on *The Oprah Winfrey* television show. In  
2 2009, Harpo Productions—Oprah’s production company— began producing *The Dr.*  
3 *Oz Show* featuring Defendant Dr. Mehmet C. Oz. *The Dr. Oz Show* is a three-time  
4 Emmy Award-winning broadcast that aired its 1,000th episode in May of 2015. The  
5 show is broadcast in all U.S. markets in 118 countries around the world. Additionally,  
6 Dr. Oz has authored seven *New York Times* bestselling books. According to a  
7 *Bloomberg* biography, Dr. Oz is affiliated with several venture capital firms, hospitals,  
8 pharmaceutical manufacturers, and distributors.<sup>28</sup> Defendant Dr. Mehmet C. Oz  
9 promotes and markets the Labrada Products (and/or their active ingredients) across the  
10 United States, including to hundreds of thousands of consumers in California.

#### 11 **VI. Defendant Entertainment Media Ventures, Inc. d/b/a Oz Media**

12 31. Defendant Entertainment Media Ventures, Inc. d/b/a Oz Media (“Oz  
13 Media” or “EMV”) is a California corporation that maintains its principal place of  
14 business at 5225 Wilshire Blvd. #777, Los Angeles, California 90036. EMV is  
15 registered to do business in California as entity number C2133554. Defendant EMV is  
16 an entertainment venture capital firm that is operated by Dr. Oz’s Hollywood agent,  
17 Sanford R. Climan. Mr. Climan rose to success as an agent at the Creative Artists  
18 Agency (“CAA”) and has represented actors by the likes of Robert De Niro, Robert  
19 Redford, Kevin Costner, Danny DeVito, and Michael Man. In 2013, “Mr. Climan  
20 partnered with Dr. Mehmet Oz to form Oz Media, which is dedicated to building  
21 companies committed to improving health and wellness across cultures and  
22 geographies.”<sup>29</sup> Defendant Oz Media is responsible for the marketing and promotion  
23 of the Labrada Products (and/or their active ingredients) across the United States,  
24 including to hundreds of thousands of consumers in California.

#### 25 **VII. Defendant Zoco Productions, LLC**

26 32. Defendant Zoco Productions, LLC (“Zoco”) is a Delaware limited

27 <sup>28</sup>Executive Profile of Dr. Oz, BLOOMBERG, <http://goo.gl/YjH84n>.  
28 <sup>29</sup><http://emventures.com/who-we-are/>.

1 liability company that maintains its principal place of business in New York City, New  
2 York. Zoco produces *The Doctor Oz Show* and operates the website for the *The Doctor*  
3 *Show*. Defendant Zoco promotes and markets the Labrada Products (and/or their  
4 proprietary active ingredients) across the United States, including to hundreds of  
5 thousands of consumers in California.

### 6 **VIII. Defendant Harpo Productions, Inc.**

7 33. Defendant Harpo Productions, Inc. is an Illinois corporation that  
8 maintains its principal place of business in Chicago, Illinois. According to its LinkedIn  
9 web page, “Harpo Productions (also referred to as Harpo Studios) is a multimedia  
10 production company founded by Oprah Winfrey and is based in Chicago, Illinois. It is  
11 the most successful production company in daytime talk, producing The Oprah  
12 Winfrey Show, The Dr. Oz Show, and The Nate Berkus Show, as well as having  
13 developed Dr. Phil and Rachael Ray. Also, Harpo creates and produces original  
14 television programming for broadcast, syndication, and cable.” Harpo is Oprah spelled  
15 backwards. Based on information and belief, Defendant Zoco is a wholly-owned  
16 subsidiary of Defendant Harpo. Defendant Harpo promotes and markets the Labrada  
17 Products (and/or their proprietary active ingredients) across the United States,  
18 including to hundreds of thousands of consumers in California.

### 19 **IX. Defendant Sony Pictures Television, Inc.**

20 34. Defendant Sony Pictures Television, Inc. (“Sony”) is a Delaware  
21 corporation that maintains its principal place of business at 10202 W Washington  
22 Blvd., Spp #119 Culver City, California. Sony is registered to do business in California  
23 as entity number C1619277. Sony is one of the world’s largest content providers. An  
24 article that appeared on the Oprah Winfrey website in 2009 stated the following:

25 Dr. Mehmet C. Oz, MD, better known to millions as Dr. Oz, the renowned  
26 and popular surgeon, educator, and best-selling author who appears  
27 regularly on The Oprah Winfrey Show, will debut in first-run syndication  
28 next year with a series co-produced by Harpo Productions and Sony

1 Pictures Television (SONY) and distributed by SONY, it was jointly  
2 announced today by Oprah Winfrey; Tim Bennett, president, Harpo  
3 Productions; and Steve Mosko, president, Sony Pictures Television. The  
4 series, Dr. Oz (working title), will be available to stations across the  
5 country to launch in Fall 2009. Under the multi-year agreement, SONY  
6 will handle all distribution efforts for the show in the United States and  
7 Canada, advertiser sales and marketing, and co-produce the series with  
8 Harpo Productions.<sup>30</sup>

9 35. Defendant Sony promotes and markets the Labrada Products (and/or their  
10 active ingredients) across the United States, including to hundreds of thousands of  
11 consumers in California.

12 **X. Defendant Naturex, Inc.**

13 36. Defendant Naturex, Inc. (“Naturex”) is a Delaware corporation that  
14 maintains its principal place of business at 375 Huyler Street, South Hackensack, New  
15 Jersey. Defendant Naturex develops, manufactures, promotes, markets, distributes,  
16 and/or sells the Svetol® brand Green Coffee Bean Extract ingredient and the Labrada  
17 Green Coffee Bean Product with Svetol® throughout the United States, including in  
18 California. Defendant Naturex, Inc. is registered to do business in the state of California  
19 as entity number C1575823.

20 37. According to the U.S. Patent and Trademark Office, the “Svetol”  
21 trademark is owned by Naturex, S.A, which is the French holding company for  
22 Naturex, Inc. The Naturex LinkedIn web page describes the company’s business  
23 operations as follows:

24 Naturex is the global leader in specialty plant-based natural  
25 ingredients. Through its dedicated business units, the Group addresses

26 \_\_\_\_\_  
27 <sup>30</sup>See Press Release, *Harpo Productions and Sony Pictures Television to Launch Dr.*  
28 *Oz* (Jun. 13, 2009), <http://www.oprah.com/pressroom/Harpo-Productions-and-Sony-Pictures-Will-Launch-Dr-Oz>.

1 the specific needs of 3 strategic markets: Food & Beverage, Nutrition  
2 & Health, and Personal Care. The company offers its customers a full  
3 array of high quality ingredients, responsibly sourced from nature for  
4 food, pharmaceutical, nutraceutical and cosmetic applications.  
5 Naturex's head office is in Avignon, France. The company employs  
6 more than 1,700 people and benefits from 8 sourcing offices around the  
7 world and high-performance manufacturing operations across 15 sites  
8 in Europe, Morocco, the United States, Brazil, Australia, India and  
9 Chile. It also has a global commercial presence through a dedicated  
10 network of 25 sales offices.<sup>31</sup>

11 38. The "Naturex Group" maintains three offices and two "multifunction  
12 sites" in the United States. A Naturex sales office is located 3080 Bristol Street, Suite  
13 540, Costa Mesa, California 92626.

#### 14 **XI. Defendant Interhealth Nutraceuticals, Inc.**

15 39. Defendant Interhealth Nutraceuticals Incorporated ("Interhealth") is a  
16 California Corporation with its principal place of business at 5451 Industrial Way,  
17 Benicia, California 94510. Interhealth develops, manufactures, promotes, markets,  
18 distributes, and/or sells Supercitrimax® and the Labrada Garcinia Cambogia with  
19 Supercitrimax® product across the United States, including to hundreds of thousands  
20 of consumers in California.

21 40. According to its website, "InterHealth Nutraceuticals specializes in  
22 researching, developing, marketing and distributing proprietary branded nutraceutical  
23 ingredients. InterHealth ingredients are sold worldwide to manufacturers of dietary  
24 supplements and functional foods & beverages." Interhealth is the owner of the  
25 "Supercitrimax" trademark.

26 41. Interhealth's Supercitrimax® trademark and logo appear on the bottles of  
27 the Labrada Garcinia Cambogia.

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28 <sup>31</sup> See LinkedIn: Naturex, <https://www.linkedin.com/company/naturex>.

1 **COMMON FACTUAL ALLEGATIONS**

2 **I. “Big Fat Lies” In the Dietary Supplement Industry**

3 42. Sales of weight loss supplements in America is a \$37-billion a year  
4 industry.<sup>32</sup> To take advantage of Americans desperate for anything that will make it  
5 easier to lose weight, scammers flock to the weight-loss supplement industry to make  
6 a quick buck. In fact, “More than one in ten fraud claims submitted to the FTC are, in  
7 fact, for weight-loss products.”<sup>33</sup>

8 43. In 2004, the FTC launched “Operation Big Fat Lies” to “stop deceptive  
9 advertising and provide refunds to consumers harmed by unscrupulous weight-loss  
10 advertisers; encourage media outlets not to carry advertisements containing bogus  
11 weight-loss claims; and educate consumers to be on their guard against companies  
12 promising miraculous weight loss without diet or exercise.” More than ten years later,  
13 the sales of bogus weight-loss supplements continue to defraud consumers. In 2014,  
14 the FTC again took action by releasing its “Gut Check” publication that seeks help the  
15 media spot false weight loss claims. Nonetheless, The FTC’s efforts have proven  
16 mostly ineffective in stopping bogus supplement sales likely due to the agency’s budget  
17 restraints and lobbying efforts from deep-pocketed supplement manufacturers. Since  
18 1927, the FTC has filed only a little more than 250 cases against marketers of deceptive  
19 weight-loss products. Most of these suits involve small fly-by-night operations instead  
20 of the largest players in the industry.

21 44. Meanwhile, consumers continue to lose money on products that simply do  
22 not work. Even worse, some of these weight-loss products are extremely dangerous  
23 and have been linked to multiple fatalities. An article by CBS News stated the  
24 following:

25 <sup>32</sup> Elizabeth O’Brien, *Dietary supplements: a \$37 billion-a-year scam?*, CBS NEWS  
26 (Jan. 22, 2016 12:57 PM), <http://goo.gl/AmFOYv>.

27 <sup>33</sup> *Protecting Consumers from False and Deceptive Advertising of Weight-Loss*  
28 *Products: Hearing Before the Subcomm. On Consumer Protection, Product Safety,*  
*And Insurance*, 113th CONG., 65–71 (2014), <https://goo.gl/xy6gVY>

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In a normal world a company like Iovate Health Sciences, maker of the diet supplement Hydroxycut, shouldn't exist. Twice its products have killed people. Twice its products have been removed from the market by the FDA. Twice the company has "reformulated" the product to replace its active ingredient with a completely different substance. Yet Iovate continues to sell its snake oil, making the same "clinically proven" claims for each generation of its product, often with identical wording.

This bizarre operation was summed up in a recent federal court ruling allowing a class-action suit against the company to proceed. The case stems from the FDA's decision to remove Hydroxycut from the market in 2009, after it received 23 reports of liver damage from the drug and at least one death.

Although Iovate had marketed Hydroxycut as 'clinically proven' to help consumers 'lose weight fast,' 'without any unwanted side effects,' and that the products are 'backed by science,' there was no clinical proof of Hydroxycut's safety or efficacy. The ruling notes that in one study commissioned by Iovate, subjects using Hydroxycut lost less weight than the placebo group.

\*\*\*\*\*

Hydroxycut used to contain ephedra until it was banned by the FDA for triggering heart attacks and at least one death specifically linked to Hydroxycut. Iovate replaced that active ingredient with **Garcinia Cambogia**, a fruit native to Asia and Africa and used by very poor people to make meals more filling. **It has never been proven to help with weight loss, according to the ruling.**<sup>34</sup>

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<sup>34</sup> See Jim Edwards, *How Hydroxycut Stays in Business Despite Deaths, Recalls and a Class-Action Suit*, CBS NEWS (Jun. 3, 2011), <http://goo.gl/uGeQU5>.

1           45. Not only did the reformulated version of Hydroxycut use Garcinia  
2 cambogia as an ingredient, but Hydroxycut also contained Garcinia cambogia that is  
3 manufactured by Defendant Interhealth. Now, Interhealth manufacturers, markets,  
4 distributes and sells Supercitrimax® Garcinia cambogia through a syndicate  
5 supplement network comprised of companies like Labrada who directly market the  
6 products to consumers. However, supplement suppliers also covertly market their  
7 proprietary ingredient products through use of daytime television shows like *The Dr.*  
8 *Oz Show*. Consumers are duped into believing that these paid endorsements are neutral  
9 and provided by a real disinterested doctor who assured them that “he does not sell the  
10 stuff.”

## 11           **II. Labrada Capitalizes off of the Billion Dollar Weight-Loss** 12           **Supplement Industry**

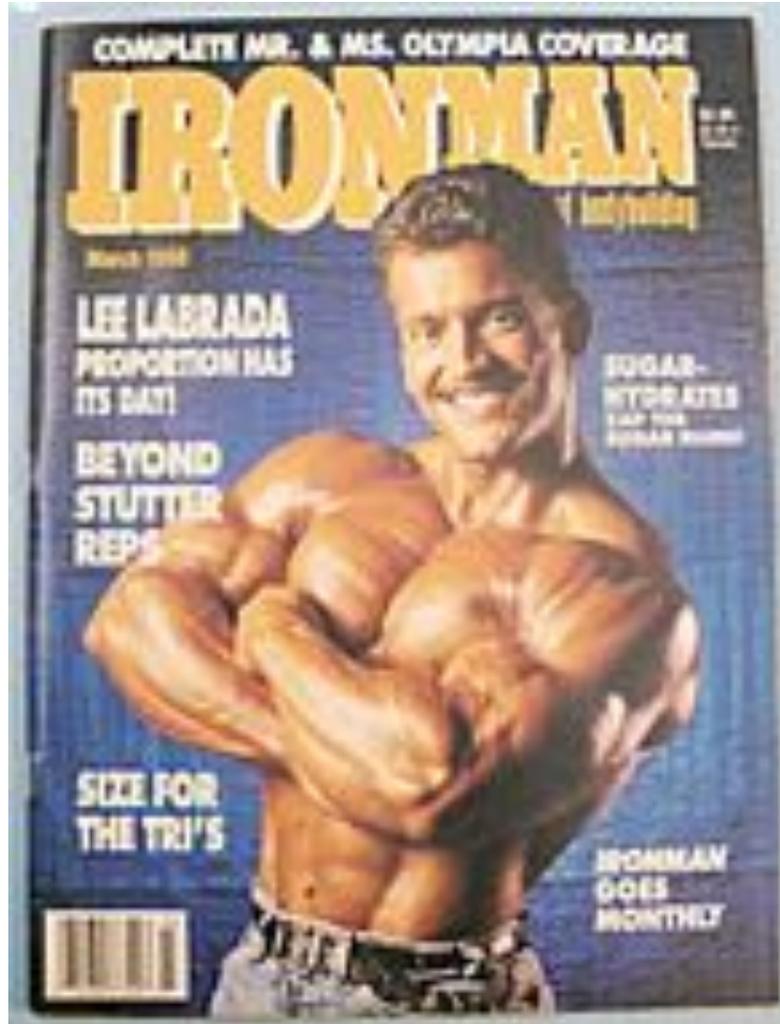
13           46. Labrada Nutrition and Labrada Bodybuilding were founded by Defendant  
14 Lee Labrada, a former professional bodybuilder who has won 22 professional  
15 bodybuilding titles. Defendant Lee Labrada is also one of the few pro bodybuilders  
16 who has placed in the top four at the “Mr. Olympia” competition seven consecutive  
17 years in a row; a feat he shares with the likes of Arnold Schwarzenegger.

18           47. In 1995, Defendant Lee Labrada founded Labrada Nutrition and launched  
19 the Labrada Product line that consists mostly of protein powders and other muscle  
20 building “stacks.” Labrada is also well-known for its Lean Body® line of protein  
21 shakes that are sold at major retail stores like Walmart.

22           48. According to *Bloomberg*, “Mr. Labrada guided Labrada Nutrition to  
23 become one of the fastest growing privately-held companies in the U.S.-earning Inc.  
24 500 status-in only six years.”<sup>35</sup>

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28 <sup>35</sup> See *Executive Profile of Lee Labrada*, BLOOMBERG ONLINE, <http://goo.gl/LS8pAb>.

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49. The Labrada website claims that “**Labrada supplements are proven to work, both in the lab and in the field, to help you reach your physique goals.** Our products are backed by scientific research and studies- not hype. When you choose a Labrada supplement, you are using a quality product that contains efficacious amounts of active ingredients, not the ‘pixie dust’ sprinkling that most competitors sell you under the guise of a ‘proprietary blend.’ It’s right there on the label for you to see. We call that ‘truth in labeling.’”<sup>36</sup>

50. Labrada began selling weight-loss supplements containing Garcinia

<sup>36</sup> <http://www.labrada.com/company>.

1 Cambogia, Green Coffee Bean Extract, and Raspberry Ketone sometime around 2012  
2 under its “Wellness Line” brand of products. Each of the Labrada Products at issue in  
3 this complaint sell at a retail price of approximately \$19.99, except the Raspberry  
4 Ketone Product that sells at retail for approximately \$10.99.



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21 **III. Representations and Warranties on the Product Labels**

22 51. For purposes of this section, each statement that appears in quotation  
23 marks (“”) below create affirmative representations about the Products and also create  
24 express and implied warranties that were relied on by Plaintiff and the Class members  
25 in deciding to purchase the products.

26 52. These statements will from now on be referred to in this Complaint as the  
27 “Express Warranties.”  
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***A. The Labrada Green Coffee Bean Extract FAT LOSS OPTIMIZER.***



53. The front label of the Labrada Green Coffee Bean Extract deceptively states that the product is a “Fat Loss Optimizer” that is “From the Makers of LEAN BODY.” The front label further states that the product contains “Svetol®, 45% Chlorogenic Acid,” and is “Stimulant Free.”

54. The side-label of the Product states “**Green Coffee Bean Extract** is a

1 natural powder extract from unroasted coffee beans. Green Coffee Bean Extract is rich  
2 in natural compounds, such as chlorogenic acids, that are known to have health benefits  
3 and to influence glucose and fat metabolism.”



23 55. The side-label further states that “Recent peer-reviewed published studies  
24 have found that Green Coffee Bean Extract” does the following:

- 25 • **“Helps Support Significant Fat Loss.”** and
- 26 • **“Contains Natural Anti-Oxidant Properties”**

27 56. Below these statements is a **“References”** section that is surrounded by a  
28

1 bright red rectangle that cites the following studies that purportedly support the  
2 product's weight-loss benefits:

3 1. "Vinson JA, et al. Diab. Metab. Snyder & Obes. Jan 2012"

4 2. "Farah A, et al. Jour of Nutr. Dec. 2008"

5 57. The back label of the Labrada Green Coffee Bean Product states "Green  
6 Coffee Bean Extract: 400 mg," then below that statement reads "Svetol®\*\*  
7 Standardized to 45-50% total Chlorogenic Acids.

8 58. The back label then has a "Other Ingredients" section that reads "Gelatin,  
9 Maltodextrin, Magnesium Stearate, Silica, Sodium Copper Chlorophyllin, and titanium  
10 dioxide." In bold-face typed capital letters on the back label appear the statements:

11 a) "ZERO FILLERS"

12 b) "ZERO BINDERS"

13 c) "ZERO ARTIFICIAL INGREDIENTS."

14 59. Each of the above-quoted statements are false, misleading, deceptive, and  
15 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
16 statements create express or implied warranties and Defendants have breached said  
17 warranties for the reasons described herein.

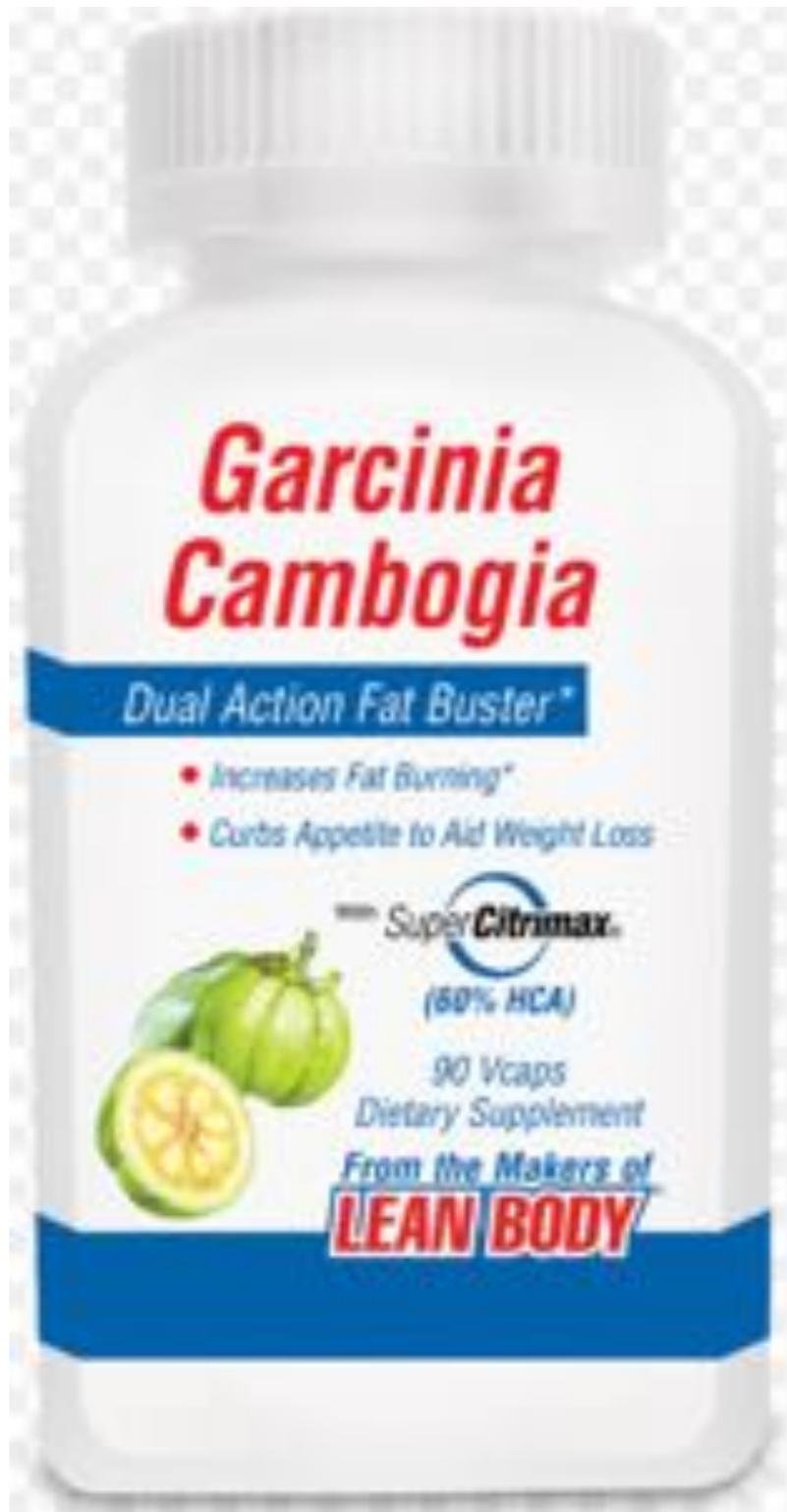
18 ***B. The Labrada Garcinia Cambogia DUAL ACTION FAT BUSTER***

19 60. The front label of the Labrada Garcinia Cambogia states that the product  
20 is a "**Dual Action Fat Buster**" that:

- 21
- 22 • "Increases Fat Burning,"
  - 23 • "Curbs Appetite to Aid Weight Loss,"

24 61. The front label further says that the Product is "From the Makers of LEAN  
25 BODY" and is made with "Supercitrimax® 60% HCA."

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1           62. The Labrada Garcinia Cambogia side label states that “Labrada Garcinia  
2 Cambogia with Super CitriMax® is a Dual Action Fat Buster” and “Studies suggest  
3 that HCA may inhibit body fat formation and suppress appetite.” The label further  
4 states, “Use of 2800-3000 mg/day of HCA for 8 weeks has been shown to:”

- 5                   • “Reduce body weight”
- 6                   • “Curb appetite and food intake”
- 7                   • “Boost fat burning during exercise and enhances glycogen  
8                   synthesis”

9           63. The side label also contains a “References” section that cites to the  
10 following three publications:

- 11                   • “Preuss HG, Rao CV, Garis R., et al., *Journal of Medicine* 2004; 35  
12                   (1-6):33-48.”
- 13                   • “Downs BW, Bagchi M. Subbaraju GV, et al. *Mutation Research*  
14                   2005; 579 (1-2): 149-162.”
- 15                   • “Chen IS, Haung SW Lu HC, et al. *British Journal of Nutrition*. Apr.  
16                   2012; 107(7): 1048-1055.”

17           64. The side label further features the “SuperCitrimax” logo next to a  
18 statement saying that “Super CitriMax® is a registered trademark of Interhealth N.I.”

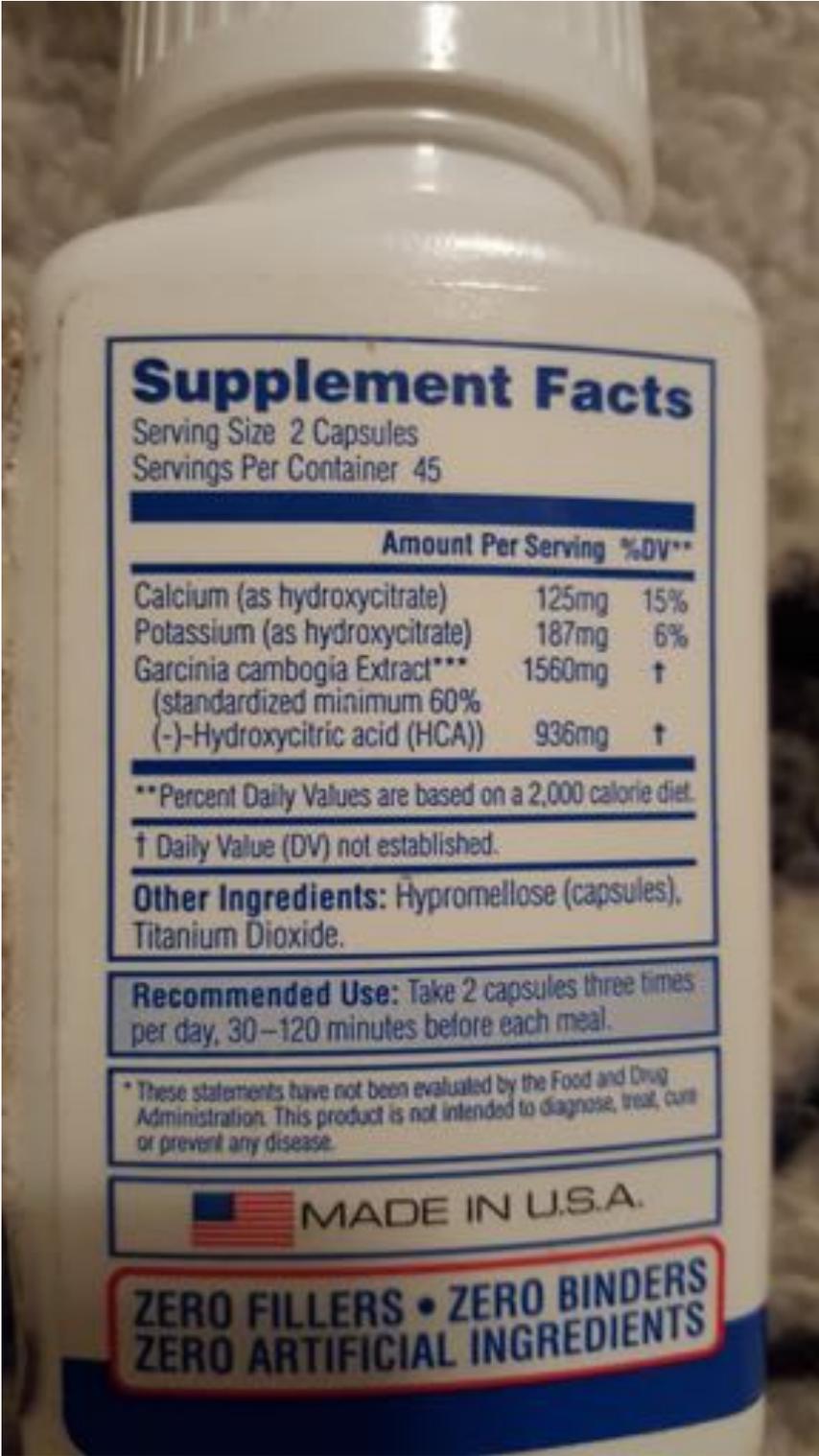
19           65. The back label of the Labrada Garcinia cambogia Product states  
20 “Garcinia Cambogia Extract: 1560mg,” then below that statement reads “standardized  
21 minimum 60% (-)- Hydroxycitric acid (HCA) 936 mg.”

22           66. The back label then has a “Other Ingredients” section that reads  
23 “Hypromellose (capsules),” and “Titanium Dioxide.”

24           67. In bold-face typed capital letters on the back label appear the statements:

- 25                   • **“ZERO FILLERS”**
- 26                   • **“ZERO BINDERS”**
- 27                   • **“ZERO ARTIFICIAL INGREDIENTS.”**

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1 68. The back label further states that the Product is “Made in the USA” next  
2 to a picture of an American Flag.

3 69. Each of the above-quoted statements are false, misleading, deceptive, and  
4 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
5 statements create express or implied warranties and Defendants have breached said  
6 warranties for the reasons alleged herein.

7 ***C. The Labrada Raspberry Ketones METABOLIC ENHANCER***

8 70. The front label of the Labrada Raspberry Ketones deceptively states that  
9 the product is a “*Metabolic Enhancer*” that provides “*Natural Fat Loss Support*” and  
10 is “From the Makers of **LEAN BODY**.” The front label further states the following:

- 11 • “**Supports Body Fat Reduction**”
- 12 • “**Increases Lipolysis**”
- 13 • “**Healthy Anti-Oxidant**”



1 71. The back label of the Labrada Raspberry Ketones Product states  
2 “Raspberry Ketones: 100mg.” The back label then has a “Other Ingredients” section  
3 that reads “Gelatin (capsule),” “Maltodextrin,” “Magnesium Stearate,” “Silica,”  
4 “Titanium Dioxide Capsule” “(FD&C Red #40, FD&C Blue #1).”

5 72. Each of the above-quoted statements are false, misleading, deceptive,  
6 and unlawful for the reasons explained herein. Moreover, each of the above-quoted  
7 statements create express or implied warranties and Defendants have breached said  
8 warranties for the reasons alleged herein.

9 ***D. The Labrada FAT BUSTER FAT LOSS AID***



1           73. The front label of the Labrada Fat Buster Fat Loss Aid deceptively states  
2 that the product is a “***Fat Buster***” and a “***Natural Fat Burner***” that is “From the Makers  
3 of LEAN BODY.”

4           74. The front label further states that the product contains:

- 5                   • “Svetol® Green Coffee Bean”
- 6                   • “Ursolic Acid”
- 7                   • “Raspberry Ketones.”



- 1           75. The side-label of the Product states the following:
- 2           • “Labrada Fat Buster capsules combine three of the most
- 3           powerful natural fat loss aids in existence to help you shed
- 4           unwanted pounds quickly and healthfully.”
- 5           • “Svetol® Green Coffee Bean Extract contains high amounts of a
- 6           powerful fat-fighter called chlorogenic acid. Studies suggest that
- 7           chlorogenic acid inhibits the enzymes responsible for the
- 8           production of fat. It also slows down absorption of sugar.”
- 9           • “Raspberry Ketones stimulate fat loss and regulate metabolism
- 10          by increasing the release of stored fat and augmenting the fat
- 11          burning hormone adiponectin.”
- 12          • “Ursolic Acid is naturally occurring in apple peels and rosemary.
- 13          It’s been shown to support both fat loss and prevent muscle loss
- 14          while dieting.”
- 15          • “See Website for Scientific References.”

16           76. Each of the above-quoted statements are false, misleading, deceptive, and

17          unlawful for the reasons explained herein. Moreover, each of the above-quoted

18          statements create express or implied warranties, and Defendants have breached said

19          warranties for the reasons described herein.

20           77. As further detailed in Plaintiff’s claims for relief section, Plaintiff is

21          bringing claims for breach of express warranty and breach of implied warranty of

22          merchantability against Defendants in their capacity of as manufacturers. The Express

23          Warranties in this section of the complaint are incorporated by reference into all claims

24          Plaintiff assert for breach of warranty.

25           **IV. Defendants Falsely Advertise and Market the Labrada Products**

26           78. Defendants engaged in a massive, uniform marketing and advertising

27          campaign designed to convince consumers that Labrada Products have the ability to,

28          significantly “bust body fat” and aid with weight-loss.

1 79. Defendants disseminated materially false and misleading statements  
2 regarding the efficacy of the Products through a broad range of advertisement medium,  
3 including branded websites, brand sponsorship, earned advertising, editorial content in  
4 magazines, and through social media.

5 80. Defendants advertise the Labrada Products online through the  
6 Labrada.com website, and through affiliated websites. Defendants also employ flashy  
7 graphics and web banners that tout the weight-loss benefits of the Labrada Products.



25 81. Plaintiff alleges that each of the statements shown in the banners above,  
26 including “stimulates fat loss,” “inhibits fat absorption,” “increases fat burning” and  
27 “healthy anti-oxidant” with respect to raspberry ketones are material representations  
28

1 that are false and misleading.

2 82. Plaintiff also alleges that on Labrada Garcinia Cambogia banner, the  
3 statements “Increases Fat Burning,” “Cubs Appetite,” “Lowers Cholesterol” and  
4 “Contains Clinical Dose of Supercitrimax” create affirmative and material  
5 representations that are false and misleading.

6 83. The Labrada website also touts the scientific studies supposedly  
7 supporting the Products, but fails to disclose material facts about those studies. Some  
8 studies do not even mention the Products or ingredients at issue and it is unclear if some  
9 of the studies even exist at all or if they are available to the general public.

10 84. Labrada also uses YouTube extensively to promote its weight-loss  
11 products and Labrada actively maintains its own YouTube channel at the following  
12 URL address: <https://www.youtube.com/channel/UCze0IKoM9yjYCVhmDP4oQtQ>.

13 85. Links to the Labrada YouTube videos can be found on the websites of  
14 retailers like the Vitamin Shoppe. Exemplars of Defendants’ YouTube videos are  
15 shown below.



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2 86. Each of the Labrada YouTube videos furthers Labrada's overall  
3 advertising theme and marketing message that the Products are backed by credible  
4 science to aid with weight-loss and provide "fat busting" abilities.

5 87. The Labrada message is furthered on other mediums like social media  
6 accounts like Twitter and through in-store promotional displays at stores like the  
7 Vitamin Shoppe.

8 **V. Dr. Oz Deceives Consumers about the Ingredients in the Labrada**  
9 **Products and Misrepresents His Ties to the Supplement Industry**

10 88. The Dr. Oz Show is an Emmy-award winning daytime television show  
11 that is watched by millions of Americans. Dr. Oz frequently discusses topics relating  
12 to weight-loss and obesity. An article in the *New Yorker* stated the following about *The*  
13 *Dr. Oz Show* and its promotion of supplement products:

14 Most days, Oz mines what he refers to as his go-to subjects: obesity and  
15 cancer. But both the show and his Web site concentrate on the type of  
16 weight-loss plans more commonly found on infomercials in the middle  
17 of the night: "Dr. Oz's Three-Day Detox"; "Eat Yourself Skinny"; "Oz-  
18 Approved Seven-Day Crash Diet"; "Stairway to Skinny Workout."

19 Cancer, Oz told me, "is our Angelina Jolie. We could sell that show  
20 every day." Typical themes have included "Five Fast-Moving  
21 Cancers"; "Four Body Pains That Could Mean Cancer"; "Three  
22 Cancer-Preventing Secrets"; and "What You Can Eat to Defeat  
23 Cancer."

24 Last year, in a show about weight loss, **Oz introduced raspberry**  
25 **ketones**, a herbal supplement, as "the No. 1 miracle in a bottle to burn  
26 your fat." That set off a wave of panic buying throughout the nation.  
27 The supplement quickly vanished from the shelves of health-food  
28 stores. Oz told his audience that the product regulates the hormone  
adiponectin, which could help teach the body to be thin. But the only  
relevant research he cited had been conducted on laboratory rats and  
cell cultures—not on humans.

1 A similar buying frenzy followed his embrace, a few months ago, of  
2 “the miracle” of green coffee beans. “You may think that magic is  
3 make-believe,” Oz said at the beginning of the show. “But this little  
4 bean has scientists saying they have found a magic weight-loss cure for  
5 every body type. It’s green coffee beans, and, when turned into a  
6 supplement—this miracle pill can burn fat fast. This is very exciting.  
7 And it’s breaking news.”

8 None of those assertions turn out to be accurate. When coffee beans are  
9 roasted, the plant compound, chlorogenic acid, is broken down.  
10 Scientists think that the compound itself has an effect on limiting  
11 glucose absorption, which in turn helps reduce weight. While the beans  
12 are still green, the chlorogenic acid remains intact. In theory, that means  
13 the beans can aid metabolic regulation—but theory is not data.

14 Oz based his announcement on a study that was presented at last year’s  
15 annual meeting of the American Chemical Society, in San Diego, where  
16 researchers reported that sixteen overweight men and women lost an  
17 average of seventeen pounds in twenty-two weeks when taking green  
18 coffee beans in supplement form. On the show, Oz did not mention that  
19 the study was funded by Applied Food Sciences, which makes green-  
20 coffee-bean supplements.<sup>37</sup>

21 89. Dr. Oz has consistently stated that he does not promote any specific brands  
22 of supplement products. But why then would Dr. Oz make statements about herbal  
23 supplements that have little scientific support? Indeed, a published study in the *British*  
24 *Medical Journal* concluded that credible science does not support more than half of all  
25 assertions about products on The Dr. Oz Show.<sup>38</sup>

26 <sup>37</sup> See Michael Specter, *The Operator: Is America’s Most Trusted Doctor Doing*  
27 *More Harm Than Good?*, THE NEW YORKER (Feb. 4, 2013),  
28 <http://www.newyorker.com/magazine/2013/02/04/the-operator>.

<sup>38</sup> See Christina Korownyk *et al.*, *Televised medical talk shows—what they*  
*recommend and the evidence to support their recommendations: a prospective*  
*observational study*, BRITISH MED. J. (2014)  
<http://www.bmj.com/content/349/bmj.g7346>.

1 90. A careful review of The Doctor Oz Show reveals, however, that Dr. Oz  
2 has mislead the public about his sponsorships and affiliations with those in the  
3 supplement industry. Dr. Oz was paid by Defendants Labrada, Interhealth, and/or  
4 Naturex in exchange for promoting Green Coffee Bean Extract, Garcinia Cambogia,  
5 and Raspberry Ketones on *The Dr. Oz Show*.

6 91. Dr. Oz has concealed his association with Defendant Interhealth. As of  
7 the date of filing this complaint, the Dr. Oz website still has an episode posted that  
8 promotes Meratrim® weight-loss supplements.<sup>39</sup> The caption to the video reads: “Dr.  
9 Oz has a brand-new fat loss program that works faster than ever! Learn how to block  
10 fat stores, burn fat after eating and activate calorie-burning mechanisms easier than  
11 ever before. Plus, everything you need to know about Meratrim® supplements.”  
12 Meratrim®, however, is trademarked proprietary ingredient that marketed and sold by  
13 Defendant Interhealth.<sup>40</sup>

14 92. One episode of *The Dr. Oz Show* featuring Garcinia Cambogia also touted  
15 the need for viewers to choose a garcinia supplement that contains HCA (hydroxy citric  
16 acid) with potassium:

17 **DR. OZ:**

18 You can buy Garcinia Cambogia extract at health food stores. You can  
19 buy it online. I do want to go through the guidelines for how to buy  
20 wisely.

21 Doctor Chen, what do we look for on the bottle so people don't get taken  
22 advantage of?

23 **DR. CHEN:**

24  
25  
26 

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*See* Website for The Dr. Oz Show, [39 http://www.doctoroz.com/episode/triple-your-fat-loss](http://www.doctoroz.com/episode/triple-your-fat-loss).

27 <sup>40</sup>*See* Interhealth website, Meritrim, [http://www.interhealthusa.com/our-](http://www.interhealthusa.com/our-brands/meratrim/)  
28 [brands/meratrim/](http://www.interhealthusa.com/our-brands/meratrim/)

1 It's really important to look for the words Garcinia Cambogia or GCE,  
 2 which is Garcinia Cambogia Extract. You're looking for a percentage  
 3 of this HCA, which is that ingredient in the rind of at least sixty percent.  
 4 Because it actually is absorbed better with mineral salts, like potassium  
or potassium and calcium, you want to make sure that that's included.

5 **DR. OZ:**

6 You want to have it say K or say potassium next to it.....

7 **Dr. Oz:**

8 All right, so I've warned everybody that *I'm not going to mention*  
 9 *specific brands*, but I do want to go through exactly what I would look  
 10 for. You're going to look on that list of ingredients. There should be  
 11 **ZERO FILLERS**. There should be **ZERO BINDER**, **ZERO**  
 12 **ARTIFICIAL INGREDIENTS**, all right? Remember, you should  
 13 never see my picture next to it, because I never sell it. You see my  
 14 picture next to it, that means they're stealing from you. I guarantee, as  
 15 soon as the show airs, there are going to be thousands of fake ads out  
 16 there. Don't go for those. I don't want you to be confused, so I do want  
 17 to answer your questions from the audience just to make sure you're all  
 18 on the same page with me.

19 93. Dr. Oz fails to disclose that there is only one brand of Garcinia cambogia  
 20 that contains potassium. Indeed, Defendant Interhealth's Supercitrimax® brand is the  
 21 only brand that contains HCA bound to potassium because Interhealth owns patents  
 22 allowing it to exclusively manufacture a form of HCA bound to potassium.<sup>41</sup> Moreover,  
 23 Dr. Oz's reference to "Fat Busters" and products that contain "Zero Fillers, Zero  
 24 Binders, and Zero Artificial Ingredients" are calculated promotions of the Labrada  
 25 brand products. In fact, Defendant Labrada Bodybuilding Nutrition, Inc. actually  
 26 owned the trademark to the term "FAT BUSTER."<sup>42</sup>

27 94. But the association does not end there. *The Dr. Oz Show* website also

28 <sup>41</sup> See, e.g., U.S. Patent Nos. 6,875,891; 7,943,186; 7,858,128.

<sup>42</sup> "FAT BUSTER," Trademark Serial No. 85829378, <http://goo.gl/zTYqW7>.

1 reveals that a Mr. Chris Kiham serves on the “medical advisory board” for Dr. Oz.  
2 However, Mr. Kiham “conducts medicinal plant research for Naturex, one of the largest  
3 botanical extraction companies in the world.” Naturex is the manufacturer of the  
4 Svetol® ingredient in the Labrada Green Coffee Bean Extract.

5 95. Recently released internal emails also show that Dr. Oz systematically  
6 puts business interests ahead of sound advice to his viewers. Some commentators have  
7 concluded that these emails prove that Dr. Oz profits from the products he promotes  
8 on *The Dr. Oz Show*.<sup>43</sup>

9 96. It is beyond plausible that Dr. Oz is a paid spokesperson for Defendants  
10 Labrada, Interhealth, and/or Naturex. Plaintiff alleges that Defendant have violated  
11 California Civil Code Section 1170(3) by “Misrepresenting the affiliation, connection,  
12 or association with, or certification by, another” with respect to their sales and  
13 promotions of the Labrada Products. A close review of statements made on *The Dr. Oz*  
14 *Show* are very similar to labeling claims made on the Labrada products.

15 ***A. Dr. Oz Promotes Green Coffee Bean Extract***

16 97. Plaintiff alleges on information and belief that *The Doctor Oz Show*  
17 promoted Svetol® Green Coffee Bean Extract and/or the Labrada Green Coffee Bean  
18 Extract on at least one occasion in or around 2012. A partial transcript of that episode  
19 reads as follows:

20 **DR. OZ:** Magic is make-believe, but this little bean has scientists  
21 saying they found a magic weight-loss cure for every body type. It's  
22 green coffee beans. When turned into a supplement this miracle pill can  
23 **burn fat fast**. For anyone who wants to lose weight this is very exciting,  
24 and it's breaking news.

25 Millions of you love coffee. Now, you're going to love it for a whole  
26 other reason. A staggering newly released study reveals that the coffee

27 <sup>43</sup> See Dan Diamond, *Even Dr. Oz's Boss Thinks He's 'Full Of [It]'*, FORBES (April 21,  
28 2015 06:45AM), <http://goo.gl/aCF9Fb>.

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bean in its purest, raw form may hold the secret to weight loss that you've been waiting for. The study, presented at a meeting of the world's largest scientific society, triggered unprecedented excitement for a weight loss study. It showed women and men who took green coffee extract lost an astounding amount of fat and weight. 17 pounds in 22 weeks by doing absolutely nothing extra in their day. Could this be the magic weight loss bean to help you melt away unwanted pounds that you've been waiting for?

Next, private doctor and certified nutritionist Lindsey Duncan is here with the findings.

**DR. LINDSEY DUNCAN:** *You know, I usually don't recommend weight loss supplements.* This one has got me really really excited. In the medical community, the weight loss community is all buzzing about this. Here's why. The recent study that you were talking about earlier, the participants took the capsules and they did nothing else. They didn't exercise, they didn't change their diet, they actually consumed 2,400 calories a day. They burned only 400 calories. Now, that's weight gain, not weight loss. They lost over 10% of their total body weight.

\*\*\*\*\*

**DR. OZ:** How does it work?

**DR. LINDSEY:** Well, it's amazing. It's what we call a triple threat. It's the chlorogenic acid that causes the effect, and it works 3 ways. The first way is it goes in and it causes the body to burn glucose, or sugar, and burn fat, mainly in the liver. The second way, and the most important way, is it slows the release of sugar into the bloodstream. When you don't have sugar building up in the bloodstream, you don't have fat building up. Sugar turns to fat. Everybody must remember that. When the 2 are combined together, you get this synergistic effect that basically burns and blocks and stops fat, but it also is natural and safe.



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12 98. The “study” that Dr. Oz touted on this episode was the *Vinson* study that  
13 was retracted by the authors after data was found to be falsified.

14 99. Each of the above-quoted statements are false, misleading, deceptive, and  
15 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
16 statements create express or implied warranties and Defendants have breached said  
17 warranties for the reasons alleged herein.

18 100. Defendants also omit material facts regarding the true nature of the  
19 Labrada and/or Svetol® Products and the true nature behind the studies that Defendants  
20 claim support the products advertising claims.

21 ***B. Dr. Oz Promotes Supercitrimax® Garcinia Cambogia***

22 101. Plaintiff alleges on information and belief that *The Dr. Oz Show* promoted  
23 Supercitrimax® Garcinia Cambogia Extract and/or the Labrada Garcinia Cambogia  
24 Product on at least one occasion in or around 2012. A partial transcript from that  
25 episode reads as follows:

26 **DR. OZ:** From African mangoes to green coffee, it’s the most talked  
27 about topic. Everybody wants to know what’s the ***newest, fastest fat***  
28

1 *buster*. You've been stopping me on the street, emailing me. Even my  
2 family is asking the same question. How can I burn fat without spending  
3 every waking moment exercising and dieting? I just don't have any time  
4 to put in more effort. Well thanks to brand new scientific research, I can  
5 tell you about a *revolutionary fat buster*. You're hearing it here first.

6  
7 **ANNOUNCER:** It's called garcinia cambogia, a pumpkin shaped fruit  
8 that grows in Southeast Asia and India, and it just might be the most  
9 exciting breakthrough in natural weight loss to date. *Revolutionary new*  
10 *research says it could be the magic ingredient that lets you lose weight*  
11 *without diet or exercise*. Dr. Harry Preuss is at the forefront of the  
12 research.

13 **DR. HARRY PREUSS:** The ideal weight loss program is one in which  
14 you lose fat and you retain your muscle or even build it. With garcinia,  
15 you can make that happen. I tell women, "Look at your breast size. If  
16 your figure is getting much smaller, that's exactly what you want."

17  
18 **OTHER DOCTOR:** Garcinia is an *exceptionally effective fat buster*.  
19 It inhibits the production of fat in the body, and when the body is not  
20 making fat, it's burning fat.

21  
22 **ANNOUNCER:** Could garcinia cambogia be the *fat busting*  
23 *breakthrough* you've been waiting for?

24  
25 **DR. OZ:** The *newest, fastest fat buster* and one of the least expensive  
26 too is garcinia cambogia extract. I know it's a mouthful. I'll let you write  
27 it down. Garcinia cambogia. Because it may be the simple solution  
28 you've been looking for to *bust your body fat for good*.

1 102. Each of the above-quoted statements are false, misleading, deceptive, and  
2 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
3 statements create express or implied warranties and Defendants have breached said  
4 warranties for the reasons alleged herein.

5 103. Defendants also omit material facts regarding the true nature of the  
6 Supercitrimax® Product and the true nature behind the “clinical studies” that  
7 Defendants claim support the products advertising claims.

8 ***C. Dr. Oz Promotes Raspberry Ketones***

9 104. Plaintiff alleges on information and belief that *The Dr. Oz Show* promoted  
10 Labrada Brand Raspberry Ketones on at least one occasion in or around 2012. A partial  
11 transcript from that episode reads as follows:

12 **DR. OZ:**

13 We've been talking about the ***five biggest fat busters*** for five body  
14 types, in just five days. Now I've got the number one miracle in a bottle  
15 to burn your fat, it's raspberry ketone. Weight loss expert Lisa Lynn  
16 swears by this supplement for those with fat all over their bodies, and  
17 who want anything, will to do anything, to get rid of that fat.

18 **LISA LYNN:**

19 You said it, anything.

20 **DR. OZ:**

21 How'd you find this thing? It's amazing. I've got to say before this  
22 preamble, raspberry ketone is something that I've heard about in the  
23 periphery, I never understood how powerful it could be until I started  
24 doing research for this. How'd you find it, and why do you think it's so  
25 valuable?

26 **LISA LYNN:**

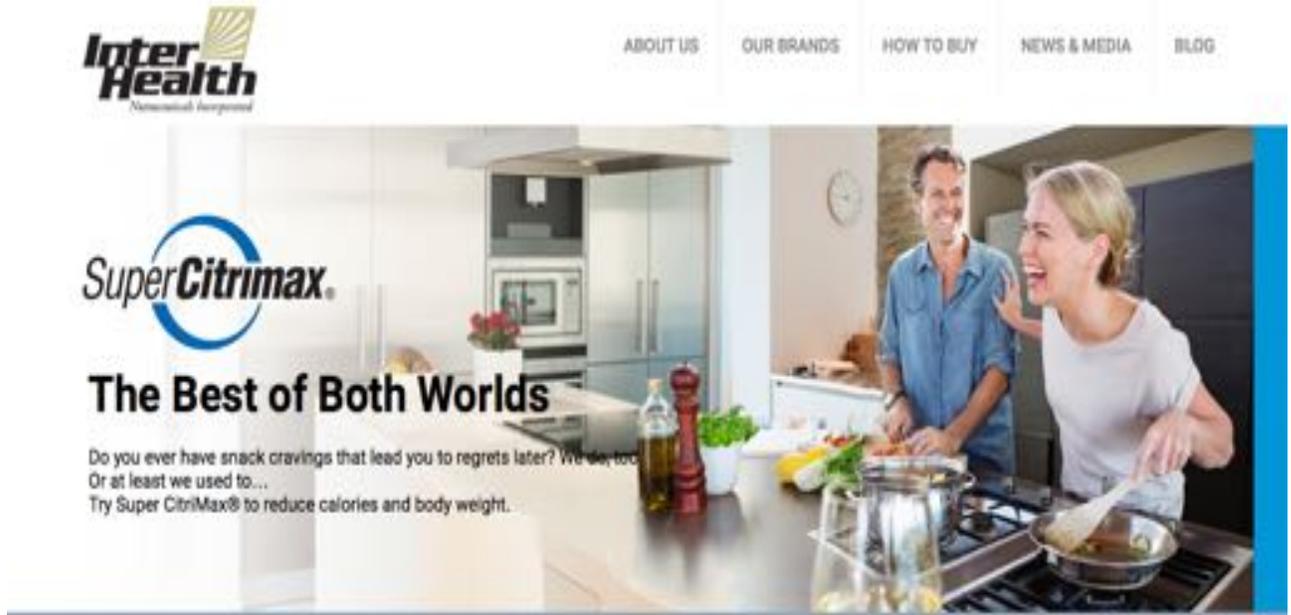
27 **Research, research, research.** I think it's really valuable, because the  
28 ketones come from red raspberries. **Very healthy, no side effects, and**

1           **they help your body burn fat. Not only that, they slice it up inside**  
2           **the cell so it burns fat easier, and we all want easier**

3           105. Each of the above-quoted statements are false, misleading, deceptive, and  
4 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
5 statements create express or implied warranties and Defendants have breached said  
6 warranties for the reasons alleged herein.

7           106. Defendants also omit material facts regarding the true nature of the  
8 Labrada Raspberry Ketone Product and the true nature behind the “clinical studies”  
9 that Defendants claim support the products advertising claims.

10           **VI. False Advertising of Supercitrimax®**



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21           107. The Interhealth website makes the following claims about  
22 Supercitrimax®. Plaintiff alleges that the Labrada defendants knew that the following  
23 statements were false or recklessly disregarded their truth.

24  
25           1) “Super CitriMax® is a patented, 60% hydroxycitric acid (HCA) water  
26 extract from Garcinia cambogia. It is uniquely bound to  
27 calcium and potassium for maximum stability, solubility, bioavailability and  
28 efficacy. **Super CitriMax® is an established brand supported by 4 peer-**  
**reviewed clinical research publications, and extensive safety research.”**

- 1 (1) “3x more effective than diet and exercise alone”
- 2 (2) “44% increase in serotonin levels”
- 3 (3) “25% reduction in daily calorie intake”
- 4 (4) “Self-affirmed GRAS”

5 2) “Super CitriMax® branded Garcinia cambogia is patented and has been  
6 extensively studied and shown to reduce weight 3 times more effectively  
7 than diet and exercise. The quality of Garcinia cambogia products  
8 available online and in stores varies widely. Choose this weight loss  
9 supplement if you want an established brand with established benefits. **It is  
backed by three published clinical research studies demonstrating  
weight loss and reduced calorie intake**”

10 3) “If you’ve recently started a weight loss journey, you are probably well  
11 aware of how many choices come along with this decision. With so many  
12 options available, making the right choices for you can seem intimidating.  
13 Fortunately, choosing a supplement to add to your healthy new lifestyle  
14 doesn’t have to be difficult. If you’re looking for a supplement to help you  
15 reach your weight loss goals, **Super CitriMax®**, along with diet and  
16 exercise, can help! It is backed by **three published clinical research studies**  
demonstrating weight loss and reduced calorie intake, so you can feel  
confident about your choice.”

17 4) “Garcinia cambogia is a tropical fruit that has been shown to be a  
18 powerful tool in promoting healthy weight loss. It has become a popular  
19 ingredient in many weight loss supplements. With so many supplements  
20 containing Garcinia cambogia available, the quality can vary widely. This  
21 supplement from Interhealth is the first Garcinia cambogia to be certified by  
22 LabDoor, an independent company that tests supplements for safety and  
23 quality. It is manufactured using strict laboratory-controlled procedures to  
ensure optimum potency, purity, and efficacy.”

24 5) “This supplement contains the same established branded ingredient  
25 studied by Dr. Harry G. Preuss at Georgetown University Medical Center.  
26 The supplement also contains calcium and potassium, which work together  
27 to help increase bioavailability and efficacy. If you’re looking for an  
28 established brand with established benefits, choose Super CitriMax®!”

1 6) “Clinical research shows that taking supplement, combined with diet and  
2 exercise, reduced body weight by an average of 10 pounds. People taking it  
3 also lost 3 times as much weight as those taking a placebo pill. People  
4 participating in the research adhered to a 2,000 calorie a day diet and  
exercised for 30 minutes a day, five days a week.”

5 108. The Interhealth website also displays a video promoting the Labrada  
6 Garcinia Cambogia product that features Defendant Lee Labrada.

### 7 Super Citrimax Weight Loss

8 If you've recently started a weight loss journey, you are probably well aware of how many choices  
9 come along with this decision. With so many options available, making the right choices for you can  
10 seem intimidating. Fortunately, choosing a supplement to add to your healthy new lifestyle doesn't  
11 have to be difficult. If you're looking for a supplement to help you reach your weight loss goals, Super  
Citrimax®, along with diet and exercise, can help! It is backed by three published clinical research  
studies demonstrating weight loss and reduced calorie intake, so you can feel confident about your  
choice

12 With today's busy lifestyles and hectic schedules, losing weight and keeping it off can seem  
13 especially challenging. When you're juggling responsibilities with work, home, and family, finding the  
14 time to focus on weight loss can be difficult. The supplement was developed to help people lose  
weight and support a healthy appetite. It has been extensively studied and shown to reduce weight 3  
times more effectively than diet and exercise alone. In addition, clinical research has shown that  
people who took this supplement reduced their calorie intake from snacking by 40%.



15 109. Each of the above-quoted statements are false, misleading, deceptive, and  
16 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
17 statements create express or implied warranties and Defendants have breached said  
18 warranties for the reasons alleged herein.

19 110. Defendants also omit material facts regarding the true nature of the  
20 Supercitrimax® Product and the true nature of the “clinical studies” that Defendants  
21 claim to support the products advertising claims.

1 **VII. False Advertising of Svetol®**



11 111. Defendant Naturex® disseminates false and misleading statements about  
12 the Svetol® product and Plaintiff alleges that the Labrada Defendants knew that such  
13 statements were false or that Labrada recklessly disregarded the truth behind the  
14 statements.

15 112. The Svetol® website features an introductory video depicting a woman  
16 with a glove on her hand removing and erasing body weight and fat from her  
17 abdomen.<sup>44</sup>

18 113. The website goes on to tout the supposed science behind Svetol®:

- 19 1) “The 9 published scientific studies on Svetol® support its  
20 beneficial effects on healthy weight management.”  
21 2) “10% Body Mass Index Reduction: Clinical study demonstrates  
22 5.7% body weight loss over 2 months supplementation &  
23 reduction of BMI by 10%”  
24 3) “Glucose regulation: Pilot study shows Svetol®’s effect on blood  
25 sugar levels”  
26 4) “Fat burning effect: +4% lean mass/fat mass ratio Study  
27

28 <sup>44</sup> <http://www.svetol.com/what-is-svetol/>.

1 demonstrates Svetol®’s benefits on fat mass reduction.  
2 The clinical study demonstrates that Svetol® is an effective  
3 weight loss solution: you don’t lose water or muscle, it makes  
4 you lose fat!”

5 5) “Svetol® will bring you healthy weight loss results, without  
6 crash dieting or side effects. Moreover, it is fully natural and does  
7 not contain harmful chemicals. Millions of consumers have  
8 already used Svetol® as a safe and effective natural solution.”

- 9 ○ 1) “Svetol® is a 100% all-natural plant concentrate, with  
10 well-identified and controlled bioactives.”
- 11 ○ 2) “Svetol® has no reported side effects.”
- 12 ○ 3) “Contains less caffeine than a quarter cup of coffee.”

13 6) “In a published 60 day double-blind, placebo-controlled clinical  
14 trial, human subjects taking SVETOL® combined with proper  
15 nutrition lost up to 14 pounds and over 100% more weight loss  
16 than placebo group.”

17 7) “SVETOL® cuts weight via 3 key benefits:

- 18 ○ 1) “Improves body shape and firmness by improving lean  
19 to fat mass ratio”
- 20 ○ 2) “Shuts down glucose pathways so you can burn fat  
21 more easily”
- 22 ○ 3) “Decreases intestinal glucose absorption”

23 114. Each of the above-quoted statements are false, misleading, deceptive, and  
24 unlawful for the reasons explained herein. Moreover, each of the above-quoted  
25 statements create express or implied warranties and Defendants have breached said  
26 warranties for the reasons alleged herein.

27 115. Defendants also omit material facts regarding the true nature of the  
28 Supercitrimax® Product and the true nature behind the “clinical studies” that

1 Defendants claim support the products advertising claims.

2 **VIII. The Labrada Products Do Not Provide the Advertised Weight-Loss**  
3 **Benefits**

4 116. All competent and reliable scientific studies conclude that the active  
5 ingredients in the Products do not provide the touted weight loss benefits. In an attempt  
6 to conceal the truth about their supplements, Defendants have misled consumers by  
7 stating or implying that Labrada Garcinia Cambogia is backed by “clinical studies.”  
8 But the only “clinical studies” supporting the Product are either irrelevant, wholly  
9 unreliable, or conducted by Defendants themselves. If Plaintiffs and the class knew that  
10 the studies supporting the products were conducted by biased researchers or that the  
11 underlying data was manipulated or fraudulently presented, they would not have  
12 purchased the Products.

13 **A. The Evidence Against Garcinia Cambogia**

14 117. A significant *Garcinia*/HCA weight loss study was published in 1998 by  
15 a group of researchers at Columbia University’s Obesity Research Center that was lead  
16 by Dr. Heymsfield and published in the *Journal of the American Medical Association*.<sup>45</sup>  
17 This study was, and remains, one of the longest duration (12 weeks) and largest (135  
18 subjects divided equally into placebo and control groups) randomized double-blind  
19 clinical trials of *Garcinia cambogia*.

20 118. The study found that a *Garcinia* extract failed to produce a significant loss  
21 of weight and fat mass beyond that observed with placebo.<sup>46</sup>

22 119. *The Heymsfield* study has stood the test of time. In 2011, it was one of

23 \_\_\_\_\_  
24 <sup>45</sup> S.B. Heymsfield, *et al.*, “Garcinia Cambogia (Hydroxycitric Acid) As a Potential  
25 Antiobesity Agent: A Randomized Controlled Trial,” *J. Amer. Med. Assoc.*  
26 280(18):1596-600 (1998). *Full text available at*  
<http://jama.jamanetwork.com/article.aspx?articleid=188147>. (Accessed October 14,  
2015).

27 <sup>46</sup> In fact, the data suggests that the placebo group, on average, consistently lost more  
28 weight than the *Garcinia* treatment group across the entire time course of the study.

1 only 12 clinical trials deemed worthy of inclusion in a landmark meta-analysis of  
 2 supplements like *Garcinia cambogia* and is assigned the highest Jadad score<sup>47</sup> of all  
 3 included studies.<sup>48,49</sup>

4 120. In 2004, Max Pittler and Edzard Ernst, complementary medicine  
 5 researchers at the universities of Exeter and Plymouth, published a systematic review  
 6 of prior meta-analyses<sup>50</sup> and clinical trials of a variety of over-the-counter weight loss  
 7 aids in *The American Journal of Clinical Nutrition*. The results indicated that none of  
 8 the weight loss aids worked, including the *Garcinia cambogia* products reviewed.  
 9 Moreover, adverse events were reported in the *Garcinia* trials reviewed. The report  
 10 concluded that “none of the reviewed dietary supplements,” which included *Garcinia*  
 11 *cambogia*, “can be recommended for over-the-counter use.”<sup>51</sup>

12 121. Meta-analyses of research on *Garcinia cambogia* and/or HCA have  
 13 evaluated all known published credible human scientific studies. The meta-analyses  
 14 uniformly conclude that HCA-containing supplements, such as Labrada’s *Garcinia*

15 <sup>47</sup> “Jadad score” is a benchmark measuring the likelihood of bias in clinical trials, with  
 16 higher numbers indicating lower likelihoods of bias. For a meta-analysis, Jadad  
 17 scoring is carried out by a panel of scientists who are themselves blinded as to the  
 18 authorship of articles. A.R. Jadad, R.A. Moore, *et al.*, “Assessing the Quality of  
 19 Reports of Randomized Clinical Trials: is Blinding Necessary?” *Controlled Clinical*  
 20 *Trials* 17(1):1-12 (1996). <http://goo.gl/rdsRW3>.

21 <sup>48</sup> See Table 1 in I. Onakpoya, *et al.*, “*The Use of Garcinia Extract (Hydroxycitric*  
 22 *Acid) as a Weight Loss Supplement: A Systematic Review and Meta-Analysis of*  
 23 *Randomised Clinical Trials*,” *J. OBESITY* (2011),  
 24 <http://www.hindawi.com/journals/job/2011/509038/>.

25 <sup>49</sup> Heymsfield recently defended his results and stated that marketers of *Garcinia*  
 26 *cambogia* are “weaving a story with obscure facts. Maybe each fragment has some  
 27 validity, but if you wind it together it makes no sense at all.” See “*The Claims Make*  
 28 *this Supplement Tempting, But They’re Untrue*,” *CONSUMER REPORTS* (Aug. 10, 2015)

29 <sup>50</sup> A meta-analysis contrasts and combines results from different studies in an attempt  
 30 to identify patterns among study results, sources of disagreement, and other  
 31 relationships between the studies.

32 <sup>51</sup> M.H. Pittler & E. Ernst, “*Dietary Supplements for Body-Weight Reduction: A*  
 33 *Systematic Review*,” *AMER. J. OF CLIN. NUTR.* (May 2004).

1 Cambogia Product, have little or no positive effect on weight loss in healthy  
2 individuals.

### 3 ***B. The Evidence Against Green Coffee Bean Extract***

4 122. A study in the *Journal of Agricultural and Food Chemistry* found that the  
5 main ingredient in Svetol®- chlorogenic acid- was not effective when given to mice  
6 over a 12-week period. In fact, taking the compound gave the mice early symptoms of  
7 diabetes.<sup>52</sup> Moreover, “A meta-analysis a few years ago combined the results from  
8 three small, short-term trials. The authors found that green coffee extract was  
9 associated with losing about 5 pounds. But this slimming effect vanished when the  
10 authors analyzed the two studies that used the type of supplement recommended by Dr.  
11 Oz — green coffee extract enriched with chlorogenic acid.”<sup>53</sup>

### 12 ***C. The Evidence Against Raspberry Ketones***

13 123. There is no evidence whatsoever that raspberry ketones can aid weight  
14 loss in humans. In fact, “Raspberry ketones have never been tested on humans in  
15 scientific studies.”<sup>54</sup> Defendants’ claims like raspberry ketones can “slice up fat” is  
16 patently false.

17 124. None of the other ingredients in the Labrada Products provide the  
18 advertised weight loss benefits.

## 19 **IX. Defendants Misrepresent the Quality of the Labrada Products**

20 125. In 2013, a consumer advocacy website that performs independent testing  
21 of consumer goods published a review of different Garcinia Cambogia supplements.  
22 Fourteen products were tested; 6 of those products did not pass, according to the group  
23

24 <sup>52</sup> *Supplementation of a High-Fat Diet with Chlorogenic Acid Is Associated with*  
25 *Insulin Resistance and Hepatic Lipid Accumulation in Mice*, 61 J. AGRIC. FOOD  
CHEM. 4371–4378 (2013).

26 <sup>53</sup> Michaelleen Doucleff, *Sorry, Dr. Oz, Green Coffee Can't Even Slim Down Chubby*  
27 *Mice*, NPR (Jun. 17, 2013 12:14 PM), <http://goo.gl/gXYpWC>.

28 <sup>54</sup> Becky Hand, *What They Don't Want You to Know About Raspberry Ketones*, HUFF.  
POST (Feb. 28, 2013), <http://goo.gl/ehU5B6>.

1 Consumerlab.com. Labrada Nutrition’s SuperCitrimax® brand of Garcinia Cambogia,  
2 lot # 80310513, was reportedly among those that did not pass.

3 126. Plaintiff is informed and believes that Defendants’ SuperCitrimax  
4 ingredient and the Labrada Garcinia Product have contained varying levels of HCA  
5 throughout the class period and Defendants’ claim that the products are made from  
6 “standardized HCA” is false and misleading.

7 **X. False Claim that Labrada Products contain Zero Binders, Zero**  
8 **Fillers and Zero Artificial Ingredients**

9 127. The Labrada Garcinia Cambogia Product contains one or more artificial  
10 ingredients. Specifically, the Supercitrimax® ingredient is processed and  
11 manufactured by artificial means that use chemical additives and solvents like  
12 ammonium chloride. Moreover, the Supercitrimax® ingredient does not contain  
13 naturally occurring hydroxycitric acid (HCA), but rather an artificial form of HCA that  
14 synthetically binds hydroxycitric acid with potassium and calcium minerals. In  
15 addition, the “other ingredients” in the Product are artificial, fillers, and/or binders.

16 128. “Hypromellose” is often used a binder in supplement products.  
17 Hypromellose is a synthetic polymer that does not occur naturally. Furthermore, the  
18 Labrada Garcinia Cambogia Product contains “titanium dioxide,” which is often used  
19 a colorant in supplement products. Titanium dioxide in supplement products is often  
20 an artificial form called “nano-particle titanium dioxide” that is known to cause adverse  
21 health effects.

22 129. Each of the other products also contain artificial ingredients like “Svetol®  
23 Green Coffee Bean,” “Raspberry Ketones,” “Ursolic Acid,” “maltodextrin,” “Gelatin,”  
24 “Silica,” “Magnesium Stearate,” and “Sodium Copper Chlorophyllin.” Each of the  
25 ingredients are recognized as artificial ingredients. With respect to Sodium Copper  
26 Chlorophyllin, the Code of Federal Regulations state “the color additive sodium copper  
27 chlorophyllin is a green to black powder prepared from chlorophyll by saponification  
28

1 and replacement of magnesium by copper. Chlorophyll is extracted from alfalfa  
2 (Medicago sativa ) using any one or a combination of the solvents acetone, ethanol,  
3 and hexane.” 21 C.F.R. 73.125.

4 **XI. Labrada Products Are Not “Made in the USA.”**

5 130. The label of the Labrada Garcinia Cambogia Product deceptively claims  
6 that the Product is “Made in the USA” and makes this statement next to a picture of an  
7 american flag. However, most, if not all, of the ingredients in the Product are made in  
8 a foreign country and imported into the United States, including the Product’s  
9 purported active ingredient SuperCitrimax®. Notably, Defendant Interhealth imports  
10 Supercitrimax® from Laila Nutraceuticals in India.

11 131. Defendants deceptive “Made in the USA” statement also violates  
12 California Business and Professions Code § 17533.7, which requires products with  
13 labeling statements like “Made in the USA” to contain “not more than 5 percent of the  
14 final wholesale value of the manufactured product.” The foreign ingredients in the  
15 Labrada Garcinia Cambogia Product far exceed 5 percent of the final wholesale value  
16 of the Product.

17 **JOINT LIABILITY**

18 **I. Joint Venture Enterprise Liability**

19 132. **The Labrada Joint Venture Enterprise:** Each and every Defendant  
20 named in this complaint have combined their property, skill, and knowledge to carry  
21 out a single business undertaking in that they produce, promote, and distribute weight-  
22 loss supplements with a community of interests in that they use a common marketing  
23 scheme that involves the promotions on *The Doctor Oz Show* to promote weight-loss  
24 products, including the Labrada Products. Each and every Defendant has formed an  
25 agreement, either explicitly or implicitly by their conduct, to jointly share the control,  
26 profits, and losses of Joint Venture Enterprise and the Joint Venture Enterprise is a  
27 business undertaking in that it was formed to profit from the fraudulent sales of  
28 supplement products.

1 133. Each of the joint ventures and each Defendant described below are  
2 members of the Fat Buster Joint Venture Enterprise:

3 a) **The Dr. Oz Joint Venture:** Defendants Dr. Mehmet C. Oz, Oz Media, Zoco  
4 Productions, Harpo Productions, and Sony Pictures Television (collectively the  
5 “Oz Defendants” or “The Oz Enterprise”) have combined their property, skill,  
6 and knowledge to carry out a single business undertaking in that they produce,  
7 promote, and distribute *The Doctor Oz* television show and Dr. Oz related  
8 merchandise, products, and content. The Oz Defendants have formed an  
9 agreement to jointly share the control, profits, and losses of The Doctor Oz Joint  
10 Venture and The Doctor Oz Joint Venture is a business undertaking in that it was  
11 formed to profit from advertising revenue derived from its commercials and on-  
12 air endorsements like those featuring Products containing Supercitrimax®  
13 garcinia cambogia, Svetol® Green Coffee Extract, Raspberry Ketone, and the  
14 Labrada brand products.

15 b) **The Labrada Joint Venture:** Defendants Lee Labrada, Labrada Bodybuilding  
16 Nutrition, Inc., and Labrada Nutritional Systems, Inc. (collectively the “Labrada  
17 Defendants” or “The Labrada Joint Venture”) have combined their property,  
18 skill, and knowledge to carry out a single business undertaking in that they  
19 develop, manufacture, promote, market, distribute, and/or sell the Labrada  
20 Products across the United States, including to hundreds of thousands of  
21 consumers in California. The Labrada Defendants have formed an agreement to  
22 jointly share the control, profits, and losses of the Labrada Joint Venture and the  
23 Labrada Venture is a business undertaking in that it was formed to profit from  
24 sales of the Labrada Products.

25 c) **Labrada-Interhealth Joint Venture:** The Labrada Defendants and Defendant  
26 Interhealth (collectively the “Labrada-Interhealth Joint Venture”) have  
27 combined their property, skill, and knowledge to carry out a single business  
28 undertaking in that they develop, manufacture, promote, market, distribute,

1 and/or sell the Labrada Products across the United States, including to hundreds  
2 of thousands of consumers in California. Members of the Labrada-Interhealth  
3 Joint Venture have formed an agreement to jointly share the control, profits, and  
4 losses of the Labrada-Interhealth Joint Venture and the Labrada-Interhealth Joint  
5 Venture is a business undertaking in that it was formed to profit from sales of  
6 the Labrada Products

7 d) **Labrada-Naturex Joint Venture**: The Labrada Defendants and the Naturex  
8 Defendants (collectively the “Labrada-Naturex Joint Venture”) have combined  
9 their property, skill, and knowledge to carry out a single business undertaking in  
10 that they develop, manufacture, promote, market, distribute, and/or sell the  
11 Labrada Products across the United States, including to hundreds of thousands  
12 of consumers in California. Members of the Labrada-Naturex Joint Venture have  
13 formed an agreement to jointly share the control, profits, and losses of the  
14 Labrada-Naturex Joint Venture and the Labrada-Naturex Joint Venture is a  
15 business undertaking in that it was formed to profit from sales of the Labrada  
16 Products.

## 17 **II. Agency Allegations**

18 134. At all times herein mentioned, Defendants, and each of them, were an  
19 agent of each of the other Defendants, and in doing the acts alleged herein, were acting  
20 within the course and scope of such agency. Each Defendant had actual and/or  
21 constructive knowledge of the acts of each of the other Defendants, and ratified,  
22 approved, joined in, acquiesced and/or authorized the wrongful acts of each co-  
23 Defendant, and/or retained the benefits of said wrongful acts.

24 135. At all times herein mentioned, each member of each joint ventures  
25 described above, were agents of the joint ventures and the other members of the joint  
26 ventures described above, and in doing the acts alleged herein, were acting within the  
27 ordinary course of business of the joint ventures or with the authority or ratification of  
28

1 the joint ventures.

2 136. During the relevant class periods, the Labrada Defendants were the  
3 ostensible agents of Defendant Interhealth and Defendant Naturex. By authorizing or  
4 ratifying either the Supercitrimax® logo or the Svetol® logo to appear on the Labrada  
5 products Interhealth and Naturex intentionally or carelessly created the impression that  
6 the Labrada Defendants were the agents of Interhealth and Naturex®. Plaintiff and the  
7 class reasonably believed that the said ostensible agency relationships existed because  
8 they read and relied on the statements made on the Product packaging and saw the  
9 logos or trade dress of Supercitrimax® and Svetol®. Plaintiff and the class suffered  
10 harm as a result of their reliance on these ostensible agency relationships in that they  
11 believed the products were of a superior and effective quality because they were made  
12 with Supercitrimax® and Svetol®.

### 13 **III. Civil Conspiracy Allegations**

14 137. During the relevant class periods, Plaintiff and the class members were  
15 harmed by Defendants' unlawful business practices and fraudulent representations  
16 described herein because each Defendant was part of a conspiracy to commit fraud or  
17 and other deceptive and unlawful acts. Each Defendant intentionally entered into an  
18 agreement in writing, orally, or through their conduct with at least one or more Co-  
19 Defendants to commit wrongful violations of the law as described in Plaintiff's request  
20 for relief section, *infra*. Each Defendant was aware of the fact that each co-conspirator  
21 Defendant planned to commit fraud and other unlawful acts. Each Defendant intended  
22 that the fraud and other unlawful acts be committed and each Defendant overtly acted  
23 in furtherance of the goals of said civil conspiracies.

24 138. Dr. Oz and the Dr. Oz Defendants knowingly entered into a single  
25 agreement and/or multiple agreements to commit fraud and other unlawful acts with  
26 Defendants Interhealth, Naturex, and/or the Labrada Defendants by agreeing to  
27 promote ineffective weight-loss supplements on *The Dr. Oz Show* in a conspiracy to  
28

1 defraud the members of the Class and the public. Dr. Oz and the Dr. Oz Defendants  
2 knew that they were entering into a conspiracy because Dr. Oz and the Dr. Oz Show  
3 Defendants have specialized knowledge and were aware of the fact that there was no  
4 competent, reliable scientific studies to support the advertising claims about the  
5 Products. Dr. Oz and the Dr. Oz Show Defendants took overt acts in furtherance of the  
6 conspiracies by actually promoting the Products on *The Dr. Oz Show* with the intent to  
7 defraud consumers.

8 139. The Labrada Defendants entered into a single agreement or multiple  
9 agreements with Defendants Interhealth and Naturex to commit fraud and other  
10 unlawful acts by knowingly agreeing to sell ineffective weight-loss supplements to  
11 consumers across the country. The Labrada Defendants, Interhealth and Naturex each  
12 made overt acts in furtherance of the civil conspiracies alleged herein by actively  
13 marketing and promoting the ineffective and fraudulent weight-loss supplements and  
14 by sponsoring and paying for so-called clinical studies they used to support the  
15 products.

#### 16 **IV. Aiding and Abetting Allegations**

17 140. During the relevant class periods, each and every Defendant knew that  
18 each and every other Defendant were engaged in the unlawful acts subject to this  
19 complaint. Each Defendant gave substantial assistance or encouragement to one or  
20 more co-Defendants, who committed the predicate unlawful acts, by supplying those  
21 Defendants with the means or instrumentalities to commit the unlawful acts, which  
22 were substantial factors in causing harm to Plaintiff and the Classes.

23 141. During the relevant class periods, Interhealth, Naturex, and the Dr. Oz  
24 Defendants knew that the Labrada Defendants were falsely and fraudulently  
25 advertising and selling the Labrada Products. Interhealth and Naturex gave substantial  
26 assistance or encouragement to the Labrada Defendants by supplying those Defendants  
27 with the Supercitrimax® or Svetol® ingredients in the products, allowed Labrada to  
28

1 use the Supercitrimax® and Svetol® logos on the products, and provided Labrada with  
2 fabricated and deceptive clinical studies as tools to falsely advertise the products and  
3 conceal the truth about the Products. Moreover, the Dr. Oz Defendants aided this  
4 scheme by agreeing to promote the products and their ingredients on a nationally  
5 televised show that reaches millions of consumers, which was an essential tool to carry  
6 out the fraudulent sales and marketing of the Labrada products. Each act of aiding and  
7 abetting described herein was a substantial factors in causing harm to Plaintiff and the  
8 class as Plaintiff and the Class would not have purchased the products had they know  
9 that the ingredients are not actually supported by reliable scientific studies.

### 10 TOLLING THE STATUTE OF LIMITATIONS

11 142. **Delayed discovery.** Plaintiff and the Class are laypersons, lacked the  
12 knowledge and experience to understand how the Products' labels were deceptive or  
13 false, and information regarding the false or deceptive advertising was solely within  
14 Defendants' possession and control. Thus, the delayed discovery exception postpones  
15 accrual of the limitations period for all members of the putative classes.

16 143. **Fraudulent concealment.** Additionally, or in the alternative, Defendants  
17 were constructively and actually aware that the Products were ineffective for their  
18 advertised use. Nevertheless, Defendants continued to sell the Labrada Products.  
19 Therefore, at all relevant times Defendants had a duty to inform consumers that the  
20 Products were not effective at providing relief for the advertised symptoms, but  
21 Defendants knowingly concealed that fact from members of the putative classes herein.  
22 Accordingly, the fraudulent concealment exception tolls the statute of limitations on  
23 all claims herein.

24 144. **Continuing violation.** Additionally, or in the alternative, because  
25 Defendants' misrepresentations and deception continues up to the present, the  
26 continuing violation exception tolls all applicable statues of limitations for all members  
27 of the putative classes until Defendants' unlawful advertising and labeling is corrected.  
28

1 **CLASS ACTION ALLEGATIONS**

2 145. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff seeks  
3 certification of the following Classes (or alternative Classes or Subclasses), for the time  
4 period from when the Labrada Products first entered into the stream of commerce until  
5 the present (“Class Period”), as defined as follows:

6 **The Nationwide Class**

7 All persons in the United States who purchased the Labrada Products.  
8

9 **The Labrada-Supercitrimax® Nationwide Subclass**

10 All persons in the United States who purchased Labrada Products that contain  
11 Supercitrimax®  
12

13 **The California Subclass**

14 All persons in California who purchased the Labrada Products.  
15

16 146. The Classes and Subclasses described in this complaint will jointly be  
17 referred to as the “Class” or the “Classes” unless otherwise stated, and the the proposed  
18 members of the Classes and Subclasses will jointly be refered to as “Class Members.”

19 147. Plaintiff and the Class reserve their right to amend or modify the Class  
20 definitions with greater specificity or further division into subclasses or limitation to  
21 particular issues as discovery and the orders of this Court warrant.

22 148. Excluded from the Class are governmental entities, Defendants, any entity  
23 in which Defendants have a controlling interest, Defendants’ employees, officers,  
24 directors, legal representatives, heirs, successors and wholly or partly owned  
25 subsidiaries or affiliated companies, including all parent companies, and their  
26 employees; and the judicial officers, their immediate family members and court staff  
27 assigned to this case.

28 149. The proposed Classes are so numerous that individual joinder of all the

1 members is impracticable. Due to the nature of the trade and commerce involved,  
2 however, Plaintiff believe the total number of Class members is at least in the hundreds  
3 of thousands and members of the Classes are numerous. While the exact number and  
4 identities of the Class members are unknown at this time, such information can be  
5 ascertained through appropriate investigation and discovery. The disposition of the  
6 claims of the Class members in a single class action will provide substantial benefits  
7 to all parties and to the Court.

8 150. Pursuant to Rule 23(b)(2), Defendants have acted or refused to act on  
9 grounds generally applicable to the Classes, thereby making final injunctive relief or  
10 corresponding declaratory relief and damages as to the Products appropriate with  
11 respect to the Classes as a whole. In particular, Defendants have failed to disclose the  
12 true nature of the Products being marketed as described herein.

13 151. There is a well-defined community of interest in the questions of law and  
14 fact involved, affecting the Plaintiff and the Classes and these common questions of  
15 fact and law include, but are not limited to, the following:

- 16 a) Whether Defendants breached any express warranties made to Plaintiff and the  
17 Class;
- 18 b) Whether Defendants breached an implied warranty of merchantability made to  
19 Plaintiff and the Class;
- 20 c) Whether Defendants were unjustly enriched by their conduct;
- 21 d) Whether Defendants engaged, and continue to engage, in unfair or deceptive acts  
22 and practices in connection with the marketing, advertising, and sales of Labrada  
23 Products;
- 24 e) Whether Defendants violated other consumer protection statutes, false  
25 advertising statutes, or state deceptive business practices statutes; and
- 26 f) Whether, as a result of Defendants' misconduct as alleged herein, Plaintiff and  
27 Class Members are entitled to restitution, injunctive and/or monetary relief and,  
28 if so, the amount and nature of such relief.

1 152. Plaintiff's claims are typical of the claims of the members of the Classes.  
2 Plaintiff and all members of the Classes have been similarly affected by Defendants'  
3 common course of conduct since they all relied on Defendants' representations  
4 concerning the Products and purchased the Products based on those representations.

5 153. Plaintiff will fairly and adequately represent and protect the interests of  
6 the Classes. Plaintiff has retained counsel with substantial experience in handling  
7 complex class action litigation in general and scientific claims specifically, including  
8 for dietary supplements. Plaintiff and her counsel are committed to vigorously  
9 prosecuting this action on behalf of the Classes and have the financial resources to do  
10 so.

11 154. Plaintiff and the members of the Classes suffered, and will continue to  
12 suffer harm as a result of the Defendants' unlawful and wrongful conduct. A class  
13 action is superior to other available methods for the fair and efficient adjudication of  
14 the present controversy. Individual joinder of all members of the Classes is  
15 impracticable. Even if individual Class members had the resources to pursue individual  
16 litigation, it would be unduly burdensome to the courts in which the individual  
17 litigation would proceed. Individual litigation magnifies the delay and expense to all  
18 parties in the court system of resolving the controversies engendered by Defendants'  
19 common course of conduct. The class action device allows a single court to provide  
20 the benefits of unitary adjudication, judicial economy, and the fair and efficient  
21 handling of all Class members' claims in a single forum. The conduct of this action as  
22 a class action conserves the resources of the parties and of the judicial system and  
23 protects the rights of the class members. Furthermore, for many, if not most, a class  
24 action is the only feasible mechanism that allows an opportunity for legal redress and  
25 justice.

26 155. Adjudication of individual Class members' claims with respect to  
27 Defendants would, as a practical matter, be dispositive of the interests of other  
28 members not parties to the adjudication, and could substantially impair or impede the

1 ability of other class members to protect their interests.

2 **CLAIMS FOR RELIEF**

3 **COUNT I**

4 **CLAIM FOR FRAUD AND DECEIT**

5 **CAL. CIV. CODE §§ 1709-1711 AND THE COMMON LAW OF ALL STATES**

6 **By the Nationwide Class and All Subclasses**

7 156. Plaintiff and the Class members incorporate by reference and re-allege  
8 each and every allegation set forth above as though fully set forth herein.

9 157. Plaintiff brings this Claim individually and on behalf of the members of  
10 the Class against all Defendants.

11 158. There are no material differences in the laws of the fifty states with respect  
12 to claims for fraud and deceit as such claims arise from common law principles and  
13 duties. In the event the Court does find that a material difference in state law exists,  
14 then Plaintiff and the Class assert this Claim based on the laws of California and all  
15 states with substantially similar laws. Plaintiff and the Class reserve their right to  
16 amend the class definitions in this complaint to further define multistate classes  
17 consisting of persons in states that have substantially similar laws

18 159. Plaintiff brings this claim under alternate legal theories sounding in both  
19 tort and contract, as to the extent allowable by Federal Rule of Civil Procedure 8(d)(2).

20 **\*\*False Statements of Material Facts\*\***

21 160. Defendants made material representations to Plaintiff and the Class  
22 members that the Labrada Products are effective at providing weight loss benefits  
23 capable of “busting their body fat for good” and other representations described in this  
24 complaint. However, the Products are not effective at providing the advertised weight  
25 loss results because the ingredients in the Products are ineffective, as established by  
26 numerous reliable and credible studies, and the ingredients cannot provide the  
27 advertised weight-loss benefits.

28 161. Defendants made material misrepresentations to Plaintiff and the Class

1 members that Dr. Oz does not endorse specific brands of products when in fact he did  
2 endorse the Labrada brand, the Supercitrimax® brand, and/or the Svetol® brand of  
3 weight loss products.

4 162. Defendants made material misrepresentations to Plaintiff and the Class  
5 members that certain Labrada Products labeled as “Made in the USA” are actually  
6 made in the USA, when in fact majority of the ingredients in the Products are not made  
7 in the USA and instead made in a foreign country like India.

8 163. Defendants made material misrepresentations to Plaintiff and the Class  
9 members that certain Labrada Products contain “standardized” amounts of ingredients,  
10 when in fact laboratory tests, including the Labrada Products’ own testing, show that  
11 ingredients like Supercitrimax® are not standardized.

12 **\*\*Material Statements of Fact and not Opinions\*\***

13 164. Dr. Oz and the Dr. Oz Defendants claimed to have special knowledge  
14 about the weight loss supplements because Dr. Oz is renown doctor at the Columbia  
15 University School of Medicine. Defendants also claimed to have superior knowledge  
16 about the subject matter by hiring other doctors to disseminate false statements about  
17 the products.

18 165. Plaintiff and the class members did not have the same superior knowledge  
19 about the products.

20 166. Defendants made the representations described in this complaint as true  
21 representations, not casual expressions of belief, and did so in a way that declared the  
22 matter to be true.

23 167. Defendants, through Dr. Oz’s reputation as a renowned doctor at  
24 Columbia University School of Medicine, had reasons to expect that by disseminating  
25 undisclosed endorsements of weight loss products, including the Labrada Products, that  
26 Plaintiff and the Class would rely on their representations as material statements of  
27 facts and not opinions.

28 168. Defendants’ actions constitute “actual fraud” within the meaning of Cal.

1 Civ. Code § 1572 because Defendants did the following with the intent to deceive  
2 Plaintiff and Class member and to induce them to enter into their contracts:

- 3 a. Suggested that the Products are effective as a weight-loss aid,  
4 even though Defendants knew that the Products are not;
- 5 b. Positively asserted that the Products are made with no artificial  
6 ingredients, binders, and fillers, when in fact they are not;
- 7 c. Suppressed the true nature of the Products from Plaintiff and  
8 Class members; and
- 9 d. Promised they would supply the Products with “standardized”  
10 ingredients even though the products do not contain standardized  
11 ingredients.

12 169. Defendants’ actions, listed above, also constituted “deceit” as defined by  
13 Cal. Civ. Code § 1710 because Defendants willfully deceived Plaintiff and Class  
14 members with intent to induce them to alter their positions to their detriment by  
15 purchasing defective Products.

16 **\*\*Fraud by Concealment and Omission of Material Facts\*\***

17 170. As set forth above, Defendants concealed material facts concerning the  
18 true nature of their Products, the endorsements of the products on *The Dr. Oz Show*,  
19 and the true nature of the clinical studies used in support of the weight-loss claims made  
20 on the product packaging and advertising. Defendants had a duty to make these  
21 disclosures based on their superior knowledge of the Products and the ingredients in  
22 the Products, as well as their affirmative disclosure of some facts and concealment of  
23 other material facts, thus making the partial disclosures deceptive.

24 171. Defendants actively concealed material facts, in whole or in part, with the  
25 intent to induce Plaintiff and members of the Classes to purchase the Products.  
26 Specifically, Defendants actively concealed the truth about the products by not  
27 disclosing all facts about the studies supposedly supporting the Products or by making  
28 such studies difficult or impossible to discover because many of the studies are only

1 accessible by means of a paid subscription to the “journal” or other publication that  
2 prints the full version of the studies.

3 172. Plaintiff and the Classes were unaware of these omitted material facts and  
4 would not have acted as they did if they had known of the concealed facts.

5 173. Plaintiff and the Class suffered injuries that were proximately caused by  
6 Defendants’ active concealments and omissions of material facts.

7 174. Defendants’ fraudulent concealments and omissions were a substantial  
8 factor in causing the harm suffered by Plaintiff and the class members as they would  
9 not have purchased the products at all if all material facts were properly disclosed.

10 **\*\*Knowledge of Falsities\*\***

11 175. Defendants, at all times mentioned herein, had knowledge that that their  
12 representations concerning the Products are false and misleading because the Products  
13 are ineffective at providing the advertised weight-loss benefits. Defendants, at all times  
14 mentioned herein, had knowledge that the ingredients are ineffective because  
15 Defendant Interhealth and other ingredient suppliers essentially made up the science  
16 supporting the active ingredients in the Labrada Products through manipulation of  
17 “clinical studies.”

18 176. Dr. Oz, as a renown surgeon at Columbia University and a sophisticated  
19 party with superior knowledge about the fields of science and medicine, knew that the  
20 representations were false or recklessly disregarded to truth about the weight loss  
21 products he endorsed, including the Labrada Products.

22 177. The Labrada Defendants are sophisticated parties with superior  
23 knowledge about science and supplement products knew that the representations were  
24 false or recklessly disregarded to truth about the weight loss products he endorsed,  
25 including the Labrada Products.

26 **\*\*Intent to Defraud and Intent to Induce Reliance\*\***

27 178. Defendants made the misrepresentations alleged herein with the intention  
28

1 of inducing and persuading Plaintiff and the Class to purchase the Labrada Products  
2 because the Defendants sought to reap enormous profits from the sales of the falsely  
3 labeled Products and the fraudulent advertising and promotion of the Products was  
4 essential to Defendants' ability to profit from the sales of the Products.

5 179. Defendants further withheld and omitted material information about the  
6 Products with the intention of inducing and persuading Plaintiff and the class to  
7 purchase the Labrada Products as a part of their unlawful scheme to make money from  
8 the sales of the Products.

9 **\*\*\*Intent to Defraud a Class of Persons and the Public\*\*\***

10 180. *“One who practices a deceit with intent to defraud the public, or a*  
11 *particular class of persons, is deemed to have intended to defraud every individual in*  
12 *that class, who is actually misled by the deceit.”* Cal. Civ. Code § 1711.

13 181. Defendants are responsible for their material misrepresentations and  
14 omissions described above even if they did not intend any particular Plaintiff or any  
15 particular class member to rely on the misrepresentations because Defendants made the  
16 representations to groups of persons and the public at large, intending or reasonably  
17 expecting that it would be repeated to Plaintiff and the Class members who are  
18 consumers that were actually misled into purchasing the products.

19 182. Dr. Oz made the representations to the television audience with the intent  
20 that TV viewers and the news media would disseminate such information to the Class  
21 members who did not hear or perceive the misrepresentations directly from *The Dr. Oz*  
22 *Show*. Plaintiff and the Class members justifiably relied on all misrepresentations made  
23 on *The Dr. Oz Show*, however, because the representations were repeated to Plaintiff  
24 and the Class through the comprehensive marketing scheme described herein.

25 183. Defendants Interhealth and Naturex also made material  
26 misrepresentations described in this complaint to groups of supplement manufacturers,  
27 distributors, including Labrada, and the public at large with the specific intent that the  
28 supplement manufacturers distributors, sellers, Labrada, and the public would

1 disseminate such information to Plaintiff's and the Class members by means of product  
2 labels, advertisements, online videos, and by word of mouth. Plaintiff and the Class  
3 members justifiably relied on all misrepresentations made by Interhealth and Naturex,  
4 however, because the representations were repeated to Plaintiff and the Class through  
5 the comprehensive marketing scheme described herein.

6 **\*\* Justifiable Reliance \*\***

7 184. Plaintiff and the Class, by purchasing the products, justifiably relied on  
8 Defendants' false and misleading statements and misrepresentations, and on the  
9 absence of the material information that Defendants omitted. If Plaintiff and the class  
10 would have known the truth concerning the false representations and omissions, they  
11 would not have purchased the Labrada products at all because the Labrada products are  
12 essentially "worthless" in that they have a fair market value of \$0.00.

13 185. Plaintiff justifiably relied on the statements made by Dr. Oz because he  
14 assured consumers that he does not endorse a specific brand and because he has  
15 specialized knowledge as a doctor at Columbia University School of Medicine.

16 186. Plaintiff and the Class also justifiably relied on the the material  
17 misrepresentations made by all Defendants as described in this complaint because  
18 Defendants used paid doctors like Harry Preuss to further the notion that the products  
19 worked as advertised and touted the fact that the Products are supported by clinical  
20 studies and scientific references that appear on the packaging of the Products and in  
21 the advertising materials for the Products.

22 **\*\*Injury and Actual Damages\*\***

23 187. As a direct and proximate result of Defendants' intentional  
24 misrepresentations and deceptive omissions, Plaintiff and the members of the Class  
25 were induced to pay for worthless products.

26 188. As a direct and proximate result of Defendants' intentional  
27 misrepresentations and deceptive omissions, Plaintiff and the members of the Class  
28 detrimentally relied on Defendants' misrepresentations and deceptive omissions in that

1 they consumed worthless products that have no positive health benefits and in the fact  
2 that the products are potentially dangerous to their health.

3 189. Plaintiff and the Class bring this claim for intentional misrepresentation  
4 based on alternate legal theories sounding in both tort and contract.

5 190. Plaintiff and the Class were damaged through their purchase and use of  
6 the Products. Plaintiff and the Class suffered harm in that they suffered actual damages  
7 in the amount of what they paid for the Products subtracted by the fair market value of  
8 the products are actually worth.

9 191. The Labrada Products are worthless in that they have a fair market value  
10 of zero. Therefore, Plaintiff and the Class have suffered actual damages in the amount  
11 of the purchase price paid for the products.

12 192. Alternatively, Plaintiff and the class allege that the Labrada Products are  
13 priced at a premium in comparison to other weight-loss products and that the premium  
14 price is commanded in the marketplace as a direct result of the false and misleading  
15 advertising tactics described in this complaint. This alternative premium-price measure  
16 of damages can be calculated on a uniform class-wide basis and Plaintiff and the classes  
17 out-of-pocket loss is the amount of the premium price that the Products command.

18 **\*\*Fraudulent Inducement\*\***

19 193. For Plaintiff's alternate intentional misrepresentation claim sounding in  
20 contract, Plaintiff suffered harm in that she has actual economic damages for  
21 Defendants' breach of contract by way of fraud and Plaintiff alleges that the proper  
22 measure of damages would be a full refund of the class members' purchase price of the  
23 products because the sales contracts are voidable as a result of fraudulent inducement.  
24 Plaintiff were induced by fraud when entering into the contract and would not have  
25 purchased the products had they known the truth. Therefore, Plaintiff and the Class  
26 repudiate their purchase contracts and pray for legal or equitable restitution to the  
27 extent that defendants have been unjustly enriched by wrongfully obtaining Plaintiff  
28 and the class members' purchase money.

1 194. For Plaintiff’s alternative intentional misrepresentation claim based in  
2 tort, Plaintiff and the class suffered harm and seek the actual damages suffered because  
3 they detrimentally relied on Defendants’ false statements of material facts by  
4 expending their time purchasing the products and they suffered a personal injury in that  
5 they consumed Products that are worthless and potentially dangerous. This chain of  
6 events is collateral to Plaintiff purchase of the Products and gives rise to a separate tort  
7 claim as it affects a separate primary right. Plaintiff and the class have all suffered the  
8 threshold amount of harm to state a claim for fraud, but in the event that the actual  
9 damages based on this tort theory cannot be determined on a class-wide basis, Plaintiff  
10 and the Class will then seek nominal damages for their alternative intentional  
11 misrepresentation claim based on tort in the amount of \$1.00 for each purchase of the  
12 Labrada Products.

13 **\*\*Punitive Damages\*\***

14 195. Defendants’ conduct was systematic, repetitious, knowing, intentional,  
15 and malicious, and demonstrated a lack of care and reckless disregard for Plaintiff’s  
16 and Class members’ rights and interests. Defendants’ conduct thus warrants an  
17 assessment of punitive damages under Cal. Civ. Code § 3294 and other applicable  
18 states’ laws, consistent with the actual harm it has caused, the reprehensibility of its  
19 conduct, and the need to punish and deter such conduct.

20 **COUNT II**

21 **CLAIM FOR NEGLIGENT MISREPRESENTATION**

22 **THE COMMON LAW OF ALL STATES AND CAL. CIV. CODE § 1710(2)**

23 ***By the Nationwide Class and all Subclasses***

24 196. Plaintiff and Class Members re-allege and incorporate by reference each  
25 and every allegation set forth above, and further allege as follows:

26 197. Plaintiff brings this Count in the alternative to Count I.

27 198. Defendants had a duty to disclose to Plaintiff and Class Members correct  
28 information as to the quality and characteristics of the Products because Defendants

1 were in a superior position than Plaintiff and Class Members such that reliance by  
2 Plaintiff and Class Members were justified., Defendants possessed the skills and  
3 expertise to know the type of information that would influence a consumer's  
4 purchasing decision.

5 199. During the applicable Class period, Defendants negligently or carelessly  
6 misrepresented, omitted, and concealed from consumers material facts regarding the  
7 quality and characteristics of the Products, including the alleged weight-loss benefits.

8 200. Defendants made such false and misleading statements and omissions  
9 through a wide range of advertisement medium described herein, with the intent to  
10 induce Plaintiff and Class Members to purchase the Products.

11 201. Defendants were careless in ascertaining the truth of its representations in  
12 that they knew or should have known that Plaintiff and Class Members would not  
13 realize the alleged benefits represented by Defendants.

14 202. Plaintiff and Class Members were unaware of the falsity in Defendants'  
15 misrepresentations and omissions and, as a result, justifiably relied on them when  
16 making the decision to purchase the Products.

17 203. Plaintiff and Class Members would not have purchased the Products or  
18 paid as much for the Products if the true facts had been known.

19 **COUNT III**

20 **CLAIM FOR QUASI-CONTRACT / UNJUST ENRICHMENT**

21 ***By the Nationwide Class and all Subclasses***

22 204. Plaintiff and the Class members incorporate by reference and re-allege  
23 each and every allegation set forth above as though fully set forth herein.

24 205. Plaintiff and the Class members conferred a benefit on Defendants by  
25 purchasing the Products.

26 206. Defendants have been unjustly enriched in retaining the revenues derived  
27 from Class members' purchases of the Products, which retention under these  
28 circumstances is unjust and inequitable because Defendants misrepresented the facts

1 concerning the efficacy of the Products and caused Plaintiff and the Class to lose money  
2 as a result thereof.

3 207. Plaintiff and the Class members were injured as a direct and proximate  
4 result of Defendants' breach because they would not have purchased the Products if  
5 the true facts had been known. Because Defendants' retention of the non-gratuitous  
6 benefit conferred on it by Plaintiff and Class members is unjust and inequitable,  
7 Defendants must pay restitution to Plaintiff and Class members for their unjust  
8 enrichment, as ordered by the Court.

9 **COUNT IV**

10 **CLAIM FOR UNFAIR COMPETITION**

11 **CAL. BUS. & PROF. CODE §§ 17200, et seq.**

12 ***By the Labrada-Supercitrimax® Nationwide Class and the California Subclass***

13 208. Plaintiff and the Class incorporate by reference and re-allege each and  
14 every allegation set forth above as though fully set forth herein.

15 209. Plaintiff brings this claim on behalf of the Labrada-Supercitrimax®  
16 nationwide class against Defendants. Plaintiff Woodard also brings this claim on behalf  
17 of the California subclass against all Defendants.

18 210. California's Unfair Competition Law, Business and Professions Code  
19 §17200 (the "UCL") prohibits any "unfair, deceptive, untrue or misleading  
20 advertising." For the reasons discussed above, Defendants have engaged in unfair,  
21 deceptive, untrue and misleading advertising, and continue to engage in such business  
22 conduct, in violation of the UCL.

23 211. California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code  
24 §§ 17200, et seq., proscribes acts of unfair competition, including "any unlawful, unfair  
25 or fraudulent business act or practice and unfair, deceptive, untrue or misleading  
26 advertising."

27 **\*\*Unlawful\*\***

28 212. Defendants have violated the UCL unlawful prong in at least the following

1 ways:

- 2 i. By knowingly and intentionally concealing from  
3 Plaintiff and the other Class members that the  
4 Products cannot provide the advertised weight-loss  
5 benefits while obtaining money from Plaintiff;  
6 ii. By misrepresenting the nature of the Products and  
7 the Products' effectiveness at providing the weight-  
8 loss benefits;  
9 iii. By engaging in the conduct giving rise to the claims  
10 asserted in this complaint.  
11 iv. By representing the Products as being "Made in the  
12 USA" in violation of California Business and  
13 Professions Code § 17533.7, which requires  
14 products with labeling statements like "Made in the  
15 USA" to contain "not more than 5 percent of the  
16 final wholesale value of the manufactured product."

17 213. Such conduct is ongoing and continues to this date.

18 214. Plaintiff and the Class reserve the right to allege other violations of law  
19 which constitute other unlawful business acts or practices.

20 **\*\*Unfair\*\***

21 215. The UCL also prohibits any "unfair"... business act or practice."

22 216. Defendants' acts, omissions, misrepresentations, practices and  
23 nondisclosures as alleged herein also constitute "unfair" business acts and practices  
24 within the meaning of the UCL in that their conduct is substantially injurious to  
25 consumers, offends public policy, and is immoral, unethical, oppressive, and  
26 unscrupulous as the gravity of the conduct outweighs any alleged benefits attributable  
27 to such conduct. In the alternative, Defendants' business conduct as described herein  
28 violates relevant laws designed to protect consumers and business from unfair

1 competition in the marketplace. Such conduct is ongoing and continues to date.

2 217. Plaintiff also allege violations of consumer protection, unfair competition  
3 and truth in advertising laws in California and other states resulting in harm to  
4 consumers. Plaintiff assert violation of the public policy of engaging in false and  
5 misleading advertising, unfair competition and deceptive conduct towards consumers.  
6 This conduct constitutes violations of the unfair prong of the UCL. Such conduct is  
7 ongoing and continues to this date.

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

10 **\*\*Fraudulent\*\***

11 219. The UCL also prohibits any "fraudulent business act or practice."

12 220. Defendants' claims, nondisclosures (i.e., omissions) and misleading  
13 statements, as more fully set forth above and specifically in Count I, were false,  
14 misleading and/or likely to deceive a reasonable consumer within the meaning of the  
15 UCL. Such conduct is ongoing and continues to this date.

16 221. Defendants' conduct caused and continues to cause substantial injury to  
17 Plaintiff and the other Class members. Plaintiff has suffered injury in fact as a result  
18 of Defendants' unfair conduct.

19 222. Defendants have thus engaged in unlawful, unfair and fraudulent business  
20 acts and practices and false advertising, entitling Plaintiff and the Class to injunctive  
21 relief against Defendants, as set forth in the Prayer for Relief.

22 223. Pursuant to Business and Professions Code §17203, Plaintiff and the Class  
23 seek an order requiring Defendants to immediately cease such acts of unlawful, unfair  
24 and fraudulent business practices and requiring Defendants to engage in a corrective  
25 advertising campaign.

26 224. Plaintiff also seeks an order for the disgorgement and restitution of all  
27 monies from the sale of the Products they purchased, which was unjustly acquired  
28 through acts of unlawful, unfair, and/or fraudulent competition and attorneys' fees and

1 costs.

2 **COUNT V**

3 **CLAIM FOR VIOLATIONS OF CALIFORNIA’S CONSUMERS LEGAL**  
4 **REMEDIES ACT (“CLRA”)**

5 **CAL. CIV. CODE §§ 1750, et seq.**

6 ***By the Labrada-Supercitrimax® Nationwide Class and the California Subclass***

7 225. Plaintiff and the Class members incorporate by reference and re-allege  
8 each and every allegation set forth above as though fully set forth herein.

9 226. Defendants are “persons” under Cal. Civ. Code § 1761(c).

10 227. Plaintiff is a “consumer,” as defined by Cal. Civ. Code § 1761(d).

11 228. By making affirmative misrepresentations about the weightless benefits  
12 of the products and by concealing material facts about the products and the studies  
13 supporting the efficacy claims about the products, Defendants engaged in deceptive  
14 business practices prohibited by the CLRA, Cal. Civ. Code § 1750, et seq., including:

- 15 • § 1770(a)(2): Misrepresenting the source, sponsorship, approval, or certification  
16 of goods or services by claiming that that the Products are “Made in the USA”  
17 when in fact they are not.
- 18 • § 1770(a)(3): Misrepresenting the affiliation, connection, or association with, or  
19 certification by, another by claiming that Dr. Oz is not affiliated with the  
20 Products and does not endorse the Products, when in fact he does. Alternatively,  
21 Plaintiff brings this claim against the Labrada Defendants for misrepresenting  
22 the affiliation, connection, or association of the Products by misleading  
23 consumers into believing that the Products are affiliated with Dr. Oz when in  
24 fact they are not.
- 25 • § 1770(a)(4): Using deceptive representations or designations of geographic  
26 origin in connection with goods by claiming the Products are Made in the USA  
27 when in fact they are not.

- 1 • 1770(a)(5): Representing that goods have characteristics, uses, or benefits  
2 which they do not have by claiming that the products are effective as weight-  
3 loss aids and “fat busters” when in fact they provide no such benefits.
- 4 • § 1770(a)(7): representing that goods are of a particular standard, quality, or  
5 grade if they are of another by claiming that the products contain  
6 “standardized” ingredients and have “zero fillers, zero binders, and zero  
7 artificial ingredients” when in fact such representations are not true.
- 8 • § 1770(a)(9): advertising goods with intent not to sell them as advertised  
9 because Defendants knew that the Products could not provide the advertised  
10 benefits, but they chose to advertise and sell the Products to consumers.
- 11 • § 1770(a)(16): representing the subject of a transaction has been supplied in  
12 accordance with a previous representation when it has not by using  
13 unstandardized ingredients that fluctuate in their quantity and quality.

14 229. A reasonable consumer would not have purchased nor paid as much for  
15 the Products had Defendants disclosed the truth about the weight loss benefits of the  
16 products and the clinical studies supporting the products, as that information is material  
17 to a reasonable consumer.

18 230. As a result of its violations of the CLRA detailed above, Defendants have  
19 caused and continues to cause harm to Plaintiff and members of the Class and, if not  
20 stopped, will continue to harm them. Had Plaintiff known the truth about the Products  
21 she would not have purchased the Products.

22 231. In accordance with Civil Code § 1780(a), Plaintiff and members of the  
23 Class seek injunctive and equitable relief for Defendants’ violations of the CLRA. In  
24 addition, after mailing appropriate notice and demand in accordance with Civil Code §  
25 1782(a) & (d), Plaintiff will subsequently amend this Complaint to also include a  
26 request for damages. Plaintiff and members of the Class request that this Court enter  
27 such orders or judgments as may be necessary to restore to any person in interest any  
28 money which may have been acquired by means of such unfair business practices, and

1 for such other relief, including attorneys’ fees and costs, as provided in Civil Code §  
2 1780 and the Prayer for Relief.

3 232. Plaintiff Woodard has attached a “venue affidavit” to this complaint, to  
4 the extent it is required in federal court, in accordance with California Civil Code  
5 Section 1781(e) attesting that Defendants are “doing business” in this County and that  
6 this County is the proper place for trial.

7 **COUNT VI**

8 **CLAIM FOR FALSE ADVERTISING**

9 **CAL. BUS. & PROF. CODE §§ 17500, *et seq.***

10 ***By the Labrada-Supercitrimax® Nationwide Class and the California Subclass***

11 233. Plaintiff and the Class members incorporate by reference and re-allege  
12 each and every allegation set forth above as though fully set forth herein.

13 234. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury  
14 in fact as a result of Defendants’ actions as set forth herein. Specifically, prior to the  
15 filing of this action, Plaintiff purchased the Products in reliance upon Defendants’  
16 marketing claims. Plaintiff used the Products as directed, but the Products have not  
17 worked as advertised, nor provided any of the promised benefits.

18 235. Defendants’ business practices as alleged herein constitute unfair,  
19 deceptive, untrue, and misleading advertising pursuant to California Business and  
20 Professions Code section 17500, *et seq.* because Defendants advertised the Products  
21 Plaintiff purchased in a manner that is untrue and misleading, and that is known or  
22 reasonably should have been known to Defendants to be untrue or misleading.

23 236. Defendants’ wrongful business practices have caused injury to Plaintiff  
24 and the Class.

25 237. Pursuant to section 17535 of the California Business and Professions  
26 Code, Plaintiff and the Class seek an order of this court enjoining Defendants from  
27 continuing to engage in deceptive business practices, false advertising, and any other  
28 act prohibited by law, including those set forth in the complaint.

1 238. Plaintiff also seeks an order for the disgorgement and restitution of all  
2 monies from the sale of the Products which were unjustly acquired through acts of  
3 unlawful, unfair, and/or fraudulent competition and attorneys' fees and costs.

4 **COUNT VII**

5 **CLAIM FOR BREACH OF EXPRESS WARRANTY**

6 **CAL. COMM. CODE § 2313**

7 ***By the Labrada-Supercitrimax® Nationwide Class and the California Subclass***

8  
9 239. Plaintiff and Class Members re-allege and incorporate by reference each  
10 and every allegation set forth above, and further allege as follows:

11 240. The Express Warranties as defined in this complaint are written warranties  
12 that appear on the product labels and packaging.

13 241. Defendants, in their capacity as manufacturers of the Products, expressly  
14 warranted that the Products were fit for their intended purpose by making the Express  
15 Warranties.

16 242. The foregoing representations were material and were a substantial factor  
17 in causing the harm suffered by Plaintiff and the Class because they concerned alleged  
18 efficacy of the Products regarding the ability aid with weight loss and bust body fat.

19 243. These representations had an influence on consumers' decisions in  
20 purchasing the Products.

21 244. Defendants made the above representations to induce Plaintiff and the  
22 members of Class to purchase the Products. Plaintiff and the Class members relied on  
23 the representations when purchasing Defendants' products.

24 245. In fact, the Products do not conform to the Express Warranties because  
25 each of the Express Warranties is false and misleading and the Products do not perform  
26 as warranted.

27 246. Plaintiff and the Class members were injured and continued to be injured  
28 as a direct and proximate result of Defendants' breach because they would not have

1 purchased the Products or paid as much for the Products if the true facts had been  
2 known.<sup>55</sup>

3 247. Plaintiff and the Class bring this claim against Defendants in their  
4 capacities as manufacturers of the Products with whom Plaintiff has not dealt with  
5 directly. Therefore, Plaintiff and the Class were not required to notify Defendants of  
6 their breaches of express warranties within a reasonable time. Plaintiff has notified  
7 Defendants of their breaches via letters sent by certified mail, return receipt requested,  
8 and are allowing Defendants reasonable time to take corrective actions. Should  
9 Defendants fail to take corrective action, Plaintiff reserves her right to amend this  
10 complaint and bring claims for breach of warranty based on Defendants' capacities as  
11 sellers of the Products and to assert other warranty claims based on similar state laws  
12 like the California Song-Beverley Consumer Warranty Act, similar laws of other states,  
13 and the Federal Magnuson-Moss Warranty Act.

14 **COUNT VIII**

15 **CLAIM FOR BREACH OF IMPLIED WARRANTY OF**

16 **MERCHANTABILITY**

17 **CAL. COMM. CODE § 2314**

18 ***By the Labrada-Supercitrimax® Nationwide Class and the California Subclass***

19 248. Plaintiff and the Class Members re-allege and incorporate by reference  
20 each and every allegation set forth above, and further allege as follows:

21 249. Defendants, in their capacity as manufacturers of the Products, impliedly  
22 warranted that the Products were fit for their intended purpose in that the Products  
23 would aid with weight-loss.

24 250. Defendants did so with the intent to induce Plaintiff and Class Members  
25 to purchase the Products.

26 251. At the time of Plaintiff and the class members' purchase, Defendants, by

27 \_\_\_\_\_  
28 <sup>55</sup> Though, Plaintiff and the Class would still be interested in purchasing the Labrada  
Products again if they were represented properly or truthfully.

1 their occupations as manufacturers of the goods, held themselves out as having special  
2 knowledge or skill regarding the Products.

3 252. Defendants breached the warranties implied in the contract for the sale of  
4 the Products in that the Products:

- 5 a) Were not of the quality as of other products generally acceptable  
6 in the trade of weight-loss aids and/or supplement products;
- 7 b) Were not fit for the ordinary purposes for which the Products  
8 were intended because they provide no weight-loss benefits.
- 9 c) Were not adequately labeled because the statements on the label  
10 are false and misleading;
- 11 d) Were not conformed to the promises or affirmations of fact made  
12 on the container or label because the Products provide no weight-  
13 loss benefits and are worthless products;

14 253. Moreover, the Products could not pass without objection in the trade  
15 under the contract description, the goods were not of fair or average quality within the  
16 description, and the goods were unfit for their intended and ordinary purpose. As a  
17 result, Plaintiff and the Class members did not receive the Products as impliedly  
18 warranted by Defendants to be merchantable.

19 254. Plaintiff and the Class bring this claim against Defendants in their  
20 capacities as manufacturers of the Products with whom Plaintiff has not dealt with  
21 directly. Therefore, Plaintiff and the Class were not required to notify Defendants of  
22 their breaches of implied warranties within a reasonable time. Plaintiff has notified  
23 Defendants of their breaches via letters sent by certified mail, return receipt requested,  
24 and are allowing Defendants reasonable time to take corrective actions. Should  
25 Defendants fail to take corrective action, Plaintiff reserves her right to amend this  
26 complaint and bring claims for breach of implied warranties based on Defendants'  
27 capacities as sellers of the Products and to assert other warranty claims based on similar  
28 state laws like the California Song-Beverly Consumer Warranty Act, similar laws of

1 other states, and the Federal Magnuson-Moss Warranty Act.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff and the Class Members request that the Court enter an  
4 order or judgment against Defendants including the following:

- 5 A. An order certifying that this action is properly brought and may be  
6 maintained as a class action;
- 7 B. An order appointing Plaintiff as class representatives of the Nationwide  
8 Class, as class representative of their respective Subclasses, and The Law  
9 Office of Ronald A. Marron as counsel for the Class;
- 10 C. An order requiring Defendants to bear the costs of Class notice;
- 11 D. Restitution in such amount that Plaintiff and Class Members paid to  
12 purchase Defendants' Products;
- 13 E. Actual damages, compensatory damages, punitive, treble damages,  
14 nominal damages, and such other relief as provided by the statutes cited  
15 herein;
- 16 F. Other appropriate injunctive relief;
- 17 G. An order declaring Defendants' conduct as unlawful, and an order  
18 enjoining Defendants from unlawfully and misleadingly representing the  
19 Products in violation of state law;
- 20 H. An order awarding Plaintiff their costs of suit, including reasonable  
21 attorneys' fees and pre- and post-judgment interest on such monetary  
22 relief;
- 23 I. An order requiring an accounting for, and imposition of, a constructive  
24 trust upon all monies Defendants received as a result of the misleading,  
25 fraudulent, and unlawful conduct alleged herein.
- 26 J. Such other relief to which Plaintiff and Class Members may be entitled to  
27 at law or in equity.  
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**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all causes of action or issues so triable.

DATED: February 2, 2016

*/s/ Ronald A. Marron*

Ronald A. Marron

**THE LAW OFFICES OF  
RONALD A. MARRON**

Ronald A. Marron

*ron@consumersadvocates.com*

Skye Resendes

*skye@consumersadvocates.com*

Michael T. Houchin

*mike@consumersadvocates.com*

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

Facsimile: (619) 564-6665

***Counsel for Plaintiff and the Proposed  
Class***

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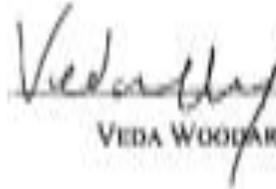
I, Veda Woodard, declare as follows:

1. I am a Plaintiff in this action. I make this affidavit pursuant to California Civil Code Section 1780(d).

2. The Complaint in this action is filed in a proper place for the trial of this action because Defendants are doing business in this county.

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

Dated: 1/4, 2016

  
VEDA WOODARD