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9 UNITED STATES DISTRICT COURT FOR THE  
10  
11 NORTHERN DISTRICT OF CALIFORNIA

12 MARTHA VALENTINE as an individual, on  
13 behalf of herself, the general public and those  
14 similarly situated,

15 Plaintiff,

16 v.

17 HEARTWISE INCORPORATED D/B/A  
18 NATUREWISE AND HEARTWISE WONDER  
19 INCORPORATED.

20 Defendant.

CASE NO.

CLASS ACTION COMPLAINT FOR  
VIOLATION OF THE CALIFORNIA  
CONSUMERS LEGAL REMEDIES ACT;  
FALSE ADVERTISING; FRAUD,  
DECEIT, AND/OR  
MISREPRESENTATION; UNFAIR  
BUSINESS PRACTICES; AND UNJUST  
ENRICHMENT

JURY TRIAL DEMANDED

**INTRODUCTION**

1  
2 1. Plaintiff Martha Valentine (“Plaintiff” or “Ms. Valentine”), by and through her  
3 counsel, brings this class action against Defendant HeartWise Incorporated d/b/a NatureWise and  
4 HeartWise Wonder Incorporated, including its related entities (collectively “NatureWise” or  
5 “Defendant”) to seek redress for Defendant’s deceptive practices in labeling and marketing the  
6 NatureWise Curcumin dietary supplement (the “Product”).

7 2. Curcumin (a curcuminoid) is found in turmeric, a spice frequently used in Asian  
8 curries. Curcuminoids are purported to help with inflammation, are potent antioxidants, and may  
9 improve brain function. However, the amount of turmeric one would need to consume in order to  
10 get the positive benefits of curcuminoid consumption is upwards of ten grams. As a result,  
11 consumers take curcumin supplements to get the positive effects of curcuminoid consumption  
12 without having to ingest copious amount of turmeric, unusual in the Western diet.

13 3. Defendant prominently label the front of its popular curcumin supplement as  
14 providing “2250 mg Per Day” of curcumin with the representation “90” or “180 VEGETARIAN  
15 CAPSULES.” This representation leads reasonable consumers to believe that each of the 180  
16 capsules contains 2250 mg of the curcumin supplement.

17 4. However, upon closer inspection of the bottle, Defendant’s Product does not  
18 contain 2250 mg of the curcumin supplement per capsule. The supplement actually requires *three*  
19 capsules to provide the advertised 2250 mg dosage, which means that each capsule contains only  
20 750 mg of curcumin.

21 5. Otherwise stated, Ms. Valentine received only a third of the amount of the  
22 supplement she intended to purchase based on the false and misleading statements on the front of  
23 the label. NatureWise intentionally fails to adequately disclose to consumers that more than one  
24 capsule is required to obtain the labeled dosage amount. As such, NatureWise’s representations  
25 and omissions on the Product are false and misleading. Had Ms. Valentine had been aware of the  
26 truth regarding NatureWise’s misrepresentations and omissions, she would not have purchased  
27 the supplement, or at the very least, would have paid less for it.

28 6. Defendant’s misrepresentations and mislabeling caused Plaintiff and members of

1 the proposed class to pay a price premium for the Product because they believed that they were  
2 purchasing 3x as much of the supplement as they actually received.

3 **PARTIES**

4 7. Martha Valentine (“Plaintiff”) is, and at all times alleged in this Class Action  
5 Complaint was, an individual and a resident of San Francisco, California (San Francisco County).

6 8. Defendant HeartWise Incorporated d/b/a NatureWise and HeartWise Wonder  
7 Incorporated, including its related entities (collectively “NatureWise” or “Defendant”) is a  
8 corporation existing under the laws of the Oregon, CA, having its principal place of business in  
9 Costa Mesa, California.

10 **JURISDICTION AND VENUE**

11 9. This Court has jurisdiction over the subject matter of this action pursuant to 28  
12 U.S.C. § 1332(d)(2). The aggregate amount in controversy exceeds \$5,000,000, exclusive of  
13 interest and costs; and at least one Plaintiff and Defendant are citizens of different states.

14 10. The injuries, damages and/or harm upon which this action is based, occurred or  
15 arose out of activities engaged in by Defendant within, affecting, and emanating from, the State  
16 of California. Defendant regularly conducts and/or solicits business in, engages in other persistent  
17 courses of conduct in, and/or derives substantial revenue from products provided to persons in the  
18 State of California. Defendant has engaged, and continues to engage, in substantial and  
19 continuous business practices in the State of California.

20 11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a  
21 substantial part of the events or omissions giving rise to the claims occurred in the state of  
22 California, including within this District.

23 12. In accordance with California Civil Code Section 1780(d), Plaintiff concurrently  
24 files herewith a declaration establishing that, at various times throughout the class period, she  
25 purchased the Product from her home in San Francisco, CA from Amazon.com (Plaintiff’s  
26 declaration is attached hereto as Exhibit A.)

27 13. Plaintiff accordingly alleges that jurisdiction and venue are proper in this Court.  
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**SUBSTANTIVE ALLEGATIONS**

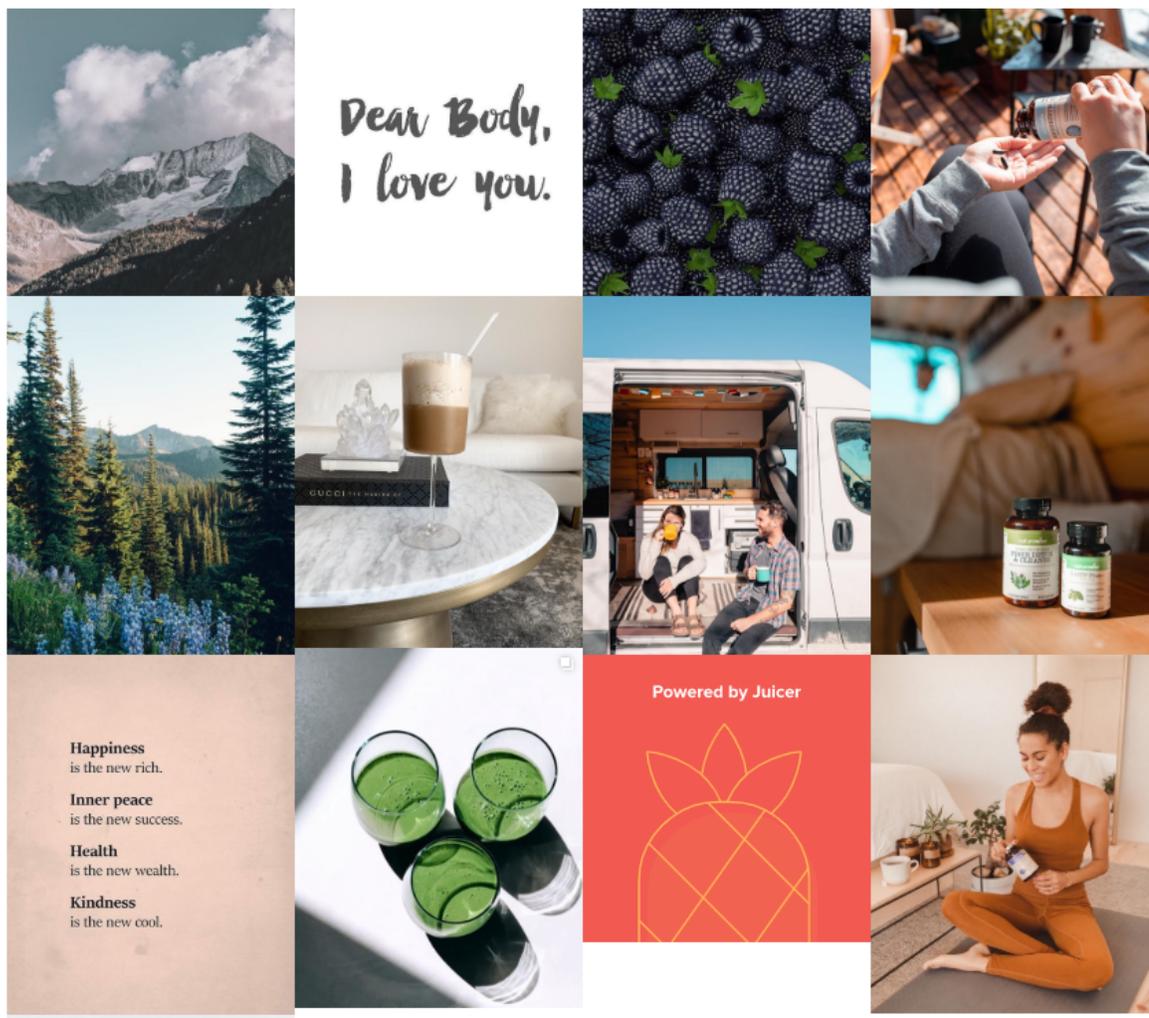
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2 14. Dietary supplements have become increasingly popular as the public has become  
3 more health conscious and aware of nutrition. Dietary supplements are a multi-billion dollar  
4 industry without the scrutiny and regulation of the pharmaceutical business. This allows  
5 manufacturers to make claims about the purported ability of their products to help with myriad  
6 health problems including: weight loss, removing toxins, improving focus and brain function, and  
7 reducing inflammation. Some of these claims are backed by clinical studies and others are more  
8 dubious.

9 15. Defendant manufactures, distributes, markets, advertises, and sells various dietary  
10 supplements in the United States under the brand name “NatureWise.” NatureWise states on its  
11 website “We make it our business to promote health and inspire wellbeing – for our customers,  
12 our planet, and people around the world. You can see it in our company values in the little things  
13 we do, every day.”

14 16. Defendant is a lifestyle brand, which connects with consumers in a less traditional  
15 way. Lifestyle brands sell an experience and communicate with consumers on an emotional level.  
16 NatureWise does this by making values claims like: “Live Healthy. Live Happy” and “Dear  
17 Body, I love you.” It also includes its guiding principles in its mission statement including:  
18 “Honesty: Promote Clarity and Candor. Communicating honestly and clearly with ourselves and  
19 others in our words and actions.”

20 17. The site also communicates that the Products are natural, wholesome and honest  
21 by displaying scenes in nature, women in yoga poses, and healthy fruits alongside images of its  
22 supplements. These images and representations are designed to connect with consumers who are  
23 concerned about putting unnatural products in their bodies. The images are designed to equate  
24 consuming dietary supplements as something as natural as drinking coffee or a smoothie:  
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18. Defendants sell dozens of products marketed under different categories such as “Daily Support,” “Digestive Support,” “Hair Skin & Nails,” “Healthy Weight,” “Ashwagandha Herbal Blends,” “Vegan/Vegetarian” and “Bundles.”

A. **False Representations Regarding Dosage and Serving of Defendant’s Curcumin Supplement.**

19. As part of Defendant’s “Stress & Memory Support” line of products, Defendant sells NatureWise Curcumin (“Curcumin Supplement”). The tag line states that it is “made with Organic Curcumin and 95% Curcuminoids.” Defendant sells Curcumin Supplement in both the 90 and 180 capsule sizes.

1           20. Defendant makes numerous representations about the purported benefits of its  
2 Curcumin Supplement, including: “Improve Cognition,” “Support Cardiovascular Function,”  
3 “Combat Degenerative Oxidative Stress,” “Reduce Inflammation” and “Improve Joint Support.”  
4 Adding that “Not All Curcumin Supplements are Created Equally”:



21           21. Defendant’s packaging for its curcumin supplement states on the principal display  
22 panel of the Product label that it contains “2250 mg Per Day” and contains 90 or 180 capsules.

23           22. The representation that the Product contains “2250 mg Per Day” and “90” or “180  
24 VEGETARIAN CAPSULES” was uniformly communicated to Plaintiff and every other person  
25 who purchased any of the Products in California. This representation leads reasonable consumers  
26 to believe that each of the capsules contained 2250 mg of the curcumin supplement. However,  
27 upon closer inspection of the bottle, Defendant reveals that three capsules must be consumed to  
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1 provide the stated 2250 mg *Per Day*. The same or substantially similar product label has appeared  
2 on each respective product during the entirety of the Class Period in the general form of the  
3 following example:<sup>1</sup>



19  
20 **B. Defendant Misleadingly Markets Its Curcumin Supplement to Increase Profits and Gain a Competitive Edge.**

21 23. Curcumin (a curcuminoid) is naturally found in turmeric, a spice frequently used  
22 in Asian curries. However, the amount of turmeric one would need to consume in order to get the  
23 positive benefits associated with curcuminoid consumption could be as much as much as 10  
24 grams. As a result, consumers take curcumin supplements to get the positive effects of  
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26 <sup>1</sup> As discussed below, Defendant may have started making changes to its Curcumin label following  
27 receipt of Plaintiff's CLRA letter. For example, it may have started to remove the "per day"  
28 statement from the front label panel of the Product. Even so, Plaintiff alleges that the labels still  
remain false, deceptive and/or misleading.

1 curcuminoid consumption without having to ingest copious amount of turmeric, unusual in the  
2 Western diet.

3 24. The curcumin content of a dietary supplement is of material concern to consumers  
4 because the main purpose of purchasing a curcumin supplement is to avoid having to ingest a  
5 large quantity of turmeric and to ingest curcuminoids in a concentrated form.

6 25. Defendant knew and intended that consumers would purchase, and pay a premium  
7 for, a supplement labeled as having a 2250 mg of curcumin per day, leading consumers to believe  
8 that by taking 1 capsule per day they would be able to get all the benefits of consuming a large  
9 dosage of curcumin.

10 26. Further, in making false, misleading, and deceptive representations, Defendant  
11 distinguishes the Product from its competitors' products by leading consumers to believe that they  
12 are receiving 3x as much curcumin per bottle, at a given price, than an accurately labeled product.

13 **C. Defendant's Changed Curcumin Supplement Label and Other Dosage Claims**  
14 **Continues to Mislead Consumers.**

15 27. Defendant appears to have recently altered its label by changing its claim that the  
16 Product provides "2250 mg Per Serving" instead of "2250 mg Per Day":



28. However, this representation does not cure the Defendant’s misrepresentation. That statement, in conjunction with the claim that the Product contains either “90” or “180 VEGETARIAN CAPSULES” on the front of the package, still leads reasonable consumers to believe that a serving size is 1 capsule and that each capsule contains 2250 mg of curcumin.

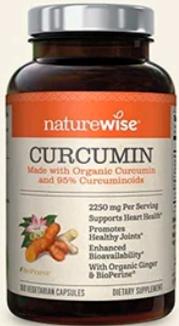
29. Defendant’s other marketing materials continue to compound the deception. For example, NatureWise’s 90 capsule Product falsely states that the product contains 2250 mg per serving and that there are 60 servings in a 90 capsule bottle.<sup>2</sup>

## CURCUMIN

Made with Organic Curcumin and 95% Curcuminoids

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- Organic turmeric with max potency curcumin extract standardized to 95% curcuminoids.
- Organic ginger root improves absorption and enhances the benefits of curcumin.
- BioPerine® black pepper extract shown to increase bioavailability of curcumin by 20x.



**Suggested Use:** Adults take 3 capsules daily with meals, or as recommended by your healthcare provider.<sup>o</sup>

<b>Supplement Facts</b>		
Serving Size: 3 Vegetarian Capsules Servings Per Container: 60		
	Amount Per Serving	% Daily Value
<b>Proprietary Organic Curcumin Complex</b> Organic Turmeric Root ( <i>Curcuma longa</i> ), Organic Curcumin extract standardized to 95% curcuminoids ( <i>Curcuma longa</i> ) (root) (includes curcumin, bisdemethoxycurcumin, and demethoxycurcumin)	2250 mg	†
<b>Organic Ginger (<i>Zingiber officinale</i>) (root)</b>	105 mg	†
<b>BioPerine® Black Pepper Extract (<i>Piper nigrum</i>) (fruit)</b> (standardized to contain 95% piperine)	15 mg	†

† Daily Value not established.

**Other Ingredients:** Pullulan (PlantCaps™ capsule), rice flour, organic rice bran extract.

**This Product Does Not Contain:** Wheat, gluten, dairy, corn, soy, eggs, tree nuts, peanuts, fish, or shellfish.

<sup>o</sup> NatureWise Curcumin should always be taken in conjunction with a healthy diet and regular exercise program.

BioPerine® is the registered trademark of Sabinsa Corporation protected by US and International Patents.

<sup>2</sup> See, e.g., [https://luxotia.com/products/naturewise-curcumin-turmeric-2250mg-2-month-supply-95-curcuminoids-bioferine-black-pepper-extract-advanced-absorption-for-cardiovascular-health-joint-support-gluten-free-non-gmo-180-count?variant=32159856459869&utm\\_medium=cpc&utm\\_source=google&utm\\_campaign=Google%20Shopping](https://luxotia.com/products/naturewise-curcumin-turmeric-2250mg-2-month-supply-95-curcuminoids-bioferine-black-pepper-extract-advanced-absorption-for-cardiovascular-health-joint-support-gluten-free-non-gmo-180-count?variant=32159856459869&utm_medium=cpc&utm_source=google&utm_campaign=Google%20Shopping) (last visited June 6, 2020).

1 30. Moreover, the “per day” misrepresentation still appears on NatureWise’s website  
2 as shown in the following screenshot:<sup>3</sup>



9 31. Because consumers pay a price premium for curcumin supplements that do not  
10 require taking multiple capsules to reach the daily serving size, Defendant is able to both increase  
11 its sales and retain more profits. Consumers also pay a premium based on the total amount of  
12 curcumin that a bottle of curcumin supplement provides. Defendant’s misleading representations  
13 and omissions, lead consumers to pay a premium for the Product because they falsely believe  
14 they are receiving three times as much curcumin as they actually receive in each bottle.

15 32. Defendant engaged in the practices complained of herein to further their private  
16 interests of: (i) increasing sales of the Product while decreasing the sales of competitors, (ii)  
17 commanding a higher price for their Product because consumers will pay more for curcumin  
18 supplements that are in a concentrated form, and/or (3) commanding a higher price for their  
19 products because consumers believe they are receiving 3x as much of the curcumin as they  
20 actually receive.

21 33. The market for supplement products is continuing to grow and expand, and  
22 because Defendant knows consumers rely on representations about the serving size of the  
23 Product, Defendant has an incentive to continue to make such false representations on the  
24 Product.

25 **D. PLAINTIFF’S EXPERIENCE**

26  
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28 <sup>3</sup> <https://www.naturewise.com/products/curcumin-subscription> (last visited June 26, 2020).

1           34.     On September 6, 2019, Ms. Valentine purchased NatureWise curcumin dietary  
2 supplement from her home in San Francisco, CA on Amazon.com. Plaintiff made the purchase  
3 after reading and relying on the truthfulness of the Product’s label that represented “2250 mg Per  
4 Day” of curcumin and “180 VEGETARIAN CAPSULES.” Ms. Valentine reasonably understood  
5 that the supplements were one-capsule servings and that each capsule contained 2250 mg. She  
6 was attracted to the Product because of its potency and value. Further, when given a choice, she  
7 prefers to buy supplements that do not require her to take multiple capsules to reach the full  
8 dosage. But on the Product she purchased, Defendant misrepresented the amount of curcumin in  
9 each capsule, which is 750 mg per capsule and not 2250 mg per capsule.

10           35.     At the time of her purchase, Ms. Valentine did not know that the Product required  
11 her to take three capsules to reach the full dosage of 2250 mg of curcumin. As a result of  
12 Defendant’s misrepresentations and omissions, Ms. Valentine paid a premium for the Product and  
13 only received 1/3 of the amount of supplement she believed she would receive.

14           36.     Had Defendant not misrepresented (by omission and commission) the true capsule  
15 serving size of the Product, Plaintiff would not have purchased it or, at a very minimum, she  
16 would have paid less for the Product.

17           37.     Plaintiff continues to desire to purchase curcumin supplements, including those  
18 marketed and sold by Defendant. Plaintiff regularly visits stores where Defendant’s Product and  
19 other supplements are sold. Absent an injunction that prohibits Defendant from misrepresenting  
20 the dosage on its product labels, Plaintiff will be unable to rely on Defendant’s representations  
21 regarding the serving size and amount of curcumin in the Product, limiting her ability to rely on  
22 the representations made in the marketplace. Further, Defendant makes numerous supplements  
23 with different product titles. Absent an injunction, Plaintiff is at risk for buying another one of  
24 Defendant’s products in reliance on the same or a similar misrepresentation.

25           38.     Plaintiff and members of the Class have been economically damaged by their  
26 purchase of the Product because the advertising for the Product was and is untrue and/or  
27 misleading under California law and the products are misbranded; therefore, the Product is worth  
28 less than what Plaintiffs and members of the Class paid for it and/or Plaintiffs and members of the

1 Class did not receive what they reasonably intended to receive.

2 **CLASS ALLEGATIONS**

3 39. Plaintiff brings this class action lawsuit on behalf of herself and proposed classes  
4 of similarly situated persons, pursuant to Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil  
5 Procedure. Plaintiff seeks to represent the following groups of similarly situated persons, defined  
6 as follows:

7 All persons who purchased the Product between June 25, 2016 and the present (the  
8 “Class”).

9 All class members who reside in California (the “California Subclass”).

10 40. This action has been brought and may properly be maintained as a class action  
11 against Defendant because there is a well-defined community of interest in the litigation and the  
12 proposed class is easily ascertainable.

13 41. Numerosity: Plaintiffs do not know the exact size of the Class, but they estimate it  
14 is composed of more than 100 persons. The persons in the Class are so numerous that the joinder  
15 of all such persons is impracticable and the disposition of their claims in a class action rather than  
16 in individual actions will benefit the parties and the courts.

17 42. Common Questions Predominate: This action involves common questions of law  
18 and fact to the potential classes because each class member’s claim derives from the deceptive,  
19 unlawful and/or unfair statements and omissions that the Product provides “2250 mg Per Day” of  
20 curcumin and “90” or “180 VEGETARIAN CAPSULES” which leads reasonable consumers to  
21 believe that each of the capsules contain 2250 mg of curcumin. The common questions of law and  
22 fact predominate over individual questions, as proof of a common or single set of facts will  
23 establish the right of each member of the Class to recover. The questions of law and fact  
24 common to the Class are:

- 25 a. Whether the marketing, advertising, packaging, labeling, and other promotional  
26 materials for the Product are deceptive and/or unlawful because of  
27 misrepresentations and omissions;  
28 b. Whether Defendant’s actions violate federal and California laws invoked herein;

- 1 c. Whether deceitfully labeling the front of the Product as containing “2250mg Per
- 2 Day” of curcumin and “90” or “180 VEGETARIAN CAPSULES” causes the
- 3 Products to command a price premium in the market as compared with similar
- 4 products that do not make such misrepresentations;
- 5 d. Whether Defendant’s advertising and marketing of the Products as containing
- 6 “2250 mg Per Day” of curcumin and “90” or “180 VEGETARIAN CAPSULES”
- 7 was likely to deceive reasonable consumers;
- 8 e. Whether Defendant’s amended label stating that the Product contains “2250 mg
- 9 Per Serving” with the representation “90” or “180 VEGETARIAN CAPSULES” is
- 10 still deceiving to reasonable consumers;
- 11 f. Whether misrepresentations and omissions regarding the number of capsules per
- 12 serving to achieve 2250 mg per day of curcumin is material to a reasonable
- 13 consumer;
- 14 g. Whether Defendant engaged in the behavior knowingly, recklessly, or negligently;
- 15 h. The amount of profits and revenues earned by Defendant as a result of the
- 16 conduct;
- 17 i. Whether class members are entitled to restitution, injunctive and other equitable
- 18 relief and, if so, what is the nature (and amount) of such relief; and
- 19 j. Whether class members are entitled to payment of actual, incidental,
- 20 consequential, exemplary and/or statutory damages plus interest thereon, and if so,
- 21 what is the nature of such relief.

22 43. Typicality: Plaintiff’s claims are typical of the claims of other members of the  
23 Class because, among other things, all such claims arise out of the same wrongful course of  
24 conduct in which the Defendant engaged in violation of law as described herein. Further, the  
25 damages of each member of the Class were caused directly by Defendant’s wrongful conduct in  
26 violation of the law as alleged herein.

27 44. Adequacy of Representation: Plaintiff will fairly and adequately protect the  
28 interests of all class members because it is in their best interests to prosecute the claims alleged

1 herein to obtain full compensation due to them for the unfair and illegal conduct of which they  
2 complain. Plaintiff also has no interests that are in conflict with, or antagonistic to, the interests of  
3 class members. Plaintiff has retained highly competent and experienced class action attorneys to  
4 represent her interests and that of the classes. By prevailing on her own claims, Plaintiff will  
5 establish Defendant's liability to all class members. Plaintiff and her counsel have the necessary  
6 financial resources to adequately and vigorously litigate this class action, and Plaintiff and  
7 counsel are aware of their fiduciary responsibilities to the class members and are determined to  
8 diligently discharge those duties by vigorously seeking the maximum possible recovery for class  
9 members.

10 45. Superiority: There is no plain, speedy, or adequate remedy other than by  
11 maintenance of this class action. The prosecution of individual remedies by members of the  
12 classes will tend to establish inconsistent standards of conduct for Defendant and result in the  
13 impairment of class members' rights and the disposition of their interests through actions to  
14 which they were not parties. Class action treatment will permit a large number of similarly  
15 situated persons to prosecute their common claims in a single forum simultaneously, efficiently,  
16 and without the unnecessary duplication of effort and expense that numerous individual actions  
17 would engender. Furthermore, as the damages suffered by each individual member of the class  
18 may be relatively small, the expenses and burden of individual litigation would make it difficult  
19 or impossible for individual members of the class to redress the wrongs done to them, while an  
20 important public interest will be served by addressing the matter as a class action.

21 46. Plaintiff is unaware of any difficulties that are likely to be encountered in the  
22 management of this action that would preclude its maintenance as a class action.

### 23 CAUSES OF ACTION

#### 24 PLAINTIFF'S FIRST CAUSE OF ACTION

25 (Violation of the Consumers Legal Remedies Act (the "CLRA"), California Civil Code §  
26 1750, *et seq.*  
27 on behalf of Plaintiff and the California Subclass)

28 47. Plaintiff realleges and incorporates the paragraphs of this Class Action Complaint  
as if set forth herein.

1 48. Defendant's actions, representations and conduct have violated, and continue to  
2 violate the CLRA, because they extend to transactions that are intended to result, or which have  
3 resulted, in the sale or lease of goods or services to consumers.

4 49. Plaintiff and other class members are "consumers" as that term is defined by the  
5 CLRA in California Civil Code § 1761(d).

6 50. The Product that Plaintiff (and other similarly situated class members) purchased  
7 from Defendant were "goods" within the meaning of California Civil Code § 1761(a).

8 51. Defendant's acts, practices and omissions regarding the dosage and serving size of  
9 the Product leads reasonable consumers to believe that the Product contains more curcumin  
10 supplement than they actually receive. In the case of Ms. Valentine, Defendants represented that  
11 their curcumin supplement provided "2250 mg Per Day" and "180 VEGETARIAN CAPSULES"  
12 while omitting the material fact that the Product only contained 1/3 the dosage advertised (750  
13 mg/capsule). By engaging in the actions, representations and conduct set forth in this Class  
14 Action Complaint, Defendant has violated, and continue to violate, § 1770(a)(2), § 1770(a)(5),  
15 § 1770(a)(7), § 1770(a)(8), and § 1770(a)(9) of the CLRA. In violation of California Civil Code  
16 §1770(a)(2), Defendant's acts and practices constitute improper representations regarding the  
17 source, sponsorship, approval, or certification of the goods they sold. In violation of California  
18 Civil Code §1770(a)(5), Defendant's acts and practices constitute improper representations that  
19 the goods they sell have sponsorship, approval, characteristics, ingredients, uses, benefits, or  
20 quantities, which they do not have. In violation of California Civil Code §1770(a)(7), Defendant's  
21 acts and practices constitute improper representations that the goods it sells are of a particular  
22 standard, quality, or grade, when they are of another. In violation of California Civil Code  
23 §1770(a)(8), Defendant has disparaged the goods, services, or business of another by false or  
24 misleading representation of fact. In violation of California Civil Code §1770(a)(9), Defendant  
25 has advertised goods or services with intent not to sell them as advertised.

26 52. Plaintiff requests that this Court enjoin Defendant from continuing to employ the  
27 unlawful methods, acts and practices alleged herein pursuant to California Civil Code  
28 § 1780(a)(2). If Defendant is not restrained from engaging in these types of practices in the

1 future, Plaintiff and the other members of the Class will continue to suffer harm.

2 53. Plaintiff provided Defendant with notice and demand that Defendant correct,  
3 repair, replace or otherwise rectify the unlawful, unfair, false and/or deceptive practices  
4 complained of herein. Despite receiving the aforementioned notice and demand, Defendant failed  
5 to do so. Among other things, Defendant failed to identify similarly situated customers, notify  
6 them of their right to correction, repair, replacement or other remedy, and/or to provide that  
7 remedy. Accordingly, Plaintiff seeks, pursuant to California Civil Code § 1780(a)(3), on behalf of  
8 herself and those similarly situated class members, compensatory damages, punitive damages and  
9 restitution of any ill-gotten gains due to Defendant's acts and practices.

10 54. Plaintiffs also requests that this Court award their costs and reasonable attorneys'  
11 fees pursuant to California Civil Code § 1780(d).

12 **PLAINTIFF'S SECOND CAUSE OF ACTION**  
13 **(False Advertising, Business and Professions Code § 17500, *et seq.* ("FAL"))**  
14 **On Behalf of Plaintiff and the California Subclass)**

15 55. Plaintiff realleges and incorporates by reference the paragraphs of this Class  
16 Action Complaint as if set forth herein.

17 56. Beginning at an exact date unknown to Plaintiff, but within three (3) years  
18 preceding the filing of the Class Action Complaint, Defendant made untrue, false, deceptive  
19 and/or misleading statements in connection with the advertising and marketing of the Product.

20 57. Defendant made representations and statements (by omission and commission)  
21 regarding the Product's dosage and serving size that lead reasonable customers to believe that the  
22 Product contains more curcumin than they actually receive. In the case of Ms. Valentine,  
23 Defendants represented that their curcumin supplement provided "2250 mg Per Day" and "180  
24 VEGETARIAN CAPSULES" while omitting the material fact that the Product only contained 1/3  
25 the dosage advertised (750 mg/capsule).

26 58. Plaintiff and those similarly situated relied to their detriment on Defendant's false,  
27 misleading and deceptive advertising and marketing practices, including each of the  
28 misrepresentations and omissions set forth above. Had Plaintiff and those similarly situated been  
adequately informed and not intentionally deceived by Defendant, they would have acted

1 differently by, without limitation, refraining from purchasing the Products or paying less for it.

2 59. Defendant's acts and omissions are likely to deceive the general public.

3 60. Defendant engaged in these false, misleading and deceptive advertising and  
4 marketing practices to increase its profits. Accordingly, Defendant has engaged in false  
5 advertising, as defined and prohibited by section 17500, *et seq.* of the California Business and  
6 Professions Code.

7 61. The aforementioned practices, which Defendant used, and continues to use, to its  
8 significant financial gain, also constitutes unlawful competition and provides an unlawful  
9 advantage over Defendant's competitors as well as injury to the general public.

10 62. As a direct and proximate result of such actions, Plaintiff and the other class  
11 members have suffered, and continue to suffer, injury in fact and have lost money and/or property  
12 as a result of such false, deceptive and misleading advertising in an amount which will be proven  
13 at trial, but which is in excess of the jurisdictional minimum of this Court.

14 63. Plaintiff seeks, on behalf of herself and those similarly situated, full restitution of  
15 monies, as necessary and according to proof, to restore any and all monies acquired by Defendant  
16 from Plaintiff, the general public, or those similarly situated by means of the false, misleading  
17 and deceptive advertising and marketing practices complained of herein, plus interest thereon.

18 64. Plaintiff seeks, on behalf of herself and those similarly situated, a declaration that  
19 the above-described practices constitute false, misleading and deceptive advertising.

20 65. Plaintiff seeks, on behalf of herself and those similarly situated, an injunction to  
21 prohibit Defendant from continuing to engage in the false, misleading and deceptive advertising  
22 and marketing practices complained of herein. Such misconduct by Defendant, unless and until  
23 enjoined and restrained by order of this Court, will continue to cause injury in fact to the general  
24 public and the loss of money and property in that Defendant will continue to violate the laws of  
25 California, unless specifically ordered to comply with the same. This expectation of future  
26 violations will require current and future consumers to repeatedly and continuously seek legal  
27 redress in order to recover monies paid to Defendant to which it is not entitled. Plaintiff, those  
28 similarly situated and/or other consumers nationwide have no other adequate remedy at law to

1 ensure future compliance with the California Business and Professions Code alleged to have been  
2 violated herein.

3 **PLAINTIFF'S THIRD CAUSE OF ACTION**  
4 **(Common Law Fraud, Deceit and/or Misrepresentation**  
5 **On Behalf of Plaintiff and the Class)**

6 66. Plaintiff realleges and incorporates by reference the paragraphs of this Class  
7 Action Complaint as if set forth herein.

8 67. Defendant has fraudulently and deceptively led reasonable consumers to believe  
9 that the Product contain more curcumin than it actually contains. In the case of Ms. Valentine,  
10 Defendants represented that their Curcumin supplement provided "2250 mg Per Day" and "180  
11 VEGETARIAN CAPSULES" while omitting the material fact that the product only contained 1/3  
12 the dosage advertised (750 mg/capsule).

13 68. These misrepresentations and omissions were known exclusively to, and actively  
14 concealed by, Defendant, not reasonably known to Plaintiff, and material at the time they were  
15 made. Defendant knew the actual capsule serving size of the Product, but failed to make it  
16 obvious on the front of its label to consumers. Defendant's misrepresentations and omissions  
17 concerned material facts that were essential to the analysis undertaken by Plaintiff as to whether  
18 to purchase Defendant's Product. In misleading Plaintiff and not so informing Plaintiff,  
19 Defendant breached its duty to her. Defendant also gained financially from, and as a result of, its  
20 breach.

21 69. Plaintiff and those similarly situated relied to their detriment on Defendant's  
22 misrepresentations and fraudulent omissions. Had Plaintiff and those similarly situated been  
23 adequately informed and not intentionally deceived by Defendant, they would have acted  
24 differently by, without limitation: (i) declining to purchase the Product, (ii) purchasing less of it,  
25 or (iii) paying less for the Product.

26 70. By and through such fraud, deceit, misrepresentations and/or omissions, Defendant  
27 intended to induce Plaintiff and those similarly situated to alter their position to their detriment.  
28 Specifically, Defendant fraudulently and deceptively induced Plaintiff and those similarly situated  
to, without limitation, purchase the Product.



1 regarding the dosage and curcumin content of the Products, which leads reasonable consumers to  
2 believe that the Products contain more curcumin than they actually receive. In the case of Ms.  
3 Valentine, Defendants represented that their Curcumin supplement provided “2250 mg Per Day”  
4 and “180 VEGETARIAN CAPSULES” while omitting the material fact that the product only  
5 contained 1/3 the dosage advertised (750 mg/capsule).

6 78. Plaintiff and those similarly situated relied to their detriment on Defendant’s  
7 unlawful, unfair, and fraudulent business practices. Had Plaintiff and those similarly situated been  
8 adequately informed and not deceived by Defendant, they would have acted differently by,  
9 without limitation: (i) declining to purchase the Product, (ii) purchasing less of the Product, or  
10 (iii) paying less for the Product.

11 79. Defendant’s acts and omissions are likely to deceive the general public.

12 80. Defendant engaged in these deceptive and unlawful practices to increase their  
13 profits. Accordingly, Defendant has engaged in unlawful trade practices, as defined and  
14 prohibited by section 17200, *et seq.* of the California Business and Professions Code.

15 81. The aforementioned practices, which Defendant has used to its significant  
16 financial gain, also constitute unlawful competition and provide an unlawful advantage over  
17 Defendant’s competitors as well as injury to the general public.

18 82. As a direct and proximate result of such actions, Plaintiff and the other class  
19 members, have suffered and continue to suffer injury in fact and have lost money and/or property  
20 as a result of such deceptive and/or unlawful trade practices and unfair competition in an amount  
21 which will be proven at trial, but which is in excess of the jurisdictional minimum of this Court.  
22 Among other things, Plaintiff and the class members lost the amount they paid for the Product.

23 83. As a direct and proximate result of such actions, Defendant has enjoyed, and  
24 continues to enjoy, significant financial gain in an amount which will be proven at trial, but which  
25 is in excess of the jurisdictional minimum of this Court.

26 84. Plaintiff seeks, on behalf of herself and those similarly situated, full restitution of  
27 monies, as necessary and according to proof, to restore any and all monies acquired by Defendant  
28 from Plaintiff, the general public, or those similarly situated by means of the deceptive and/or

1 unlawful trade practices complained of herein, plus interest thereon.

2 85. Plaintiff seeks, on behalf of those similarly situated, a declaration that the above-  
3 described trade practices are fraudulent, unfair, and/or unlawful.

4 86. Plaintiff seeks, on behalf of those similarly situated, an injunction to prohibit  
5 Defendant from continuing to engage in the deceptive and/or unlawful trade practices complained  
6 of herein. Such misconduct by Defendant, unless and until enjoined and restrained by order of  
7 this Court, will continue to cause injury in fact to the general public and the loss of money and  
8 property in that Defendant will continue to violate the laws of California, unless specifically  
9 ordered to comply with the same. This expectation of future violations will require current and  
10 future consumers to repeatedly and continuously seek legal redress in order to recover monies  
11 paid to Defendant to which they were not entitled. Plaintiff, those similarly situated and/or other  
12 consumers nationwide have no other adequate remedy at law to ensure future compliance with the  
13 California Business and Professions Code alleged to have been violated herein.

14 **PLAINTIFF’S FOURTH CAUSE OF ACTION**  
15 **(Unjust Enrichment**  
16 **On Behalf of Plaintiff and the Class)**

17 87. Plaintiff realleges and incorporates by reference all paragraphs alleged herein.

18 88. Plaintiff and members of the Class members conferred a benefit on the Defendant  
19 by purchasing the Products.

20 89. Defendant has been unjustly enriched in retaining the revenues from Plaintiff and  
21 Class Member’s purchases of the Products, which retention is unjust and inequitable, because  
22 Defendant made material misrepresentations and omissions regarding the serving size and  
23 curcumin content of the Products that led reasonable consumers to believe that the Products  
24 contain more curcumin supplement than they actually receive. In the case of Ms. Valentine,  
25 Defendants represented that their curcumin supplement provided “2250 mg Per Day” and “180  
26 VEGETARIAN CAPSULES” while omitting the material fact that the product only contained 1/3  
27 the dosage advertised (750 mg/capsule).

28 90. Because Defendant’s retention of the non-gratuitous benefit conferred on it by  
Plaintiff and Class members is unjust and inequitable, Defendant must pay restitution to Plaintiff

1 and the Class members for its unjust enrichment, as ordered by the Court.

2 91. Plaintiff, therefore, seeks an order requiring Defendant to make restitution to her  
3 and other members of the Class

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, on behalf of herself and those similarly situated, respectfully  
6 requests that the Court enter judgment against Defendant as follows:

- 7 A. Certification of the proposed Class, including appointment of Plaintiff's counsel as  
8 class counsel;
- 9 B. An order temporarily and permanently enjoining Defendant from continuing the  
10 unlawful, deceptive, fraudulent, and unfair business practices alleged in this  
11 Complaint;
- 12 C. An award of compensatory damages in an amount to be determined at trial;
- 13 D. An award of statutory damages in an amount to be determined at trial;
- 14 E. An award of punitive damages in an amount to be determined at trial;
- 15 F. An award of treble damages;
- 16 G. An award of restitution in an amount to be determined at trial;
- 17 H. An order requiring Defendant to pay both pre- and post-judgment interest on any  
18 amounts awarded;
- 19 I. For reasonable attorney's fees and the costs of suit incurred;
- 20 J. For such further relief as this Court may deem just and proper;

21 **JURY TRIAL DEMANDED**

22 Plaintiff hereby demands a trial by jury.

23 Dated: June 29, 2020

**GUTRIDE SAFIER LLP**

24 /s/ Seth A. Safier /s/  
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