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*Attorneys for Plaintiff Paul Martin and the
Proposed Plaintiff Class*

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

PAUL MARTIN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

SANMEDICA INTERNATIONAL,
LLC, and DOES 1 through 10,
inclusive,

Defendants.

Case No.

CLASS ACTION COMPLAINT

1. FALSE AND MISLEADING
ADVERTISING IN VIOLATION
OF BUSINESS AND
PROFESSIONS CODE § 17200, *et. seq.*
2. FALSE AND MISLEADING
ADVERTISING IN VIOLATION
OF BUSINESS AND
PROFESSIONS CODE § 17500, *et. seq.*
3. FALSE AND MISLEADING
ADVERTISING IN VIOLATION
OF CALIFORNIA CIVIL CODE
§ 1750, *et. seq.*
4. BREACH OF EXPRESS
WARRANTY

DEMAND FOR JURY TRIAL

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1 Plaintiff Paul Martin, individually and on behalf of all other similarly situated
2 purchasers (the “Class”) of SeroVital-hgh (the “Product”) (pictured below) brings this
3 complaint against Sanmedica International, LLC (“Sanmedica”) and Does 1 through
4 10, inclusive (collectively “Defendants”) and alleges as follows:



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20 **I. NATURE OF THE ACTION**

21 1. Defendants manufacture, market, and sell SeroVital-hgh to consumers
22 nationwide. Defendants consistently and uniformly label and advertise SeroVital-
23 hgh as a pill which is able to “turn back time” in terms of the human aging process
24 and can increase Human Growth Hormone (“HGH”) levels in the body by 682%.
25 The net impression of Defendants’ advertising and labeling of the Product is that the
26 Product can, by harnessing its concentrated formula of “key” amino acids, cause
27 one’s body to release increased levels of HGH comparable to prescription injections
28 of HGH and thereby reverse the aging processes. In reality, however, the Product does

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1 not increase HGH levels, let alone by 682% nor to the degree of prescription
2 injections. Furthermore, there is no link between increased HGH levels and feeling
3 younger, having more energy, increased muscle mass, “youthful skin integrity” or
4 “adipose tissue distribution.” Defendants are creating and perpetuating a falsehood
5 that increasing levels of HGH in the human body can provide “anti-aging” benefits
6 when the medical community has concluded that it cannot do so. As a result,
7 Defendants’ consistent and uniform advertising claims about the Product are false,
8 misleading, and/or likely to deceive in violation of California and federal advertising
9 laws.

10 2. This is a class action for damages, restitution and injunctive relief against
11 Defendants for false and misleading advertising in violation of Business &
12 Professions Code Section 17200, *et seq.*, Business & Professions Code Section
13 17500, *et seq.*, Civil Code Section 1750, *et seq.*, and breach of express warranty.

14 3. By letter dated July 12, 2016, Plaintiff advised Defendants of its false and
15 misleading claims pursuant to California Civil Code Section 1782(a).

16 **II. JURISDICTION AND VENUE**

17 4. This Court has subject matter jurisdiction of this action pursuant to 28
18 U.S.C. §1332 of the Class Action Fairness Act of 2005 because: (i) there are 100 or
19 more class members, (ii) there is an aggregate amount in controversy exceeding
20 \$5,000,000, exclusive of interest and costs, and (iii) there is minimal diversity
21 because at least one plaintiff and defendant are citizens of different states. This Court
22 has supplemental jurisdiction over any state law claims pursuant to 28 U.S.C. § 1367.

23 5. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this action
24 because a substantial part of the events, omissions, and acts giving rise to the claims
25 herein occurred in this District. Plaintiff is a citizen of California, resides in this
26 District, and purchased the Product from within this District. Moreover, Defendants
27 receive substantial compensation from sales in this District, and Defendants made
28 numerous misrepresentations which had a substantial effect in this District, including,

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1 but not limited to, label, packaging, and internet advertisements, among other
2 advertising.

3 6. Defendants are subject to personal jurisdiction in California based upon
4 sufficient minimum contacts which exist between Defendants and California.
5 Defendants are authorized to do and doing business in California.

6 **III. THE PARTIES**

7 7. Plaintiff is, and at all times relevant hereto was, a citizen of California
8 residing in the county of Los Angeles. Plaintiff purchased the Product within this
9 District. Specifically, Plaintiff purchased the Product from a GNC store in Studio
10 City, California within the last four years. Plaintiff relied upon advertising and other
11 promotional material which were prepared and approved by Defendant and its agents
12 and disseminated through national advertising media, containing the
13 misrepresentations alleged herein and designed to encourage consumers seeking to
14 improve their skin to purchase the Product. Plaintiff used the Product as instructed,
15 specifically, he took four capsules every 24 hours. However, Plaintiff did not
16 experience any of the advertised benefits.

17 8. Sanmedica International, LLC is a corporation headquartered in Salt Lake
18 City, Utah. Sanmedica maintains its principal business office at 5742 West Harold
19 Gatty Drive, Salt Lake City, UT 84116. Sanmedica, directly and through its agents,
20 has substantial contacts with and receives substantial benefits and income from and
21 through the State of California. Sanmedica is the owner, manufacturer, and
22 distributor of the Product, and is the company that created and/or authorized the false,
23 misleading, and deceptive advertisements and/or packaging and labeling for the
24 Product.

25 9. The true names and capacities, whether individual, corporate, associate,
26 or otherwise of certain manufacturers, distributors, and/or their alter egos sued herein
27 as DOES 1 through 10 inclusive are presently unknown to Plaintiff who therefore
28 sues these individuals and/or entities by fictitious names. Plaintiff will seek leave of

1 this Court to amend the Complaint to show their true names and capacities when the
2 same have been ascertained. Plaintiff is informed and believes and based thereon
3 alleges that DOES 1 through 10 were authorized to do and did business in Los
4 Angeles County. Plaintiff is further informed and believes and based thereon alleges
5 that DOES 1 through 10 were and/or are, in some manner or way, responsible for and
6 liable to Plaintiff for the events, happenings, and damages hereinafter set forth below.

7 10. Plaintiff is informed and believes, and based thereon alleges that at all
8 times relevant herein each of these individuals and/or entities was the agent, servant,
9 employee, subsidiary, affiliate, partner, assignee, successor-in-interest, alter ego, or
10 other representative of each of the remaining Defendants and was acting in such
11 capacity in doing the things herein complained of and alleged.

12 11. In committing the wrongful acts alleged herein, Defendants planned and
13 participated in and furthered a common scheme by means of false, misleading,
14 deceptive, and fraudulent representations to induce members of the public to purchase
15 the Product. Defendants participated in the making of such representations in that it
16 did disseminate or cause to be disseminated said misrepresentations.

17 12. Defendants, upon becoming involved with the manufacture, advertising,
18 and sale of the Product, knew or should have known that the claims about the Product
19 and, in particular, the claims suggesting and/or outright stating that the Product can
20 deliver any anti-aging benefits were false, deceptive and misleading. Defendants
21 affirmatively misrepresented the benefits of the Product in order to convince the
22 public and the Product's users to purchase and use the Product, resulting in profits of
23 millions of dollars or more to Defendants, all to the damage and detriment of the
24 consuming public.

25 **IV. CLASS ACTION ALLEGATIONS**

26 13. Plaintiff brings this action on his own behalf and on behalf of all other
27 persons similarly situated. The Classes which Plaintiff seeks to represent are:
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- 1 a. All persons residing in the United States who purchased the Product for
2 personal use and not for resale during the time period October 19, 2012,
3 through the present. Excluded from the Class are Defendants' officers,
4 directors, and employees, and any individual who received remuneration
5 from Defendants in connection with that individual's use or endorsement
6 of the Product.
- 7 b. All persons residing in the State of California who purchased the Product
8 for personal use and not for resale during the time period October 19,
9 2012, through the present. Excluded from the Class are Defendants'
10 officers, directors, and employees, and any individual who received
11 remuneration from Defendants in connection with that individual's use or
12 endorsement of the Product.

13 14. The Class is so numerous that their individual joinder herein is
14 impracticable. On information and belief, members of the Class number in the
15 thousands throughout the United States and California. The precise number of Class
16 members and their identities are unknown to Plaintiff at this time but may be
17 determined through discovery. Class members may be notified of the pendency of
18 this action by mail and/or publication through the distribution records of Defendants
19 and third party retailers and vendors.

20 15. Common questions of law and fact exist as to all Class members and
21 predominate over questions affecting only individual Class members. Common legal
22 and factual questions include, but are not limited to:

- 23 a. Whether Defendants possess competent and reliable scientific evidence
24 to support its label and advertising claims;
- 25 b. Whether Defendants' conduct is an unlawful business act or practice
26 within the meaning of Business and Professions Code section 17200, *et*
27 *seq.*;

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- 1 c. Whether Defendants’ conduct is a fraudulent business act or practice
- 2 within the meaning of Business and Professions Code section 17200, *et*
- 3 *seq.*;
- 4 d. Whether Defendants’ advertising is untrue or misleading within the
- 5 meaning of Business and Professions Code section 17500, *et seq.*;
- 6 e. Whether Defendants made false and misleading representations in their
- 7 advertising and packaging of the Product;
- 8 f. Whether Defendants knew or should have known that the representations
- 9 were false; and
- 10 g. Whether Defendants represented that the Product have characteristics,
- 11 benefits, uses, or quantities which the Product does not have.

12 16. Plaintiff’s claims are typical of the claims of the Class, and Plaintiff will
13 fairly and adequately represent and protect the interests of the Class. Plaintiff has
14 retained competent and experienced counsel in class action and other complex
15 litigation.

16 17. Plaintiff and the Class have suffered injury in fact and have lost money as
17 a result of Defendants’ false representations. Indeed, Plaintiff purchased the Product
18 because of the claims by Defendants that the Product would provide the consumer
19 with certain anti-aging benefits from a “682% mean increase in HGH levels.”
20 Plaintiff relied on Defendants’ representations and would not have purchased the
21 Product if he had known that the advertising as described herein was false.

22 18. A class action is superior to other available methods for fair and efficient
23 adjudication of this controversy. The expense and burden of individual litigation
24 would make it impracticable or impossible for Class members to prosecute their
25 claims individually.

26 19. The trial and litigation of Plaintiff’s claims are manageable. Individual
27 litigation of the legal and factual issues raised by Defendants’ conduct would increase
28 delay and expense to all parties and the court system. The class action device presents

1 far fewer management difficulties and provides the benefits of a single, uniform
2 adjudication, economies of scale, and comprehensive supervision by a single court.

3 20. Defendants have acted on grounds generally applicable to the entire
4 Class, thereby making final injunctive relief and/or corresponding declaratory relief
5 appropriate with respect to the Class as a whole. The prosecution of separate actions
6 by individual Class members would create the risk of inconsistent or varying
7 adjudications with respect to individual members of the Class that would establish
8 incompatible standards of conduct for Defendants.

9 21. Absent a class action, Defendants will likely retain the benefits of their
10 wrongdoing. Because of the small size of the individual Class members' claims, few,
11 if any, Class members could afford to seek legal redress for the wrongs complained
12 of herein. Absent a representative action, the Class members will continue to suffer
13 losses and Defendants will be allowed to continue these violations of law and to retain
14 the proceeds of their ill-gotten gains.

15 **V. FACTUAL BACKGROUND**

16 22. Defendants' advertising, including print, packaging and internet,
17 advertising, concerning the Product conveys a single, consistent false and misleading
18 message to consumers – that the Product causes a “682% mean increase in HGH
19 levels” which leads to certain delineated anti-aging benefits. The Product is marketed
20 and sold throughout retailers nationwide with this packaging and advertising.

21 23. The specific false and misleading representations concerning the Product
22 include, but are not limited to, the following:

- 23 a. “Turn back time with the “anti-aging” breakthrough everyone is talking
24 about!”
- 25 b. “It’s clear that Growth Hormone has been associated with wrinkle
26 reduction, decreased body fat, increased lean muscle mass, stronger
27 bones, improved mood, heightened sex drive, and making users look
28 and feel decades – not years, but DECADES - younger”

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- c. “682% mean increase in HGH levels”
- d. “Clinically tested”
- e. “Maximum strength formula”
- f. “Peak growth hormone levels associated with: Youthful Skin Integrity* Lean Musculature* Elevated Energy Production* Adipose Tissue Distribution”

Advertising Claim #1: Increased HGH Levels

24. The Product is not capable of increasing HGH levels in the body, let alone by 682% as advertised. The Product contains five amino acids and one herb. Each capsule contains:

- 374.83 mg L-lysine
- 181.38 mg L-arginine
- 0.25 mg L-glutamine
- 170.93 mg L-pyroglutamic acid (oxy-proline)
- 0.25 mg N-acetyl L-cysteine
- 0.125 mg Schizonepta (aerial parts) powder

25. None of the ingredients in the Product – neither individually, nor as formulated – can increase HGH levels in the human body.

- a. **Lysine and Arginine:** The amount of lysine and arginine in the Product cannot increase HGH levels in the body. *See, Isidori, A. et. al., A study of growth hormone release in man after oral administration of amino acids. Curr Med. Res. Opin. 1981; 7(7):475-81; Corpas, E. et. al., Oral arginine-lysine does not increase growth hormone or insulin-like growth factor in old men. J. Gerontol. 1993 Jul; 48(4):M128-33; da Silva et. al., Hormonal response to L-arginine supplementation in physically active individuals. Food Nutr Res. 2014 Mar25;58; Fayh AP et. al., Effect of L-arginine supplementation on secretion of growth hormone and insulin like growth factor in adults. Arg Bras Endocrinol Metabol. 2007 June;*

1 51(4): 587-92; Forbes SC et. al., *Oral L-arginine before resistance*
2 *exercise blunts growth hormone in strength trained males*. Int J Sport
3 Nutr Exerc Metab. 2014 Apr; 24(2):236-44. The studies which have
4 shown arginine raises HGH levels require double the amount of arginine
5 than is contained in the Product.

6 b. **Glutamine:** The amount of glutamine in the Product cannot increase
7 HGH levels in the body. The Product contains 1 mg of glutamine in the
8 recommended 4 capsule dosage. To the extent glutamine has been found
9 to increase HGH levels, it requires 2 grams of glutamine, dissolved in a
10 liquid, to do so. *See, Welbourne TC, Increased plasma bicarbonate and*
11 *growth hormone after oral glutamine load*. Am J Clin Nutr. 1995 May;
12 61(5):1058-61.

13 c. **Oxy-proline:** Studies have shown that oxy-proline decreases the non-
14 enzymatic antioxidant defenses in the brain and causes reactive species
15 production and protein oxidation. *See, Pederzolli CD et. al., Acute*
16 *administration of 5-oxoproline induces oxidative damage to lipids and*
17 *proteins and impairs antioxidant defenses in cerebral cortex and*
18 *cerebellum of young rats*. Metab Brain Dis. 2010 June; 25(2):145-54.
19 This means it produces toxic effects through the production of free
20 radicals. Adding this amino acid might damage every cell component
21 including lipids, DNA and proteins. It can even accelerate aging based on
22 the free radical damage to cells theory of aging. *See,*
23 https://en.wikipedia.org/wiki/Free-radical_theory_of_aging

24 d. **N-acety-cysteine:** There is no association to increased HGH levels in the
25 body.

26 e. **Schizonepeta:** There is no association to increased HGH levels in the
27 body.
28

Advertising Claim #2: Anti-Aging Results

1
2 26. Defendants claim “It’s clear that Growth Hormone has been associated
3 with wrinkle reduction, decreased body fat, increased lean muscle mass, stronger
4 bones, improved mood, heightened sex drive, and making users look and feel decades
5 – not years, but DECADES – younger” and further claim the Product can produce
6 these results.

7 27. The Product is not “associated with” the anti-aging benefits advertised by
8 Defendants by any medical or scientific source.

9 28. The Product is not capable of delivering the anti-aging benefits advertised
10 by Defendants – namely, that it will reduce wrinkles, tighten saggy skin, decrease
11 body fat, increase lean muscle mass, strengthen bones, boost mood, provide energy,
12 and increase sex drive.

13 29. The only clinical study which found any association between HGH and
14 possible anti-aging benefits (Rudman Study *et. al.* 1990, *The New England Journal*
15 *of Medicine*) was through the use of synthetic injections administered for 6 months
16 and has since been de-bunked.

17 30. Studies that have followed the 1990 report by Rudman *et. al.* do not show
18 improvement in function. *See, e.g.*, Blackman MR, Sorkin J, Münzer T, Bellantoni
19 M, Busby-Whitehead J, Stevens T, et al. *Growth hormone and sex steroid*
20 *administration in healthy aged women and men: a randomized controlled trial.*
21 *JAMA* 2002;288:2282-92.

22 31. Researchers at UCSF and the Veteran’s Affairs Medical Center
23 (Papadakis *et al.* 1996, *Annals of Internal Medicine*), concluded that HGH was not
24 only an ineffective treatment but that it had distinctly unpleasant, if not harmful, side
25 effects. Papadakis’ study is deemed by the medical community to be more sound than
26 the Rudman study which has been deemed flawed in many respects, including that
27 the subjects were not blinded and most of the “results” were not actually tested for.
28 Among Papadakis’ findings, there were no improvements in functioning, such as in

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1 muscle strength, endurance or mental acuity. Side effects included joint pain, stiff
2 hands and swelling in the ankles and lower extremities.

3 32. In 2010, a study led by Roberto Salvatori, M.D. Associate Professor in
4 the Department of Endocrinology at the John Hopkins University School of Medicine
5 and published in the Journal of Clinical Endocrinology and Metabolism found that
6 levels of HGH do not affect lifespan positively or negatively.

7 33. The scientific consensus within the medical community is that there is no
8 current “magic bullet” mediation that retards or reverses aging.

9 **Advertising Claim # 3: Product is Comparable to Synthetic HGH Injections**

10 34. The net impression of Defendants’ advertising is that the Product is
11 comparable to HGH injections in terms of its efficacy but at a much lower cost and
12 without the potential harm of synthetic materials.

13 35. The Federal Trade Commission (“FTC”) has not found any reliable
14 evidence to support the claim that natural supplement-based products, such as the
15 Product, have the same effects as prescription HGH, which is always given by
16 injection. The FTC has further stated it is not aware of any competent or reliable
17 scientific evidence to support claims that pills and sprays increase the body’s HGH
18 levels and provide anti-aging benefits. Accordingly, since 2005, the FTC has sent
19 warning letters to more than 90 internet operators that are selling alleged HGH
20 enhancers for anti-aging benefits. *See*, [www.ftc.gov/news-events/press-
21 releases/2005/06/greatamerican.htm](http://www.ftc.gov/news-events/press-releases/2005/06/greatamerican.htm).

22 36. Accordingly, Defendants’, anti-aging claims are false, deceptive, and
23 misleading.

24 37. Upon information and belief, Plaintiff alleges that during the course of
25 the deception, Defendants have sold millions of units of the Product based upon the
26 false promises and misleading advertisements targeted at vulnerable consumers
27 seeking anti-aging benefits.
28

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1 38. Plaintiff and the Class have suffered injury in fact and have lost money as
2 a result of Defendants’ false representations. Indeed, Plaintiff purchased the Product
3 in reliance upon Defendants’ claims that the Product would “turn back time with the
4 “anti-aging breakthrough everyone is talking about.” Plaintiff would not have
5 purchased the Product if he had known that the advertising as described herein was
6 false.

7 39. Defendants’ false and misleading statements should be enjoined due to
8 the false, misleading, and/or deceptive nature of Defendants’ untruthful claims
9 regarding their Product’ benefits. In addition, Defendants should be compelled to
10 provide restitution and damages to consumers that Defendants duped into spending
11 money on the Product which cannot produce any of the advertised results.

12 **VI.**

13 **FIRST CAUSE OF ACTION**

14 **FALSE AND MISLEADING ADVERTISING IN VIOLATION OF**
15 **BUSINESS & PROFESSIONS CODE § 17200, et seq.**

16 **(By Plaintiff against all Defendants)**

17 40. Plaintiff repeats and realleges the allegations set forth above, and
18 incorporate the same as if set forth herein at length.

19 41. This cause of action is brought pursuant to Business and Professions Code
20 § 17200, et seq., on behalf of a Class consisting of all persons who purchased the
21 Product in the United States for personal use and not for resale during the time period
22 October 19, 2012, through the present. Excluded from the Class are Defendants’
23 officers, directors, and employees, and any individual who received remuneration
24 from Defendants in connection with that individual’s use or endorsement of the
25 Product.

26 42. In the alternative, this cause of action is brought pursuant to Business and
27 Professions Code § 17200, et seq., on behalf of a Class consisting of all persons who
28 purchased the Product in the State of California for personal use and not for resale

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1 during the time period October 19, 2012, through the present. Excluded from the
2 Class are Defendants’ officers, directors, and employees, and any individual who
3 received remuneration from Defendants in connection with that individual’s use or
4 endorsement of the Product.

5 43. In the advertising of the Product, Defendants make false and misleading
6 statements regarding the Product’s ingredients and benefits, as alleged in the
7 preceding paragraphs.

8 44. Defendants’ advertising claims about the Product, as alleged in the
9 preceding paragraphs, are false, deceptive, misleading, and unreasonable.

10 45. Defendants are aware that the claims that it makes about the Product are
11 false, deceptive, misleading, and unreasonable.

12 46. As alleged in the preceding paragraphs, the misrepresentations by
13 Defendants of the material facts detailed above constitutes an unfair and fraudulent
14 business practice within the meaning of California Business & Professions Code §
15 17200.

16 47. In addition, Defendants’ use of various forms of advertising media to
17 advertise, call attention to, or give publicity to the sale of goods or merchandise that
18 are not as represented in any manner constitutes unfair competition, unfair, deceptive,
19 untrue or misleading advertising, and an unlawful business practice within the
20 meaning of Business & Professions Code §§ 17200 and 17531, which advertisements
21 have deceived and are likely to deceive the consuming public, in violation of Business
22 & Professions Code § 17500.

23 48. There were reasonably available alternatives to further Defendants’
24 legitimate business interests, other than the conduct described herein.

25 49. All of the conduct alleged herein occurs and continues to occur in
26 Defendants’ business. Defendants’ wrongful conduct is part of a pattern or
27 generalized course of conduct repeated on thousands of occasions daily.

28 50. Pursuant to Business & Professions Code §§ 17203 and 17535, Plaintiff

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1 and the members of the Class seek an order of this Court enjoining Defendants from
2 continuing to engage, use, or employ their practice of advertising the sale and use of
3 the Product. Likewise, Plaintiff and the members of the Class seek an order requiring
4 Defendants to disclose such misrepresentations, and additionally request an order
5 awarding Plaintiff restitution of the money wrongfully acquired by Defendants by
6 means of responsibility attached to Defendants’ failure to disclose the existence and
7 significance of said misrepresentations in an amount to be determined at trial.

8 51. Plaintiff and the Class have suffered injury in fact and have lost money as
9 a result of Defendants’ false representations. Plaintiff purchased the Product in
10 reliance of Defendants’ claims that the Product was of the quality represented by
11 Defendants’ packaging and advertising. Plaintiff would not have purchased the
12 Product had he known the claims and advertising as described herein were false.

13 **VII.**

14 **SECOND CAUSE OF ACTION**

15 **FALSE AND MISLEADING ADVERTISING IN VIOLATION OF**
16 **BUSINESS & PROFESSIONS CODE § 17500, et seq.**

17 **(By Plaintiff against all Defendants)**

18 52. Plaintiff repeats and realleges the allegations set forth in the preceding
19 paragraphs, and incorporates the same as if set forth herein at length.

20 53. This cause of action is brought pursuant to Business and Professions Code
21 § 17500, et seq., on behalf of a Class consisting of all persons who purchased the
22 Product in the United States for personal use and not for resale during the time period
23 October 19, 2012, through the present. Excluded from the Class are Defendants’
24 officers, directors, and employees, and any individual who received remuneration
25 from Defendants in connection with that individual’s use or endorsement of the
26 Product.

27 54. In the alternative, this cause of action is brought pursuant to Business and
28 Professions Code § 17500, et seq., on behalf of a Class consisting of all persons who

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1 purchased the Product in the State of California for personal use and not for resale
2 during the time period October 19, 2012, through the present. Excluded from the
3 Class are Defendants’ officers, directors, and employees, and any individual who
4 received remuneration from Defendants in connection with that individual’s use or
5 endorsement of the Product.

6 55. In their advertising of the Product, Defendants make false and misleading
7 statements regarding the Product’s ingredients and benefits, as discussed in the
8 preceding paragraphs.

9 56. Defendants’ advertising claims about the Product, as alleged in the
10 preceding paragraphs, are false, deceptive, misleading, and unreasonable.

11 57. Defendants are aware that the claims that they make about the Product are
12 false, deceptive, misleading, and unreasonable.

13 58. As alleged in the preceding paragraphs, the misrepresentations by
14 Defendants of the material facts detailed above constitutes an unfair and fraudulent
15 business practice within the meaning of California Business & Professions Code §
16 17500.

17 59. In addition, Defendants’ use of various forms of advertising media to
18 advertise, call attention to or give publicity to the sale of goods or merchandise that
19 are not as represented constitutes unfair competition, unfair, deceptive, untrue or
20 misleading advertising, and an unlawful business practice within the meaning of
21 Business & Professions Code §§ 17200 and 17531, which advertisements have
22 deceived and are likely to deceive the consuming public, in violation of Business &
23 Professions Code § 17500.

24 60. Pursuant to Business & Professions Code §§ 17203 and 17535, Plaintiff
25 and the members of the Class seek an order of this Court enjoining Defendants from
26 continuing to engage, use, or employ their practice of advertising the sale and use of
27 the Product. Likewise, Plaintiff and the members of the Class seek an order requiring
28 Defendants to disclose such misrepresentations, and additionally request an order

1 awarding Plaintiff restitution of the money wrongfully acquired by Defendants by
2 means of responsibility attached to Defendants’ failure to disclose the existence and
3 significance of said misrepresentations in an amount to be determined at trial.

4 61. Plaintiff and the Class have suffered injury in fact and have lost money as
5 a result of Defendants’ false representations. Indeed, Plaintiff purchased the Product
6 in reliance of the claims by Defendants that the Product was of the quality represented
7 by Defendants’ packaging and advertising. Plaintiff would not have purchased the
8 Product if he had known that the claims and advertising as described herein were
9 false.

10 **VIII.**

11 **THIRD CAUSE OF ACTION**

12 **VIOLATION OF CALIFORNIA CIVIL CODE § 1750, et seq.**

13 **(By Plaintiff against all Defendants)**

14 62. Plaintiff repeats and realleges the all allegations of the previous
15 paragraphs, and incorporates the same as if set forth herein at length.

16 63. This cause of action is brought pursuant to Civil Code § 1750, *et seq.*, the
17 Consumers Legal Remedies Act (“CLRA”), on behalf of a Class consisting of all
18 persons who purchased the Product in the United States for personal use and not for
19 resale during the time period October 19, 2012, through the present. Excluded from
20 the Class are Defendants’ officers, directors, and employees, and any individual who
21 received remuneration from Defendants in connection with that individual’s use or
22 endorsement of the Product.

23 64. In the alternative, this cause of action is brought pursuant to the CLRA
24 on behalf of a Class consisting of all persons who purchased the Product in the State
25 of California for personal use and not for resale during the time period October 19,
26 2012, through the present. Excluded from the Class are Defendants’ officers,
27 directors, and employees, and any individual who received remuneration from
28 Defendants in connection with that individual’s use or endorsement of the Product.

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1 65. The policies, acts, and practices described herein were intended to result
2 in the sale of the Product to the consuming public and violated and continue to violate
3 § 1770(a)(5) of the CLRA by representing that the Product has characteristics,
4 benefits, uses, or quantities which it does not have.

5 66. The policies, acts, and practices described herein were intended to result
6 in the sale of the Product to the consuming public and violated and continue to violate
7 § 1770(a)(7) of the CLRA by representing that the Product is of a particular standard,
8 quality, grade, or style, when it is of another.

9 67. The policies, acts, and practices described herein were intended to result
10 in the sale of the Product to the consuming public and violated and continue to violate
11 § 1770(a)(9) of the CLRA by advertising the Product with the intent not to sell them
12 as advertised.

13 68. Defendants fraudulently deceived Plaintiff and the Class, and
14 intentionally misrepresented and concealed material facts from Plaintiff and the
15 Class. Said misrepresentations and concealment were done with the intention of
16 deceiving Plaintiff and the Class and depriving them of their legal rights and money.

17 69. Defendants knew that the Product does not cause the benefits and results
18 contained in their advertisements.

19 70. Defendants' actions as described herein were done with conscious
20 disregard of Plaintiff's rights and Defendant was wanton and malicious in its
21 concealment of the same.

22 71. Plaintiff and the Class have suffered injury in fact and have lost money as
23 a result of Defendants' false representations.

24 **IX.**

25 **FOURTH CAUSE OF ACTION**

26 **BREACH OF EXPRESS WARRANTY**

27 **(By Plaintiff against all Defendants)**

28 72. Plaintiff repeats and realleges the all allegations of the previous

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1 paragraphs, and incorporates the same as if set forth herein at length.

2 73. Defendants expressly warranted on each and every one of the Products
3 that said Product will increase HGH levels and provide anti-aging benefits, all as set
4 forth above. Defendants’ claims constitute an affirmation of fact that became part of
5 the basis of the bargain and created an express warranty that the goods would conform
6 to the stated promise. Plaintiff placed importance on Defendants’ claims.

7 74. All conditions precedent to Defendants’ liability under this contract have
8 been performed by Plaintiff and the Class.

9 75. Defendants breached the terms of this contract, including the express
10 warranties, with Plaintiff and the Class by not providing Product that conform to the
11 advertisement.

12 76. As a result of Defendants’ breach of its contract, Plaintiff and the Class
13 have been damaged in the amount to be determined at trial.

14 **X.**

15 **PRAAYER FOR RELIEF**

16 WHEREFORE, Plaintiff, on behalf of himself and on behalf of the members
17 of the Class defined herein, prays for judgment and relief on all Causes of Action as
18 follows:

- 19 A. An order certifying that the action may be maintained as a Class Action;
- 20 B. An order enjoining Defendants from pursuing the policies, acts, and
21 practices complained of herein and requiring Defendants to pay
22 restitution to Plaintiff and all members of the Class in an amount to be
23 determined at trial;
- 24 C. Actual damages;
- 25 D. Punitive damages;
- 26 E. For pre-judgment interest from the date of filing this suit;
- 27 F. Reasonable attorney fees;
- 28 G. Costs of this suit; and

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H. Such other and further relief as the Court may deem necessary or appropriate.

DATED: October 19, 2016

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/s/ Shireen M. Clarkson
Shireen M. Clarkson
Ryan J. Clarkson, Esq.
Attorneys for Plaintiff Paul Martin and
The Proposed Plaintiff Class

JURY TRIAL DEMANDED

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Plaintiff demands a jury trial on all triable issues.

DATED: October 19, 2016

CLARKSON LAW FIRM, P.C.

/s/ Shireen M. Clarkson
Shireen M. Clarkson, Esq.
Ryan J. Clarkson, Esq.
Attorneys for Plaintiff Paul Martin and
The Proposed Plaintiff Class

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