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

**04/03/2023**

David W. Slayton, Executive Officer / Clerk of Court

By:           K. Martinez           Deputy

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10  
11 GENEVA GONZALES and RUTH MARTIN,  
12 individuals and on behalf of all others similarly  
situated,

13 Plaintiffs,

14 v.

15 SYNERGY CHC CORP., a Nevada corporation;  
16 and DOES 1 through 10, inclusive,

17 Defendants.  
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Case No. 23STCV05927

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR VIOLATIONS OF THE  
CONSUMER LEGAL REMEDIES ACT**

1 **I. INTRODUCTION**

2 **Defendant sells a line of supplements known as “FocusFactor” (the “Product”) by falsely**  
3 **claiming that it will improve “memory, concentration, and focus.” In reality, Defendant’s claims**  
4 **have been proven false by overwhelming scientific evidence.**

5 **II. JURISDICTION AND VENUE**

6 1. This Court has jurisdiction over all causes of action asserted herein.

7 2. Venue is proper in this County in accordance with California Code of Civil Procedure  
8 Section 394(b) because “none of the defendants reside in the state.” As such, venue is proper “in any  
9 county that the plaintiff may designate in his or her complaint.”

10 3. Defendant is subject to jurisdiction under California’s “long-arm” statute found at  
11 California Code of Civil Procedure Section 410.10 because the exercise of jurisdiction over Defendant  
12 is not “inconsistent with the Constitution of this state or the United States.” Indeed, Plaintiffs believe  
13 that Defendant generates a minimum of eight percent of its national website sales to Californians, such  
14 that the website “is the equivalent of a physical store in California.” Since this case involves false  
15 representations made in part on Defendant’s website, California courts can “properly exercise personal  
16 jurisdiction” over the Defendant in accordance with the Court of Appeal opinion in *Thurston v. Fairfield*  
17 *Collectibles of Georgia*, 53 Cal.App.5th 1231 (2020).

18 **III. PARTIES**

19 4. Plaintiffs are individuals and consumer advocates who are residents of California.

20 5. Defendant is a Nevada company with its principal place of business in Maine that  
21 develops, manufactures, promotes, markets, distributes and/or sells the Product to consumers  
22 nationwide. In a filing with the SEC, Defendant generally describes its business model: “An increased  
23 focus on health, beauty and wellness by consumers has served as a tailwind for our brands. The  
24 nutritional supplement market has experienced significant growth across a range of areas including  
25 immune health, brain health, heart health, sleep/stress, and overall nutrition and wellness as a result of  
26 an aging population, increased obesity, pandemic concerns and a desire for more natural solutions and  
27 treatments.”

28 ///



1 & focus”, that has been “America's brain health supplement brand for over 20 years”, and consists of  
2 “Patented and clinically tested formulas.”

3 10. Defendant’s efficacy claims are not simply unsubstantiated, they have been proven to  
4 false by the overwhelming weight of scientific evidence. Numerous scientific studies conclusively prove  
5 that the ingredients in the Product do not and cannot the promised benefits.

6 11. If and when the Court deems it appropriate (and subject to any required protective order),  
7 Plaintiffs will submit a non-exhaustive list of clinical studies demonstrating the falsity of Defendant’s  
8 efficacy claims, along with a brief summary of the key findings of each study.

9 12. Plaintiffs purchased the Product in substantial part based upon the above-referenced  
10 efficacy claims. Plaintiffs used the Product as directed but did not experience any of the benefits  
11 promised by the Product.

12 13. The “Who, What, When, Where, and How of the misconduct” is as follows:

- 13 a. **The “Who”:** The party responsible for promulgating the false efficacy claims is  
14 Defendant Synergy CHC Corp. based in Maine.
- 15 b. **The “What”:** The claims on the label of Defendant’s product and accompanying  
16 marketing materials that the product will “Improve memory, concentration & focus.”
- 17 c. **The “When”:** The false claims were made throughout the class period, and Plaintiffs  
18 purchased the product in 2022;
- 19 d. **The “Where”:** Plaintiff Gonzales purchased the product at CVS in Los Angeles County,  
20 California, and Plaintiff Martin purchased the product at CVS in Fresno County,  
21 California.
- 22 e. **The “How”:** By making demonstrably false claims that its product provides memory  
23 benefits that it does not and cannot provide, Defendant has illegally collected millions of  
24 dollars from unsuspecting consumers.

25 **V. CLASS ALLEGATIONS**

26 14. Plaintiffs brings this action individually and on behalf of all others similarly situated (the  
27 “Class”) defined as follows:  
28

1           **All persons within the United States who purchased the Product for personal**  
2           **use during the Class Period.**

3           A.     NUMEROSITY: Plaintiffs do not know the number of Class Members but believes the  
4 number to be in the thousands, if not more. The exact identities of Class Members may be ascertained  
5 by the records maintained by Defendant and its authorized retailers.

6           B.     COMMONALITY: Common questions of fact and law exist as to all class members, and  
7 predominate over any questions affecting only individual members of the Class. Such common legal  
8 and factual questions, which do not vary between Class members, and which may be determined without  
9 reference to the individual circumstances of any Class Member, include but are not limited to the  
10 following:

- 11           i.     Whether Defendant violated the law;
- 12           ii.    The amount of damages; and
- 13           iii.   The proper injunctive relief.

14           C.     TYPICALITY: As a person who purchased the product for personal use and used it as  
15 directed, Plaintiffs are asserting claims that are typical of the Class.

16           D.     ADEQUACY: Plaintiffs will fairly and adequately protect the interests of the members  
17 of The Class. Plaintiffs have retained attorneys experienced in the class action litigation. All individuals  
18 with interests that are actually or potentially adverse to or in conflict with the class or whose inclusion  
19 would otherwise be improper are excluded.

20           E.     SUPERIORITY: A class action is superior to other available methods of adjudication  
21 because individual litigation of the claims of all Class Members is impracticable and inefficient. Even  
22 if every Class Member could afford individual litigation, the court system could not. It would be unduly  
23 burdensome to the courts in which individual litigation of numerous cases would proceed.

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1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Violations of the Consumer Legal Remedies Act,**

4 **Cal. Civ. Code §§ 1750 et seq.**

5 15. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set  
6 forth in full herein.

7 16. California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, et seq.,  
8 prohibits deceptive practices in connection with the conduct of a business that provides goods, property,  
9 or services primarily for personal, family, or household purposes.

10 17. Defendant's false and misleading labeling and advertising was designed to, and did,  
11 induce the purchase and use of the Product for personal, family, or household purposes by Plaintiffs and  
12 Class Members, and violated and continue to violate the following sections of the CLRA:

- 13 i. § 1770(a)(5): representing that goods have characteristics, uses, or benefits which they do  
14 not have; and  
15 ii. § 1770(a)(7): representing that goods are of a particular standard, quality, or grade if they  
16 are of another.

17 18. Defendant profited from the sale of the falsely, deceptively, and unlawfully advertised  
18 Product to unwary consumers. Defendant's wrongful business practices constituted, and constitute, a  
19 continuing course of conduct in violation of the CLRA.

20 19. Contemporaneous with the filing of this Complaint, Plaintiffs provided notice in  
21 accordance with section 1782 of the CLRA and demanded that Defendant rectify the actions described  
22 above.

23 **VII. PRAYER FOR RELIEF**

24 Wherefore, Plaintiffs pray for judgment against Defendant for:

- 25 i. Appropriate class certification and management orders;  
26 ii. Actual, statutory and punitive damages;  
27 iii. An award of attorneys' fees and costs; and  
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1       iv. All other relief at law or in equity as may be proper.

2  
3 Dated: March 31, 2023

PACIFIC TRIAL ATTORNEYS, APC

4 By:   
5 Scott. J. Ferrell  
6 Attorneys for Plaintiffs

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