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DEPT # 322  
(HON William F.)  
HIGHBERGER

**FILED**  
Superior Court of California  
County of Los Angeles

MAR 21 2016

Sherri R. Carter, Executive Officer/Clerk  
By Dawn Alexander Deputy

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11 ON SIGNATURE PAGE]

12 Attorneys for Plaintiff,  
13 Marcus Giffin

14 SUPERIOR COURT OF CALIFORNIA  
15 COUNTY OF LOS ANGELES

16 Case No.: **BC 618414**

17 CLASS ACTION COMPLAINT  
18 FOR:

- 19 1) VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (CAL. CIVIL CODE §§ 1750, ET SEQ);
- 20 2) CALIFORNIA BUS. & PROF. § 17533.7 (CALIFORNIA FALSE "MADE IN U.S.A." CLAIM);
- 21 3) CALIFORNIA BUS. & PROF. §§ 17200 ET SEQ;
- 22 4) NEGLIGENT MISREPRESENTATION;
- 23 5) INTENTIONAL MISREPRESENTATION.

19 MARCUS GIFFIN;  
20 INDIVIDUALLY AND ON  
21 BEHALF OF ALL OTHERS  
22 SIMILARLY SITUATED,

23 Plaintiff,

24 v.

25 UNIVERSAL PROTEIN  
26 SUPPLEMENTS  
27 CORPORATION d/b/a/  
28 UNIVERSAL NUTRITION,  
UNIVERSAL USA, AND/OR  
ANIMAL PAK,

Defendant.

JURY TRIAL DEMANDED

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RECEIPT #: CH481620003  
 DATE PRINTED: 03/22/16 08:13 AM  
 PAYMENT: \$1,435.00  
 RECEIVED:  
 CHECK: \$0.00  
 CASH: \$0.00  
 CHANGE: \$0.00  
 CARD: \$1,435.00

CIT/CASE: BC613414  
LEA/DEF#:

INTRODUCTION

- 1
- 2 1. MARCUS GIFFIN (hereinafter "Giffin" and/or "Plaintiff") brings this Class
- 3 Action Complaint to challenge the deceptive advertising and business
- 4 practices of Universal Protein Supplements Corporation – d/b/a/ Universal
- 5 Nutrition, Universal USA and/or Animal Pak (collectively "Defendant") in
- 6 unlawfully labeling Defendant's products with the false designation and
- 7 representation that Defendant's supplements were "MADE PROUDLY IN
- 8 THE U.S.A." (or some derivative thereof). The unlawfully labeled
- 9 consumable products are sold online and in various stores throughout the
- 10 United States.<sup>1</sup> Plaintiff alleges as follows upon personal knowledge as to
- 11 himself and his own acts and experiences, and, as to all other matters, upon
- 12 information and belief, including investigation conducted by his attorneys.
- 13 2. As stated by the California Supreme Court in *Kwikset v. Superior Court*
- 14 (January 27, 2011) 51 Cal4th 310, 328-29:

**Simply stated: labels matter.** The marketing industry is based on the premise that labels matter, that consumers will choose one product over another similar product based on its label and various tangible and intangible qualities that may come to associate with a particular source...In particular, **to some consumers**, the "Made in U.S.A." label matters. A range of motivations may fuel this preference, from the desire to support domestic jobs to beliefs about quality, to concerns about overseas environmental or labor conditions, to simple patriotism. The Legislature has recognized the materiality of this representation by specifically outlawing deceptive and fraudulent "Made in America" representations. (Cal. Bus. & Prof. Code section 17533.7; see also Cal. Civ. Code § 1770, subd. (a)(4) (prohibiting deceptive representations of geographic origin)). The object of section 17533.7 "is to protect consumers from being misled when they purchase products in the belief that they are advancing

<sup>1</sup> Plaintiff purchased Defendant's mislabeled Animal Pak – 44pks (the "Product"), which in part is the subject matter of this lawsuit, from ProBody in El Cajon, California.

<sup>2</sup> Plaintiff seeks class wide relief on behalf of any and all California purchasers of

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the interest of the United States and its industries and workers..."

3. The "Made Proudly In The USA" claim (or some derivative thereof) is prominently printed on the Defendant's consumable products.<sup>2</sup> (True and correct pictures of Defendant's Product is attached hereto as "Exhibit A"). Contrary to Defendant's representation and in violation of California law, Defendant's consumable products, including the specific Product purchased by Plaintiff, include foreign ingredients.

4. This nationwide sale and advertising of deceptively labeled products constitutes violations of: (1) California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750 et seq.; (2) California's False Advertising Law ("FAL"), Bus. & Prof. Code § 17533.7; (3) California's Unfair Competition Law ("UCL"), Bus. & Prof. Code §§ 17200 et seq.; (4) negligent misrepresentation; and (5) intentional misrepresentation. This conduct caused Plaintiff and other similarly situated damages, and requires restitution and injunctive relief to remedy and prevent further harm.

5. Unless otherwise indicated, the use of any Defendant's name in this Complaint includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers of the named Defendant

**JURISDICTION AND VENUE**

6. Pursuant to Cal. Civ. Proc. Code § 382, Cal. Civ. Code § 1781, and Cal. Bus. & Prof. Code § 17203, Plaintiff brings this action on behalf of himself, and on behalf of all persons similarly situated.

7. The Court has jurisdiction over Plaintiff's claims arising from Defendant's unlawful business practices under California's Unfair Competition Law

<sup>2</sup> Plaintiff seeks class wide relief on behalf of any and all California purchasers of Defendant's products, including the Product purchased by Plaintiff, that are listed in Exhibit B to this Complaint (the "Class Products").

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1 (“UCL”), Bus. & Prof. Code §§ 17200 et seq., California’s False  
 2 Advertising Law (“FAL”), Bus. & Prof. Code §§ 17500 et seq.; and,  
 3 California’s Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §§  
 4 1750 et seq.; as well as negligent misrepresentation and intentional  
 5 misrepresentation.

6 8. This Court has personal jurisdiction over Defendant because Defendant  
 7 does business in the State of California, has sufficient minimum contacts  
 8 with this state, and otherwise purposely avails itself of the markets in this  
 9 state through the promotion, sale, and marketing of its products in this state,  
 10 to render the exercise of jurisdiction by this Court permissible under  
 11 traditional notions of fair play and substantial justice.

12 9. Venue is proper in the County of Los Angeles Defendant transacts business  
 13 throughout Los Angeles County and because many of the acts and  
 14 transactions giving rise to this action occurred in this district because  
 15 Defendant:

- 16 a. is authorized to conduct business in this district and has intentionally
- 17 availed itself of the laws and markets within this district;
- 18 b. does substantial business within this district; and
- 19 c. is subject to personal jurisdiction in this district.

20 **PARTIES**

21 10. Plaintiff Giffin is an individual residing in the City of San Diego, County of  
 22 San Diego, State of California.

23 11. Defendant is a corporation that is organized and exists under the laws of the  
 24 State of New Jersey and does business within the State of California and  
 25 within this district.

26 12. Defendant is an American conglomerate that manufactures and/or distributes  
 27 various products, including consumable consumer packaged goods such as  
 28 dietary supplements and over the counter workout products. Defendant

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1 conducts business through Internet sales and enjoys wide retail distribution  
2 at numerous stores within the United States.

3 NATURE OF THE CASE

4 13. At all times relevant, Defendant made, and continues to make, affirmative  
5 misrepresentations regarding the consumable dietary supplement products,  
6 including the Product purchased by Plaintiff, it manufactures, markets and  
7 sells. Specifically, Defendant packaged, advertised, marketed, promoted, and  
8 sold its Class Products as "Made Proudly In The USA," or some derivative  
9 thereof.

10 14. However, although Defendant represents that its Class Products are made in  
11 the USA, or some derivate thereof, Defendant's Class Products are wholly  
12 and/or substantially manufactured or produced with components that are  
13 manufactured, grown and/or sourced outside of the United States.

14 15. As a consequence of Defendant's unfair and deceptive practices, Plaintiff  
15 and other similarly situated consumers have purchased Defendant's Class  
16 Products under the false impression that the products were actually fully  
17 made in the USA.

18 16. Each consumer, including Plaintiff, were exposed to virtually the same  
19 material misrepresentations, as the similar labels were prominently placed  
20 on all of the Defendant's Class Products that were sold, and are currently  
21 being sold, throughout the U.S. and the State of California.

22 17. As a result of Defendant's misrepresentations, Plaintiff and other consumers  
23 similarly situated overpaid for the Defendant's Class Products, and/or  
24 purchased the Class Products under the false belief that the supplement they  
25 purchased was made in the USA. Had Plaintiff and other consumers  
26 similarly situated been made aware that Defendant's Class Products were  
27 not actually made in the USA, they would not have purchased the products,  
28 would have paid less for them, or purchased different products.

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1 18.As a result of Defendant’s false and misleading statements and failure to  
 2 disclose (or adequately disclose), as well as Defendant’s other conduct  
 3 described herein, Plaintiff and other similarly situated consumers purchased  
 4 thousands, if not millions, of Defendant’s Class Products and have suffered,  
 5 and continue to suffer, injury in fact including the loss of money and/or  
 6 property.

7 19.Defendant’s conduct as alleged herein violates several California laws, as  
 8 more fully set forth herein.

9 20.This action seeks, among other things, equitable and injunctive relief;  
 10 restitution of all amounts illegally retained by Defendant; and disgorgement  
 11 of all ill-gotten profits from Defendant’s wrongdoing alleged herein.

12 **FACTUAL ALLEGATIONS**

13 21.Plaintiff re-alleges and incorporates by reference all of the above paragraphs  
 14 of this Complaint as though fully stated herein.

15 22.Defendant manufactures, markets and/or sells various dietary supplements  
 16 and over the counter workout products that have been and are currently still  
 17 represented as “Made Proudly In The USA” (or some derivative thereof).  
 18 Defendant’s makes these representations on the consumable products  
 19 themselves, including the Product purchased by Plaintiff.

20 23.Contrary to the representation on the products’ labels, Defendant’s Class  
 21 Products are wholly and/or substantially manufactured or produced with  
 22 components that are manufactured, grown and/or sourced outside of the  
 23 United States.

24 24.Based upon information and belief, the offending Product purchased by  
 25 Plaintiff contains foreign ingredients.

26 25.Based upon information and belief, the offending Product purchased by  
 27 Plaintiff, and presumably all of Defendant’s Class Products that are  
 28 substantially similar and contain foreign ingredients, are wholly or partially

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1 made of and/or manufactured with foreign materials, contrary to  
2 Defendant's "Made Proudly In The USA" representations (or some  
3 derivative thereof).

4 26. Defendant marketed, and continues to market, and represent to the general  
5 public via its Class Products' labels that Defendant's products are "Made  
6 Proudly In The USA." As such, Defendant fraudulently concealed, and  
7 continues to conceal, the material facts at issue in this matter by  
8 misrepresenting to the general public the true source of the component parts  
9 in the offending Class Products. Defendant possesses superior knowledge of  
10 the true facts that were not disclosed, thereby tolling the running of any  
11 applicable statute of limitations.

12 27. Consumers are particularly vulnerable to these deceptive and fraudulent  
13 practices. Most consumers possess limited knowledge of the likelihood that  
14 products, including the component products therein, claimed to be made in  
15 the United States are in fact manufactured in foreign countries. This is a  
16 material factor in many individuals' purchasing decisions, as they believe  
17 they are purchasing superior goods, produced under American standards and  
18 laws, while supporting American companies and American jobs.

19 28. Consumers generally believe that "Made Proudly In The USA" products are  
20 of higher quality than their foreign-manufactured counterparts and that they  
21 are produced under higher standards, including, but not limited to, higher  
22 environmental and labor laws. Due to Defendant's scheme to defraud the  
23 market, members of the general public were fraudulently induced to  
24 purchase Defendant's products at inflated prices.

25 29. On information and belief, Defendant charged excess monies for its Class  
26 Products, including the Product purchased by Plaintiff, in comparison to  
27 Defendant's competitors during the entirety of the relevant four-year  
28 statutory time period, based on the false "Made Proudly In The USA"

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designation (or some derivative thereof). California laws are designed to protect consumers from such false representations and predatory conduct. Defendant's scheme to defraud consumers for its own self-interest and monetary gain is ongoing and will victimize consumers daily for the foreseeable future unless altered by judicial intervention.

30. On or about July 8, 2015, Plaintiff purchased Defendant's Product from ProBody, a supplements store located in El Cajon, California. At the time of Plaintiff's purchase, the offending Product was described as made proudly in the U.S.A., when the Product actually was made and/or contained components made outside of the United States. As such, Defendant is not entitled to lawfully make representations that the Product was "Made Proudly In The USA."

31. In making the decision to purchase Defendant's Product, Plaintiff relied upon the advertising and/or other promotional materials prepared and approved by Defendant and its agents and disseminated through its Class Products' packaging containing the misrepresentations alleged herein. Had Plaintiff been made aware that the Product was not actually "Made Proudly In The USA," he would not have purchased the Product. In other words, Plaintiff would not have purchased Defendant's Product, but for the "Made Proudly In The USA" representations on Defendant's Product's label.

32. Plaintiff suffered an "injury in fact" because Defendant took Plaintiff's money as a result of Defendant's false "Made Proudly In The USA" designation set forth on Defendant's Product and elsewhere.

33. In each case when Plaintiff and putative Class members purchased a Class Product, they relied upon Defendant's "Made Proudly In The USA" representation (or some derivative thereof) in their purchasing decision, which is typical of most U.S. consumers. Consequently, they were deceived as a result of Defendant's actions. Plaintiff believed at the time he purchased



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the Product that he was purchasing a superior quality product, supporting U.S. jobs and the U.S. economy, and also supporting ethical working conditions.

34. Component parts made in the U.S.A. are subject to strict regulatory requirements, including but not limited to environmental, labor, and safety standards. Foreign made component parts are not subject to the same U.S. standards and as a result can be potentially much more dangerous to consumers, especially when ingested like Defendant's consumable products. Further, foreign made component parts are also generally of lower quality than their U.S. made counterparts, and routinely less reliable and less durable than their U.S. made counterparts.

35. Consequently, Defendant's Class Products containing the foreign ingredients, including the Product purchased by Plaintiff, are of inferior quality, potentially more dangerous and less reliable, as Defendant falsely represented that these products are "Made Proudly In The USA." This results in lower overall customer satisfaction than if the products were truly "Made Proudly In The USA" and/or consisting of component parts made in the United States.

36. On information and belief, Defendant's products containing the foreign ingredients, including the Product purchased by Plaintiff, are not worth the purchase price paid by Plaintiff and putative Class members. The precise amount of damages will be proven at the time of trial, in large part, by expert testimony.

37. Plaintiff and Class members were undoubtedly injured as a result of Defendant's false "Made Proudly In The USA" representations that are at issue in this matter.

**CLASS ACTION ALLEGATIONS**

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1 38.Plaintiff re-alleges and incorporates by reference all of the above paragraphs  
2 of this Complaint as though fully stated herein.

3 39.Plaintiff brings this action individually and on behalf of all others similarly  
4 situated against Defendant.

5 40.Subject to additional information obtained through further investigation  
6 and/or discovery, the proposed "Class" consists of:

7 "All persons within California who purchased one or  
8 more of Defendant's consumable consumer packaged  
9 products listed in Exhibit B of this Complaint, within the  
10 four years prior to the filing of the Complaint."

11 41.Excluded from the Class are Defendant and any of its officers, directors, and  
12 employees, or anyone who purchased Defendant's Products for the purposes  
13 of resale. Plaintiff reserves the right to modify or amend the Class definition  
14 before the Court determines whether certification is appropriate.

15 42.The "Class Period" means four years prior to the filing of the Complaint in  
16 this action.

17 43.**Ascertainability.** Plaintiff does not know the number of members in the  
18 Class, but Plaintiff currently believes that there are hundreds of thousands, if  
19 not more, members of the Class within the State of California. Because of  
20 the nature of Defendant's products, Defendant and Defendant's distributors  
21 must keep detailed and accurate records of distribution in order to accurately  
22 and effectively execute a recall if so ordered by the Food and Drug  
23 Administration or any other organization. Therefore, the members of the  
24 Class are ascertainable through Defendant's records and/or Defendant's  
25 agents' records regarding retail and online sales, as well as through public  
26 notice. This matter should therefore be certified as a Class action to assist in  
27 the expeditious litigation of this matter.  
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**44.Numerosity.** The numerosity requirement is satisfied for the aforementioned Class because the members of the Class are so numerous and geographically disbursed that joinder of all Class members is impractical and the disposition of their claims in the Class action will provide substantial benefits both to the parties and to the court.

**45.Existence and Predominance of Common Questions of Law and Fact.**

There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. Common questions of fact and law exist in this matter that predominate over questions that may affect individual Class members, including, but not limited to, the following:

- a. Whether Defendant committed the wrongful conduct alleged herein;
- b. Whether Defendant’s acts, transactions, or course of conduct constitute the violations of law alleged herein;
- c. Whether Defendant, through its conduct, received money that, in equity and good conscience, belongs to Plaintiff and members of the Class;
- d. Whether the members of the Class sustained and/or continue to sustain damages attributable to Defendant’s conduct, and, if so, the proper measure and appropriate formula to be applied in determining such damages; and
- e. Whether the members of the Class are entitled to injunctive and/or any other equitable relief

**46.Typicality.** As a person who purchased one or more of Defendant’s products, that were advertised with a “Made Proudly In The USA” country of origin designation (or some derivative thereof), but contain foreign-made ingredients and/or composed of foreign-made component parts, Plaintiff is asserting claims that are typical of the Class. Plaintiff’s claims involve the same violations of law by Defendant as other Class members’ claims.

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Plaintiff and members of the Class also sustained damages arising out of Defendant's common course of conduct complained herein. Accordingly, Plaintiff satisfies the "typicality" requirement with respect to the Class.

**47. Adequacy of Representation.** Plaintiff will fairly and adequately represent and protect the interests of other members of the Class in that Plaintiff has no interests antagonistic to any member of the Class. Further, Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the consumer laws, and specifically violations of the California Business and Professions Code. Therefore, adequacy of representation is satisfied.

**48. Superiority.** A class action is superior to all other available means for the fair and efficient adjudication of this controversy. Individualized litigation would create the danger of inconsistent and/or contradictory judgments arising from the same set of facts. Individualized litigation would also increase the delay and expense to all parties and court system and the issues raised by this action. The damages or other financial detriment suffered by individual Class members may be relatively small compared to the burden and expense that would be entailed by individual litigation of the claims against the Defendant. The injury suffered by each individual member of the proposed class is relatively small in comparison to the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. It would be virtually impossible for members of the proposed Class to individually redress effectively the wrongs to them. Even if the members of the proposed Class could afford such litigation, the court system could not. Individualized litigation increases the delay and expense to all parties, and to the court system, presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits

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of single adjudication, economy of scale, and comprehensive supervision by a single court. Therefore, a class action is maintainable and superior to all other available means for the fair and efficient adjudication of this controversy.

49. Unless the Class is certified, Defendant will retain monies received as a result of Defendant's unlawful and deceptive conduct alleged herein. Unless a class-wide injunction is issued, Defendant will also likely continue to, or allow its resellers to, advertise, market, promote and package Defendant's Class Products in an unlawful and misleading manner, and members of the Class will continue to be misled, harmed, and denied their rights under California law.

50. Further, Defendant has acted or refused to act on grounds that are generally applicable to the class so that declaratory and injunctive relief is appropriate to the Class as a whole, making class certification appropriate pursuant to Fed. R. Civ. P. 23(b)(2).

**FIRST CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

**CAL. CIV. CODE SECTION 1750, ET SEQ.**

51. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

52. California Civil Code Section 1750 et seq., entitled the Consumers Legal Remedies Act (hereinafter "CLRA"), provides a list of "unfair or deceptive" practices in a "transaction" relating to the sale of "goods" or "services" to a "consumer." The Legislature's intent in promulgating the CLRA is expressed in Civil Code Section 1760, which provides, *inter alia*, that its terms are to be:

Construed liberally and applied to promote its underlying purposes, which are to protect consumers against unfair

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and deceptive business practices and to provide efficient and economical procedures to secure such protection.

53. Defendant's products constitute "goods" as defined pursuant to Civil Code Section 1761(a).

54. Plaintiff, and the Class members, are each a "consumer" as defined pursuant to Civil Code Section 1761(d).

55. Each of Plaintiff's and the Class members' purchases of Defendant's products constituted a "Transaction" as defined pursuant to Civil Code Section 1761(e).

56. Civil Code Section 1770(a)(2), (4), (5), (7) and (9) provides that:

The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

- (2) [m]isrepresenting the source, sponsorship, approval, or certification of goods or services;
- (4) [u]sing deceptive representations or designations of geographic origin in connection with goods or services;
- (5) [r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have;
- (7) [r]epresenting that goods or services are of a particular standard, quality, or grade...; [and]
- (9) [a]dvertising goods or services with intent not to sell them as advertised."

57. Defendant violated Civil Code Section 1770(a)(2), (4), (5), (7) and (9) by marketing and representing that its Class Products are "Made Proudly in the USA" when they actually contain foreign-made or manufactured ingredients.

58. Pursuant to section 1782(d), by letter dated July 20, 2015, Plaintiff notified Defendant in writing by certified mail of the particular violations of section 1770 and demanded that Defendant rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendant's intent to so act. Defendant failed to rectify or agree to rectify

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the problems associated with the actions detailed above and give notice to all affected consumers within thirty days of the date of written notice pursuant to section 1782. Therefore, Plaintiff and the Class further seek actual, punitive, and statutory damages, as deemed appropriate.

59. On information and belief, Defendant's violations of the CLRA set forth herein were done with awareness of the fact that the conduct alleged was wrongful and was motivated solely for Defendant's self-interest, monetary gain and increased profit. Plaintiff further alleges that Defendant committed these acts knowing the harm that would result to Plaintiff and Defendant engaged in such unfair and deceptive conduct notwithstanding such knowledge.

60. Plaintiff further alleges that Defendant committed these acts knowing the harm that would result to Plaintiff and Defendant engaged in such unfair and deceptive conduct notwithstanding such knowledge.

61. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by Defendant as a result of Defendant's false "Made Proudly in the USA" representations set forth on Defendant's actual products.

62. As a direct and proximate result of Defendant's violations of the CLRA, Plaintiff and members of the Class are entitled to a declaration that Defendant violated the Consumer Legal Remedies Act.

63. Plaintiff, on behalf of himself and the Class demand judgment against Defendant for damages, restitution, punitive damages, statutory damages, pre- and post-judgment interest, attorneys' fees, injunctive and declaratory relief, costs incurred in bringing this action, and any other relief as this Court deems just and proper.

64. Pursuant to section 1780(e) of the California Civil Code, Plaintiff and the Class make claims for damages and attorneys' fees and costs.

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65. In prosecuting this action for the enforcement of important rights affecting the public interest, Plaintiff seeks the recovery of attorneys' fees, which is available to a prevailing plaintiff in class action cases such as this matter.

**SECOND CAUSE OF ACTION**  
**VIOLATION OF BUSINESS & PROFESSIONS CODE**  
**BUS. & PROF. CODE, SECTION 17533.7**

66. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

67. Business & Professions Code § 17533.7 provides:

It is unlawful for any person, firm, corporation or association to sell or offer for sale in this State any merchandise on which merchandise or on its container there appears the words "Made in U.S.A.," "Made in America," "U.S.A.," or similar words when the merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States.

68. Defendant violated Bus. & Prof. Code § 17533.7 by selling and offering to sell products in the State of California with the "Made Proudly in the USA" country of origin designation as fully set forth herein. The Class Products at issue in this matter are wholly manufactured outside of the United States and/or contain ingredients that are manufactured outside of the United States in violation of California law.

69. On information and belief, Defendant's violations of Bus. & Prof. Code § 17533.7 as set forth herein were done with awareness of the fact that the conduct alleged was wrongful and was motivated solely for Defendant's self-interest, monetary gain and increased profit. Plaintiff further alleges that Defendant committed these acts knowing the harm that would result to Plaintiff and Defendant engaged in such unfair and deceptive conduct notwithstanding such knowledge.

70. As a direct and proximate result of Defendant's violations of Bus. & Prof. Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess

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monies paid to Defendant by Plaintiff and the Class relating to the false “Made Proudly in the USA” representations set forth on the Defendant’s actual products.

71. In prosecuting this action for the enforcement of important rights affecting the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is available to a prevailing plaintiff in class action cases such as this matter.

**THIRD CAUSE OF ACTION**

**VIOLATION OF BUSINESS & PROFESSIONS CODE**

**BUS. & PROF. CODE, SECTION 17200, ET SEQ.**

72. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

73. Plaintiff and Defendants are each “person[s]” as defined by California Business & Professions Code § 17201. California Business & Professions Code § 17204 authorizes a private right of action on both an individual and representative basis.

74. “Unfair competition” is defined by Business and Professions Code Section § 17200 as encompassing several types of business “wrongs,” four of which are at issue here: (1) an “unlawful” business act or practice, (2) an “unfair” business act or practice, (3) a “fraudulent” business act or practice, and (4) “unfair, deceptive, untrue or misleading advertising.” The definitions in § 17200 are drafted in the disjunctive, meaning that each of these “wrongs” operates independently from the others.

75. By and through Defendant’s conduct alleged in further detail above and herein, Defendant engaged in conduct which constitutes unlawful, unfair, and/or fraudulent business practices prohibited by Bus. & Prof. Code § 17200 et seq.

**A. “Unlawful” Prong**

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76. Beginning at a date currently unknown through the time of this Complaint, Defendant has committed acts of unfair competition, including those described above, by engaging in a pattern of "unlawful" business practices, within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing, distributing, and/or marketing Defendant's Class Products with a false country of origin designation, in violation of California's CLRA, Civil Code § 1750, et seq., California's False Made In the USA statute, Bus. & Prof. Code §§ 17533.7, and California's Health & Safety Code §§110660 by falsely representing that the products referenced herein are "Made Proudly in the USA" when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

**B. "Unfair" Prong**

77. Beginning at a date currently unknown and continuing up through the time of this Complaint, Defendant has committed acts of unfair competition that are prohibited by Bus. & Prof. Code section 17200 et seq. Defendant engaged in a pattern of "unfair" business practices that violate the wording and intent of the statutes by engaging conduct and practices that threaten an incipient violation of law/s or violate the policy or spirit of law/s by manufacturing, distributing, and/or marketing Defendant's products with a false country of origin designation, of in violation of California's CLRA, Civil Code § 1750, et seq., California's False Made In the USA statute, Bus. & Prof. Code §§ 17533.7, and California's Health & Safety Code §§110660 by falsely representing that the products referenced herein are "Made Proudly in the USA" when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

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78. Alternatively, Defendant engaged in a pattern of "unfair" business practices that violate the wording and intent of the abovementioned statute/s by engaging in practices that are immoral, unethical, oppressive or unscrupulous, the utility of such conduct, if any, being far outweighed by the harm done to consumers and against public policy by manufacturing, distributing, and/or marketing Defendant's Class Products with a false country of origin designation, in violation of California's CLRA, Civil Code § 1750, et seq., California's False Made In the USA statute, Bus. & Prof. Code §§ 17533.7, and California's Health & Safety Code §§110660 by falsely representing that the products referenced herein are "Made Proudly in the USA" when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

79. Alternatively, Defendant engaged in a pattern of "unfair" business practices that violate the wording and intent of the abovementioned statute/s by engaging in practices, including manufacturing, distributing, marketing, and/or advertising Defendant's products with a false country of origin designation, wherein: (1) the injury to the consumer was substantial; (2) the injury was not outweighed by any countervailing benefits to consumers or competition; and (3) the injury was not of the kind that consumers themselves could not have reasonably avoided.

**C. "Fraudulent" Prong**

80. Beginning at a date currently unknown and continuing up through the time of this Complaint, Defendant engaged in acts of unfair competition, including those described above and herein, prohibited and in violation of Bus. & Prof. Code § 17200 et seq., by engaging in a pattern of "fraudulent" business practices within the meaning of Bus. & Prof. Code § 17200 et seq.

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by manufacturing, distributing, and/or marketing Defendant's Class Products in violation of California's CLRA, Civil Code § 1750, et seq., California's False Made In the USA statute, Bus. & Prof. Code §§ 17533.7, and California's Health & Safety Code §§110660 by falsely representing that the products referenced herein are "Made Proudly in the USA" when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

81. Plaintiff reserves the right to allege further conduct that constitutes other fraudulent business acts or practices. Such conduct is ongoing and continues to this date

**D. "Unfair, Deceptive, Untrue or Misleading Advertising" Prong**

82. Defendant's advertising is unfair, deceptive, untrue or misleading in that consumers are led to believe that Defendant's Class Products are made proudly in the USA, when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

83. Plaintiff, a reasonable consumer, and the public would likely be, and, in fact were, deceived and misled by Defendant's advertising as they would, and did, interpret the representation in accord with its ordinary usage, that the products are actually made in the USA.

84. Defendant's unlawful, unfair, and fraudulent business practices and unfair, deceptive, untrue or misleading advertising presents a continuing threat to the public in that Defendant continues to engage in unlawful conduct resulting in harm to consumers.

85. Defendant engaged in these unlawful, unfair, and fraudulent business practices motivated solely by Defendant's self-interest with the primary

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1 purpose of collecting unlawful and unauthorized monies from Plaintiff and  
2 all others similarly situated; thereby unjustly enriching Defendant.

3 86. Such acts and omissions by Defendant are unlawful and/or unfair and/or  
4 fraudulent and constitute a violation of Business & Professions Code section  
5 17200 et seq. Plaintiff reserves the right to identify additional violations by  
6 Defendant as may be established through discovery.

7 87. As a direct and proximate result of the aforementioned acts and  
8 representations described above and herein, Defendant received and  
9 continues to receive unearned commercial benefits at the expense of their  
10 competitors and the public.

11 88. As a direct and proximate result of Defendant's unlawful, unfair and  
12 fraudulent conduct described herein, Defendant has been and will continue  
13 to be unjustly enriched by the receipt of ill-gotten gains from customers,  
14 including Plaintiff, who unwittingly provided money to Defendant based on  
15 Defendant's fraudulent representations.

16 89. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by  
17 Defendant as a result of Defendant's false representations set forth on the  
18 Defendant's Products.

19 90. In prosecuting this action for the enforcement of important rights affecting  
20 the public interest, Plaintiff seeks the recovery of attorneys' fees, which is  
21 available to a prevailing plaintiff in class action cases such as this matter.

22 **FOURTH CAUSE OF ACTION FOR**  
23 **NEGLIGENT MISREPRESENTATION**

24 91. Plaintiff repeats, re-alleges and incorporates by reference the above  
25 allegations as if fully stated herein.

26 92. At a date presently unknown to Plaintiff, but at least four years prior to the  
27 filing of this action, and as set forth above, Defendant represented to the  
28 public, including Plaintiff, by packaging and other means, that Defendant's

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Class Products are made proudly in the USA, when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

93. Defendant made the representations herein alleged with the intention of inducing the public, including Plaintiff and putative class members, to purchase Defendant's Class Products.

94. Plaintiff and other similarly situated persons in California saw, believed, and relied upon Defendant's advertising representations and, in reliance on them, purchased the Class Products, as described herein.

95. At all times relevant, Defendant made the misrepresentations herein alleged when Defendant should have known these representations to be untrue, and Defendant had no reasonable basis for believing the representations to be true.

96. As a proximate result of Defendant's negligent misrepresentations, Plaintiff and other consumers similarly situated were induced to purchase, purchase more of, or pay more for Defendant's Class Products, due to the unlawful acts of Defendant, in an amount to be determined at trial, during the Class Period.

**FIFTH CAUSE OF ACTION FOR  
INTENTIONAL MISREPRESENTATION**

97. Plaintiff repeats, re-alleges and incorporates herein by reference the above allegations as if fully stated herein.

98. At a date presently unknown to Plaintiff, but at least four years prior to the filing of this action, and as set forth above, Defendant intentionally represented to the public, including Plaintiff, by promoting and other means, that Defendant's Class Products are made proudly in the USA, when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

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1 99. Defendant made the representations herein alleged with the intention of  
2 inducing the public, including Plaintiff, to purchase Defendant's Class  
3 Products for Defendant's own financial gain.

4 100. Defendant intentionally made such misrepresentations by printing on  
5 the Class Products' labels that they were "Made Proudly in the USA."

6 101. The statement regarding Defendant's Class Products as being "Made  
7 Proudly in the USA" was misleading because Defendant's products are in  
8 fact foreign-made and/or composed of component parts manufactured and/or  
9 grown outside of the United States.

10 102. Plaintiff and other similarly situated persons in California saw, believed, and  
11 relied upon Defendant's advertising representations and, in reliance on such  
12 representations, purchased the Class Products, as described above.

13 103. At all times relevant, Defendant intentionally made the misrepresentations  
14 herein alleged, allowed the misrepresentations to continue to be made by its  
15 resellers and Defendant knew the representations to be false.

16 104. As a proximate result of Defendant's intentional misrepresentations, Plaintiff  
17 and other consumers similarly situated were induced to spend an amount of  
18 money to be determined at trial on Defendant's misrepresented Products.

19 105. Defendant knew that its Class Products were in fact foreign-made and/or  
20 composed of component parts manufactured and/or grown outside of the  
21 United States, but nevertheless made the representations described herein  
22 with the intention that consumers rely on Defendant's representations.

23 106. Defendant also knew that retailers were advertising its Class Products as  
24 made proudly in the USA, as Defendant designed, manufactured, and affixed  
25 the product labeling to its Class Products before supplying the products to  
26 retailers.

27 107. Plaintiff and other consumers similarly situated, in purchasing and using the  
28 Class Products as herein alleged, did rely on Defendant's representations,

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including the representations on Defendant's Class Products' labels, all to their damage and/or detriment as herein alleged.

108. Plaintiff alleges the "who, what, when, where, and how" of the alleged deception by Defendant as follows:

- a. The "who" is Defendant;
- b. The "what" is representation that Defendant's Class Products are "Made Proudly in the USA";
- c. The "when" is the date Plaintiff purchased the product and the Class Period of four years prior to the filing of the Complaint;
- d. The "where" is in Defendant's product labeling; and
- e. The "how" is the allegation that Defendant did not disclose that its Class Products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

109. By engaging in the acts described above, Defendant is guilty of malice, oppression, and fraud, and each Plaintiff is therefore entitled to recover exemplary or punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests the Court grant Plaintiff and the Class members the following relief against Defendant:

- That the Court determine that this action may be maintained as a Class Action by certifying this case as a Class Action;
- That the Court certify Plaintiff to serve as the Class representative in this matter;
- That Defendant's wrongful conduct alleged herein be adjudged and decreed to violate the consumer protection statutory claims asserted herein;

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- That Defendant be ordered to pay restitution to Plaintiff and the Class in amounts by which Defendant has been unjustly enriched;
- That Defendant be enjoined from continuing the wrongful conduct alleged herein and required to comply with all applicable laws;
- That Plaintiff and each of the other members of the class recover their costs of suit, including reasonable attorneys' fees and expenses as provided by law; and
- That Plaintiff and the members of the Class be granted any other relief the Court may deem just and proper.

**TRIAL BY JURY**

110. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: March 21, 2016

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

By: 

ABBAS KAZEROUNIAN, ESQ.  
ANDREI ARMAS, ESQ.  
ATTORNEYS FOR PLAINTIFF

**HYDE & SWIGART**

Joshua B. Swigart, Esq. (SBN: 225557)  
josh@westcoastlitigation.com  
2221 Camino Del Rio South, Suite 101  
San Diego, CA 92108-3551  
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Facsimile: (619) 297-1022

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# PLAINTIFF'S EXHIBIT A

## *Defendant's Product Purchased by Plaintiff*

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*In The Case Of*

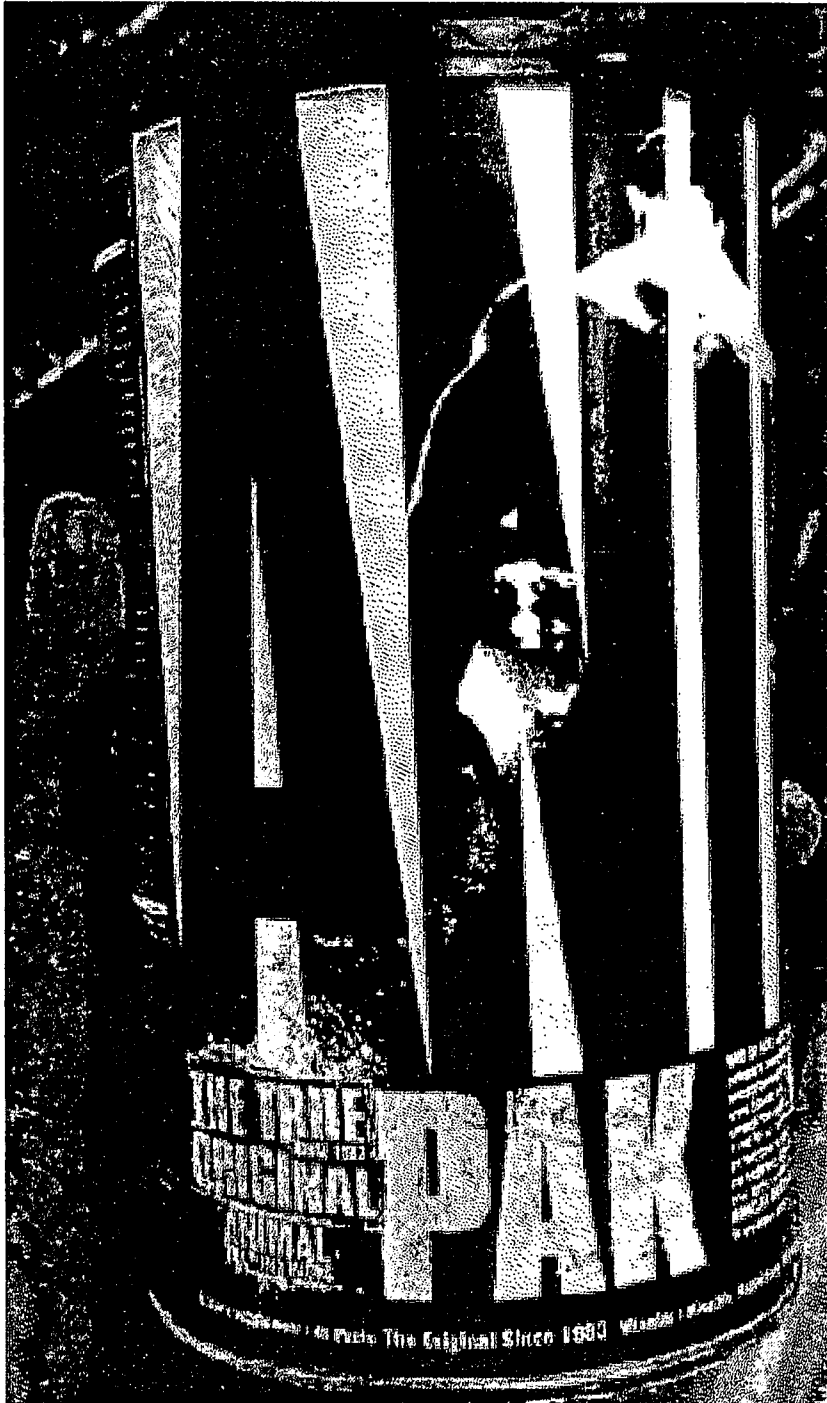
*Marcus Giffin; Individually And On Behalf Of All Others Similarly Situated,*

v.

*Universal Protein Supplements Corporation  
D/B/A/ Universal Nutrition, Universal USA, and/or Animal Pak*

03/22/2016

1) Front Label



03/22/2016

2. Back Label - (containing "MADE PROUDLY IN THE USA" language).

... Argemone, Aspergillus niger, ... (soy), carnitine  
 ... ethenate, aspergillus niger, burdock, pharmaceutical glaze. Made in a GMP  
 ... rice bran, parsley, burdock, pharmaceutical glaze. Made in a GMP  
 ... egg, peanuts, tree nuts, fish, shellfish, and wheat  
 ... is an acid stable protease enzyme blend derived from the  
 ... strains of Aspergillus niger and Bacillus subtilis  
 ... or any other meal, with plenty of water. For those who compete  
 ... packs is suggested.  
 ... use under the age of 18. This is a potent bodybuilding supplement.  
 ... from a medical doctor, you are unaware of your current health  
 ... cure.

\*These statements have not been evaluated by the FDA. This product  
 is not intended to treat, cure or prevent any disease.

**MADE PROUDLY IN THE U.S.A.**  
 Formulated, Tested & Manufactured By  
 Universal Nutrition  
 New Brunswick, New Jersey 08901  
 800-USA-0101 • 732-545-3130  
[www.animalpak.com](http://www.animalpak.com)

**Animal Pak**  
**Dietary Supplement**

03/22/2016

# PLAINTIFF'S EXHIBIT B

## *Class Products*

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*In The Case Of*

*Marcus Giffin; Individually And On Behalf Of All Others Similarly Situated,*

*v.*

*Universal Protein Supplements Corporation  
D/B/A/ Universal Nutrition, Universal USA, and/or Animal Pak*

03/22/2016

## Class Products

All sized, configurations and/or other variations of the following:

- “Animal Pak” products, including:
  - Animal Pak
  - Animal PM
  - Animal Pump
  - Animal Flex
  - Animal Nitro
  - Animal Omega
  - Animal Stak
  - Animal Cuts
  - Animal M-Stak
  - Animal Test
  - Animal Rage XL
  - Animal Aminos
  - Animal Mass
  - Animal Whey
  - All Other Substantially Similar Personal Care products, if any.
- “Universal USA” products, including:
  - “Protein/Gainer” products, including:
    - Casein Pro
    - Gain Fast 3100
    - Max Protein
    - Milk & Egg
    - Power Protein
    - Pro & Oats
    - Proton 7
    - Real gains
    - Ultra Iso Whey
    - Ultra Whey Pro
    - Uni-Syn
    - All Other Substantially Similar Personal Care products, if any.
  - “Strength & Performance” products, including:
    - Shock Therapy
    - Uni-Vite
    - CLA
    - Beta Ala9
    - Carbo Plus
    - Creatine Capsules
    - Creatine Chews
    - Creatine Powder
    - Fish Oil
    - GH Max
    - GH Stack
    - Iso-Stak
    - Jointment Sport

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- N1-T
- Natural Sterol Capsules
- Natural Sterol Complex
- NOX 3
- Omega EFA
- Storm
- Tribulus Pro
- ZMA Pro
- All Other Substantially Similar Personal Care products, if any.
- “Aminos & Recovery” products, including:
  - 100% Beef Aminos
  - 100% Egg Aminos
  - Alpha Lipoic Acid
  - Amino 1900
  - Amino 2250
  - Amino 2700
  - Amino Tech
  - Atomic 7
  - BCAA 2000
  - BCAA Pro
  - BCAA Stack
  - Glutamine Capsules
  - Glutamine Powder
  - LAVA
  - Torrent
  - Uni-Liver
  - All Other Substantially Similar Personal Care products, if any.
- “Energizer & Fat Burner” products, including:
  - Red Hot
  - Arbuterol
  - Carnitine Capsules
  - CarniTech
  - Carnitine Liquid
  - Chromium Picolinate
  - Kwik Energy
  - Ripped Fast
  - Super Cuts 3
  - All Other Substantially Similar Personal Care products, if any.
- “Bar” products, including:
  - Hi Protein Bar
  - Proteon
  - All Other Substantially Similar Personal Care products, if any.
- “Gear” products, including:
  - Any gear products advertised as made in the U.S.A. (or some derivative thereof), but which contains foreign made or foreign sourced ingredients.

03:22:2016

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
 Abbas Kazerounian, Esq. (SBN: 249203); Andrei Armas, Esq. (SBN: 299703)  
 245 Fischer Avenue, Unit D1 Costa Mesa, CA 92626

TELEPHONE NO: (800) 400-6808 FAX NO: (800) 520-5523  
 Plaintiff, Marcus Giffin

ATTORNEY FOR (Name):  
 SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles  
 STREET ADDRESS: 111 N. Hill Street  
 MAILING ADDRESS: Los Angeles, CA 90012  
 CITY AND ZIP CODE: Stanley Mosk Courthouse  
 BRANCH NAME:

FOR COURT USE ONLY

**FILED**  
 Superior Court of California  
 County of Los Angeles

MAR 21 2016

Sherri R. Carter, Executive Officer/Clerk  
 By Dawn Alexander Deputy

CASE NAME:  
 Marcus Giffin v. Universal Protein Supplements Corp.

**CIVIL CASE COVER SHEET**

Unlimited (Amount demanded exceeds \$25,000)     Limited (Amount demanded is \$25,000 or less)

**Complex Case Designation**

Counter     Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:  
**BC 618414**

JUDGE:  
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- |   |  |   |
|---|--|---|
| <p><b>Auto Tort</b></p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p><b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/WD (23)</p> <p><b>Non-PI/PD/WD (Other) Tort</b></p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p><b>Employment</b></p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p> | <p><b>Contract</b></p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input checked="" type="checkbox"/> Other contract (37)</p> <p><b>Real Property</b></p> <p><input type="checkbox"/> Eminent domain/inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (28)</p> <p><b>Unlawful Detainer</b></p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p> | <p><b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b></p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p><b>Enforcement of Judgment</b></p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p><b>Miscellaneous Civil Complaint</b></p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p><b>Miscellaneous Civil Petition</b></p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p> |
|---|--|---|

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties   | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |

3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive

4. Number of causes of action (specify): 1) Cal. Civ. Code §§ 1750, et seq.; 2) Cal. Bus. & Prof. § 17533.7; 3) Cal. Bus. & Prof. §§ 17200 et seq.; 4) Negligent Misrepresentation; 5) Intentional Misrepresentation.

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case (You may use form CM-015.)

Date: 03/21/16  
 Abbas Kazerounian

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.



SHORT TITLE: Marcus Giffin v. Universal Protein Supplements Corp.

CASE NUMBER

BC 613414

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

**Item I.** Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL:  YES CLASS ACTION:  YES LIMITED CASE:  YES TIME ESTIMATED FOR TRIAL 5-10 HOURS/DAYS

**Item II.** Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

**Step 3:** In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.3.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- Class actions must be filed in the Stanley Mosk Courthouse, central district.
- May be filed in central (other county, or no bodily injury/property damage).
- Location where cause of action arose.
- Location where bodily injury, death or damage occurred.
- Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.
- Location where petitioner resides.
- Location wherein defendant/respondent functions wholly.
- Location where one or more of the parties reside.
- Location of Labor Commissioner Office
- Mandatory Filing Location (Hub Case)

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1., 3. 1., 4.	

SHORT TITLE: **Marcus Giffin v. Universal Protein Supplements Corp.** CASE NUMBER

Non-Personal Injury/Property Damage/Wrongful Death Tort  
 Employment  
 Contract  
 Real Property  
 Unlawful Detainer  
 03/22/2016

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence)	2., 5.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6, 11
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5, 11
	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
	<input checked="" type="checkbox"/> A6027 Other Contract Disputes(not breach/insurance/fraud/negligence)	3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Marcus Giffin v. Universal Protein Supplements Corp.

CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2., 8.
		<input type="checkbox"/> A6160 Abstract of Judgment	2., 6.
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2., 9.
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2., 8.
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2., 8.
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)		1., 2., 8.	
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2., 3., 9.
		<input type="checkbox"/> A6123 Workplace Harassment	2., 3., 8.
		<input type="checkbox"/> A6124 Elder/Dependant Adult Abuse Case	2., 3., 9.
		<input type="checkbox"/> A6190 Election Contest	2.
		<input type="checkbox"/> A6110 Petition for Change of Name	2., 7.
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2., 3., 4., 8.
<input type="checkbox"/> A6100 Other Civil Petition		2., 9.	

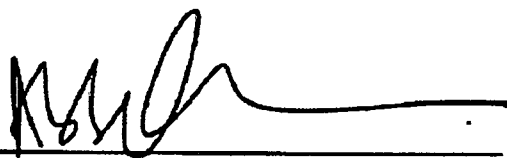
SHORT TITLE: <b>Marcus Giffin v. Universal Protein Supplements Corp.</b>	CASE NUMBER
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**Item III. Statement of Location:** Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

<p><b>REASON:</b> Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.</p> <p><input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.</p>	<p>ADDRESS: N/A</p>	
<p>CITY: Los Angeles</p>	<p>STATE: CA</p>	<p>ZIP CODE:</p>

**Item IV. Declaration of Assignment:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central Judicial District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.3, subd.(a)].

Dated: 03/21/16

  
 \_\_\_\_\_  
 (SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/15).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

03/22/2016