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9 **UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

10
11 GUILTY HAMZEH, individually
and on behalf of all others similarly
12 situated,

13 *Plaintiff,*

14 v.

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16 PHARMAVITE LLC and NATURE
MADE NUTRITIONAL PRODUCTS,

17 *Defendants.*
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Case No. 4:24-cv-00472

AMENDED CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Table of Contents

1

2 I. Introduction..... 1

3 II. Parties..... 1

4 III. Jurisdiction and Venue..... 2

5 IV. Facts. 2

6 A. Fish oil capsules do not promote heart health..... 2

7 B. Nature Made sells over-the-counter fish oil capsules that purport to help

8 “support a healthy heart.”..... 3

9 C. Nature Made’s labeling is false and misleading to most customers. 6

10 C. Nature Made’s fish oil capsules are wholly worthless..... 6

11 D. Ms. Hamzeh was misled and harmed by Nature Made’s misleading labeling. 7

12 E. No adequate remedy at law..... 8

13 V. Class action allegations..... 9

14 VI. Claims. 10

15 First Cause of Action: Violations of State Consumer Protection Acts 10

16 Second Cause of Action: Violation of California’s False Advertising Law Bus. & Prof.

17 Code §§ 17500 & 17501 et. seq. 11

18 Third Cause of Action: Violation of California’s Consumer Legal Remedies Act 12

19 Fourth Cause of Action: Violation of California’s Unfair Competition Law 14

20 Fifth Cause of Action: Breach of Express Warranty 15

21 Sixth Cause of Action: Quasi-Contract..... 16

22 Seventh Cause of Action: Negligent Misrepresentation 17

23 Eighth Cause of Action: Intentional Misrepresentation..... 18

24 VII. Relief..... 18

25 VIII. Demand for Jury Trial..... 19

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1 **I. Introduction.**

2 1. Fish oil is one of the most popular dietary supplements. About 19 million Americans
3 take fish oil supplements, because they believe that the supplements will improve their
4 cardiovascular health by helping to support a healthy heart.

5 2. Many of the roughly 19 million Americans who supplement their diets with fish oil do
6 so by taking fish oil capsules. But, fish oil capsules do not actually provide the health health benefits
7 that they claim to.

8 3. While eating fish promotes healthy heart, taking fish oil *capsules* does not.
9 Overwhelming evidence demonstrates that fish oil capsules do not not promote a healthy heart.
10 Indeed, one way to determine whether fish oil capsules promote a healthy heart is to conduct trials
11 pitting these capsules against placebos to see if there are any differences in heart-related benefits. If
12 there are no differences, this shows that fish oil capsules do not support a healthy heart. Such trials
13 have been performed multiple times. And these “multiple randomized trials pitting fish oil against
14 placebos show no evidence of heart-related benefits from fish oil capsules.”¹

15 4. Fish oil makers, however, continue to market these capsules as helping heart health.
16 Scientists and consumer health advocates have warned that fish oil labels are misleading, and that
17 consumers are wasting their money.²

18 5. Defendants Pharmavite LLC and Nature Made Nutritional Products (“Nature Made”
19 or “Defendants”) make, sell, and market Nature Made brand fish oil capsules (“Nature Made Fish Oil
20 Capsules” or “Products”). Each bottle claims that the capsules support a healthy heart.

21 6. Like other consumers, Ms. Hamzeh bought Nature Made Fish Oil Capsules. As
22 described below, the label on the Product purchased by Ms. Hamzeh states that it “Helps support a
23 healthy heart.” Ms. Hamzeh read and relied on this statement that the Product and would not have
24 purchased the Product if she had known that the Products have not actually been shown to not
25 promote heart health.

26 **II. Parties**

27 7. Plaintiff Guity Hamzeh is domiciled in Moraga, California.

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¹<https://blogs.scientificamerican.com/observations/the-false-promise-of-fish-oil-capsules/>

²<https://www.health.harvard.edu/heart-health/the-false-promise-of-fish-oil-capsules>

1 8. The proposed class includes citizens of every state.

2 9. Defendant Pharmavite LLC is a California limited liability company with its principal
3 place of business at 8531 Fallbrook Ave., West Hills, CA 91304.

4 10. Defendant Nature Made Nutritional Products is a California corporation with its
5 principal place of business at 8531 Fallbrook Ave., West Hills, CA 91304.

6 **III. Jurisdiction and Venue.**

7 11. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The amount
8 in controversy exceeds \$5,000,000, exclusive of interest and costs, and the matter is a class action in
9 which one or more members of the proposed class are citizens of a state different from Defendants.

10 12. The Court has personal jurisdiction over Defendants because Defendants sold Nature
11 Made Fish Oil Capsules to consumers in California, including to Plaintiff.

12 13. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d) because
13 Defendants would be subject to personal jurisdiction in this District if this District were a separate
14 state, given that Defendants sold Nature Made Fish Oil Capsules to consumers in this District,
15 including Plaintiff. Venue is also proper under 28 U.S.C. § 1391(b)(2) because a substantial part of
16 Defendants' conduct giving rise to the claims occurred in this District, including Defendants' sale to
17 Plaintiff.

18 14. Divisional Assignment. This case should be assigned to the San Francisco/Oakland
19 division. *See* L.R. 3-2(c). A substantial part of the events giving rise to the claims occurred in
20 Moroga, California.

21 **IV. Facts.**

22 **A. Fish oil capsules do not promote heart health.**

23 15. Consumers take fish oil capsules because of its purported health benefits. Harvard
24 Medical School describes it thusly:

25 Millions of Americans — including one in five people over age 60 — take fish oil
26 supplements.... Who can blame them? After all, the product labels say things like
27 “promotes heart health” and “supports healthy cholesterol and blood pressure
28 levels.”³

³ <https://www.health.harvard.edu/heart-health/the-false-promise-of-fish-oil-capsules>

1 16. The problem is, “there’s no evidence that these amber capsules improve
2 cardiovascular health—and they may even harm it.”⁴ “Multiple randomized trials have compared
3 fish oil supplements with placebo to look for cardiovascular benefit – and found nothing.”⁵ “The
4 bottom line is there is no proof fish oil capsules improve your heart health.”⁶

5 17. Yet, millions of Americans regularly buy fish oil capsules, believing that taking the
6 capsules will improve or promote their heart health.

7 **B. Nature Made sells over-the-counter fish oil capsules that purport to help**
8 **“support a healthy heart.”**

9 18. Nature Made makes, markets, and sells Nature Made brand Fish Oil capsules (the
10 “Nature Made Fish Oil Capsules” or “Products”) in the United States. The products are available
11 nationwide. Hundreds of thousands (or even millions) of U.S. consumers buy Nature Made fish oil
12 capsules.

13 19. Nature Made makes and sells several varieties of Fish Oil, including the following
14 non-limiting examples: Nature Made Fish Oil Softgels; Nature Made Burp-Less Fish Oil Softgels;
15 Nature Made Omega-3 From Fish Oil Softgels; Nature Made Extra Strength Omega-3 From Fish Oil
16 Softgels; Nature Made Extra Strength Omega-3 From Fish Oil Minis, Burp-Less; and Ultra Omega-3
17 from Fish Oil Softgels, Burp-Less. Illustrative examples are shown below:

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⁴ *Id.*

27 ⁵ <https://utswmed.org/medblog/fish-oil-pills-heart/>; *see, e.g.*,
28 <https://www.nejm.org/doi/full/10.1056/nejmoa1811403>;
<https://www.nejm.org/doi/full/10.1056/nejmoa1804989>

⁶ *Id.*

1 Nature Made Fish Oil 1200 mg Softgels



12 Nature Made Fish Oil 1200 mg Softgels, Burp-Less



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Nature Made Omega-3 From Fish Oil 1200mg Softgels



Nature Made Extra Strength Omega-3 From Fish Oil Minis, Burp-Less



Ultra Omega-3 from Fish Oil 1400 mg Softgels, Burp-Less



1 20. Each product variant states that it supports heart health. They do this by stating that
2 the products, “Help[] support a healthy heart.”

3 21. Each of the Nature Made Products are substantially similar. They all advertise fish oil
4 capsules, and have a representation on the front of the bottle that it supports heart health, by
5 supporting a healthy heart, or by being “heart healthy.”

6 **C. Nature Made’s labeling is false and misleading to most customers.**

7 22. By selling fish oil capsules that purports to “support a healthy heart” and/or are “heart
8 healthy,” Nature Made is representing to customers that taking their fish oil capsule is beneficial to
9 heart health.

10 23. When a consumer picks up a bottle of Nature Made Fish Oil Capsules, the consumer
11 reasonably believes that taking the capsules will be beneficial to heart health. No reasonable
12 consumer reads the label and expects that the capsule has no effect on heart health. And, specifically,
13 when a bottle says it, “Helps support a healthy heart.” consumers expect that to be accurate—that the
14 product does help support a healthy heart. But the truth is, the product does not affect heart health.
15 There is no proof that fish oil capsules improve heart health at all. In this way, Nature Made’s
16 affirmative representations are misleading to reasonable consumers.

17 **C. Nature Made’s fish oil capsules are wholly worthless.**

18 24. The inaccurate labeling of Nature Made Fish Oil Capsules is highly material to
19 reasonable consumers. The reason that consumers buy fish oil capsules is because they believe that
20 they support heart health. No reasonable consumer wants to buy and ingest a fish oil capsule that has
21 no effect on heart health.

22 25. Similarly, Nature Made’s false and misleading labeling drives the demand for its Fish
23 Oil Capsules. As explained above, the primary reason that people buy and ingest fish oil capsules is
24 that they believe that it is beneficial to their heart. If consumers knew the truth—that Nature Made’s
25 Fish Oil Capsules do not have any benefit to heart health at all—the price of its products would
26 crater.

27 26. In fact, without its heart benefits, Nature Made’s Fish Oil Capsules are worthless.
28 What reasonable person wants to pay for and ingest capsules that do not work? Plaintiff and each

1 class member paid for Products that are, in truth, worthless. Thus, the full economic injury here is
2 the entire price of the Nature Made Fish Oil Capsules that Plaintiff and the class members purchased.

3 27. Alternatively, Plaintiff and members of the class were deprived of the full benefit of
4 their bargained-for exchange and have suffered damages in an amount to be established at trial.

5 **D. Ms. Hamzeh was misled and harmed by Nature Made’s misleading labeling.**

6 28. In or around winter of 2022-23, Guity Hamzeh bought a bottle of Nature Made Fish
7 Oil 1200 mg Softgels at a CVS store in Moraga, CA. The bottle is pictured below:



15 29. She purchased the Product regularly for years. The package prominently states that it
16 helps “support a healthy heart.” Ms. Hamzeh read and relied on this statement when purchasing the
17 Product. She would not have purchased the Product at the price she paid if she had known that the
18 Products have not actually been shown to promote heart health.

19 30. The reason that Ms. Hamzeh bought the Product is because she believed that the
20 Products were good for her heart. She read and relied on the statement on the label that the Product
21 “Helps support a healthy heart.” She would not have purchased the Product at the price she paid, if
22 she knew that the Product did not actually support heart health. In fact, knowing the truth, the
23 Product is worthless to her. The economic injury she suffered is the entire purchase price she paid
24 for the Product, as it is worthless.

25 31. Plaintiff wants Nature Made to fix its practices and sell capsules with accurate
26 labeling. If Nature Made fixes their Products, so that the capsules actually do help support heart
27 health, she would buy them again. But given Nature Made’s past deception, Plaintiff cannot rely on
28 Nature Made’s word alone that it has fixed the problem. Plaintiff faces an imminent threat of harm

1 because she will not be able to rely on Nature Made’s labels in the future, and will not be able to buy
2 Nature Made’s Fish Oil Capsules, even if Nature Made claims to have fixed the issue. To buy Nature
3 Made’s Products again, Plaintiff needs the Court to enter an order forbidding Nature Made from
4 claiming that its capsules promote heart health unless the capsules actually promote heart health.

5 **E. No adequate remedy at law.**

6 32. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to
7 seek equitable remedies in the alternative because she has no adequate remedy at law.

8 33. A legal remedy is not adequate if it is not as certain as an equitable remedy. To obtain
9 a full refund as damages, Plaintiff must show that the products they received have essentially no
10 market value. In contrast, Plaintiff can seek restitution without making this showing. This is because
11 Plaintiff purchased products that she would not otherwise have purchased, but for Nature Made’s
12 misrepresentations. Obtaining a full refund at law is less certain than obtaining a refund in equity.

13 34. Also, winning damages under the CLRA requires additional showings not required
14 under the UCL and FAL. For example, to obtain damages under the CLRA, Plaintiff must prove that
15 she complied with the CLRA’s notice requirement. No such requirements exist to obtain restitution.
16 In addition, the CLRA prohibits only particular categories of deceptive conduct. By contrast, the
17 UCL broadly prohibits “unfair” conduct and is thus broader.

18 35. By the same token, Plaintiff’s common law claims require additional showings,
19 compared to her UCL, FAL, or unjust enrichment claims. For example, to prevail on her breach of
20 warranty claim, Plaintiff needs to show that the statements they challenge constitute a warranty and
21 that the warranty was part of the basis of the bargain. No such showings are required by the UCL or
22 FAL, or for an unjust enrichment theory. In fact, the UCL and the FAL were enacted specifically to
23 create new claims and remedies not available at common law. And unjust enrichment exists in part
24 because contractual claims are often more difficult to establish. In this way, Plaintiff’s UCL and
25 FAL claims, and Plaintiff’s unjust enrichment claims, are more certain than her legal claims.

26 36. Finally, the remedies at law available to Plaintiff are not equally prompt or otherwise
27 efficient. The need to schedule a jury trial may result in delay. And a jury trial will take longer, and
28 be more expensive, than a bench trial.

1 **V. Class action allegations.**

2 37. Plaintiff brings the asserted claims on behalf of the proposed class of:

- 3 • Nationwide Class: all persons who, within the applicable statute of limitations period,
4 purchased one or more Nature Made Fish Oil Capsules.
- 5 • Consumer Protection Subclass: all persons who, while in the states of California,
6 Connecticut, Illinois, Maryland, Missouri or New York, and within the applicable
7 statute of limitations period, purchased one or more Nature Made Fish Oil Capsules.
- 8 • California Subclass: all persons who, while in the state of California and within the
9 applicable statute of limitations period, purchased one or more Nature Made Fish Oil
10 Capsules.

11 38. The following people are excluded from the class: (1) any Judge or Magistrate Judge
12 presiding over this action and the members of their family; (2) Defendants, Defendants' subsidiaries,
13 parents, successors, predecessors, and any entity in which the Defendants or their parents have a
14 controlling interest and their current employees, officers, and directors; (3) persons who properly
15 execute and file a timely request for exclusion from the class; (4) persons whose claims in this
16 matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and
17 Defendants' counsel, and their experts and consultants; and (6) the legal representatives, successors,
18 and assigns of any such excluded persons.

19 ***Numerosity & Ascertainability***

20 39. The proposed class contains members so numerous that separate joinder of each
21 member of the class is impractical. There are tens or hundreds of thousands of class members.

22 40. Class members can be identified through Defendants' sales records and public notice.

23 ***Predominance of Common Questions***

24 41. There are questions of law and fact common to the proposed class. Common
25 questions of law and fact include, without limitation:

- 26 (1) whether Defendants made false or misleading statements of fact in their labeling;
27 (2) whether Defendants violated consumer protection statutes;
28 (3) whether Defendants committed a breach of an express or implied warranty;

1 (4) damages needed to reasonably compensate Plaintiff and the proposed class.

2 ***Typicality & Adequacy***

3 42. Plaintiff's claims are typical of the proposed class. Like the proposed class, Plaintiff
4 purchased the Nature Made Fish Oil Capsules. There are no conflicts of interest between Plaintiff
5 and the class.

6 ***Superiority***

7 43. A class action is superior to all other available methods for the fair and efficient
8 adjudication of this litigation because individual litigation of each claim is impractical. It would be
9 unduly burdensome to have individual litigation of millions of individual claims in separate lawsuits,
10 every one of which would present the issues presented in this lawsuit.

11 **VI. Claims.**

12 **First Cause of Action:**

13 **Violations of State Consumer Protection Acts**

14 **(on behalf of all Plaintiff and the Multi-State Consumer Protection Subclass)**

15 44. Plaintiff incorporates each and every factual allegation set forth above.

16 45. As alleged below, Plaintiff brings individual and subclass claims based on California
17 law. For the Multi-State Consumer Protection Subclass, Plaintiff brings this count for violations of
18 state consumer protection laws that are materially-similar to the laws of California, including:

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State	Statute
California	Cal. Bus. & Prof. Code § 17200, and the following; <i>Id.</i> §17500, and the following; Cal. Civ. Code §1750 and the following.
Connecticut	Conn. Gen Stat. Ann. § 42- 110, and the following.
Illinois	815 ILCS § 501/1, and the following.
Maryland	Md. Code Ann. Com. Law, § 13-301, and the following.
Missouri	Mo. Rev. Stat. § 407, and the following.

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1 New York

N.Y. Gen. Bus. Law § 349, and the following.

2
3 46. Each of these statutes is materially similar. Each broadly prohibits deceptive conduct
4 in connection with the sale of goods to consumers. No state requires individualized reliance, or proof
5 of defendant's knowledge or intent. Instead, it is sufficient that the deceptive conduct is misleading
6 to reasonable consumers and that the conduct proximately caused harm.

7 47. As alleged in detail above, Defendants' misrepresentations are misleading to
8 reasonable consumers in a material way. Defendants' false and misleading labeling was a substantial
9 factor in Plaintiff's purchase decisions and the purchase decisions of class members.

10 48. Plaintiff and class members were injured as a direct and proximate result of
11 Defendants' conduct because: (a) they would not have purchased Nature Made Fish Oil Capsules if
12 they had known that the Products have not actually been shown to improve cardiovascular outcomes
13 or promote heart health or (b) they received products that were, in truth, worthless.

14 **Second Cause of Action:**

15 **Violation of California's False Advertising Law Bus. & Prof. Code §§ 17500 & 17501 et. seq.**

16 **(By Plaintiff and the California Subclass)**

17 49. Plaintiff incorporates each and every factual allegation set forth above.

18 50. Plaintiff brings this cause of action on behalf of herself and members of the California
19 Subclass.

20 51. Defendants have violated Sections 17500 and 17501 of the Business and Professions
21 Code.

22 52. Defendants have violated, and continue to violate, Section 17500 of the Business and
23 Professions Code by disseminating untrue and misleading advertisements to Plaintiff and subclass
24 members.

25 53. As alleged more fully above, Defendants falsely advertised their products by falsely
26 representing that Nature Made Fish Oil Capsules support heart health.

27 54. Defendants' misrepresentations were intended to induce reliance, and Plaintiff saw,
28 read, and reasonably relied on the statements when purchasing the Products. In addition, subclass-

1 wide reliance can be inferred because Defendants’ misrepresentations were material, i.e., a
2 reasonable consumer would consider them important in deciding whether to buy the Products.

3 55. Defendants’ misrepresentations were a substantial factor in Plaintiff’s purchase
4 decision and the purchase decision of subclass members.

5 56. Plaintiff and the subclass were injured as a direct and proximate result of Defendants’
6 conduct because: (a) they would not have purchased Nature Made Fish Oil Capsules if they had
7 known that the Products do not actually promote heart health, and (b) they received products that
8 were, in truth, worthless.

9 **Third Cause of Action:**

10 **Violation of California’s Consumer Legal Remedies Act**

11 **(by Plaintiff and the California Subclass)**

12 57. Plaintiff incorporates each and every factual allegation set forth above.

13 58. Plaintiff brings this cause of action on behalf of herself and members of the California
14 Subclass.

15 59. Plaintiff and the subclass are “consumers,” as the term is defined by California Civil
16 Code § 1761(d).

17 60. Plaintiff and the subclass have engaged in “transactions” with Defendants as that term
18 is defined by California Civil Code § 1761(e).

19 61. The conduct alleged in this Complaint constitutes unfair methods of competition and
20 unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was
21 undertaken by Defendants in transactions intended to result in, and which did result in, the sale of
22 goods to consumers.

23 62. As alleged more fully above, Defendants have violated the CLRA by falsely
24 representing that Nature Made Fish Oil Capsules support heart health. Defendants knew, or should
25 have known through the exercise of reasonable care, that these statements were false and misleading.

26 63. Defendants violated, and continues to violate, section 1770 of the California Civil
27 Code.

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1 64. Defendants violated, and continue to violate, section 1770(a)(5) of the California
2 Civil Code by representing that Products offered for sale have characteristics or benefits that they do
3 not have. Defendants represent that their Products have the characteristic of supporting heart health,
4 when in reality they do not.

5 65. Defendants violated, and continue to violate, section 1770(a)(7) of the California
6 Civil Code by representing that Products offered for sale are of a particular standard, quality, or
7 grade, if they are another. Defendants represent that their Products meet the standard of supporting
8 heart health, when in reality they do not.

9 66. And Defendants violated, and continue to violate, section 1770(a)(9) of the California
10 Civil Code. Defendants violated this by advertising their Products as being fit for their intended
11 purpose of supporting heart health, when in fact Defendants do not intend to sell the Products as
12 advertised.

13 67. Defendants' false labeling was likely to deceive, and did deceive, Plaintiff and
14 reasonable consumers. Defendants knew, or should have known through the exercise of reasonable
15 care, that these statements were inaccurate and misleading.

16 68. Defendants' misrepresentations were intended to induce reliance, and Plaintiff saw,
17 read, and reasonably relied on the statements when purchasing the Products. In addition, subclass-
18 wide reliance can be inferred because Defendants' misrepresentations were material, i.e., a
19 reasonable consumer would consider them important in deciding whether to buy the Products.

20 69. Defendants' misrepresentations were a substantial factor in Plaintiff's purchase
21 decision and the purchase decision of subclass members.

22 70. Plaintiff and the subclass were injured as a direct and proximate result of Defendants'
23 conduct because: (a) they would not have purchased Nature Made Fish Oil Capsules if they had
24 known that the Products do not actually promote heart health, and (b) they received products that
25 were, in truth, worthless.

26 71. Accordingly, pursuant to California Civil Code § 1780(a)(2), Ms. Hamzeh, on behalf
27 of herself and all other members of the subclass, seeks injunctive relief.

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1 89. Plaintiff brings this cause of action on behalf of herself and the Nationwide Class.
2 Common law breach of express warranty claims are materially similar in all fifty states. In the
3 alternative, Plaintiff brings this claim under California law for herself and members of the California
4 Subclass.

5 90. Defendant, as the manufacturer, marketer, distributor, supplier, and/or seller of the
6 Nature Made Fish Oil Capsules, issued material, written warranties by representing that the Products
7 help support a healthy heart. This was an affirmation of fact about the Products (i.e., a description of
8 the capsules) and a promise relating to the goods.

9 91. This warranty was part of the basis of the bargain and Plaintiff and class members
10 relied on this warranty.

11 92. In fact, the Nature Made Fish Oil Capsules do not conform to the above-referenced
12 representation because, as alleged in detail above, Nature Made's labeling is inaccurate and the
13 Products have not been shown to support a healthy heart. They do not promote heart health. Thus,
14 the warranty was breached.

15 93. Plaintiff provided Defendants with notice of this breach of warranty, by mailing a
16 notice letter to Defendants' headquarters, on January 17, 2024.

17 94. Plaintiff and class members were injured as a direct and proximate result of
18 Defendants' conduct, and this conduct was a substantial factor in causing harm, because: (a) they
19 would not have purchased Nature Made Fish Oil Capsules if they had known that the Products have
20 not actually been shown to improve cardiovascular outcomes or promote heart health or (b) they
21 received products that were, in truth, worthless.

22 **Sixth Cause of Action:**

23 **Quasi-Contract**

24 **(by Plaintiff and the Nationwide Class)**

25 95. Plaintiff incorporates each and every factual allegation set forth above.

26 96. Plaintiff brings this cause of action on behalf of herself and the Nationwide Class.
27 Common law quasi-contract claims are materially similar in all fifty states. Plaintiff brings this cause
28 of action in the alternative to her Breach of Express Warranty claim (Fifth Cause of Action) on

1 behalf of herself and the Nationwide Class. In the alternative, Plaintiff brings this claim under
2 California law on behalf of herself and the California Subclass.

3 97. As alleged in detail above, Defendants' false and misleading representations caused
4 Plaintiff and the class to purchase wholly worthless Products.

5 98. In this way, Defendants received a direct and unjust benefit, at Plaintiff's expense.

6 99. Plaintiff and the class seek restitution, and in the alternative, rescission.

7 **Seventh Cause of Action:**

8 **Negligent Misrepresentation**

9 **(by Plaintiff and the Nationwide Class)**

10 100. Plaintiff incorporates each and every factual allegation set forth above.

11 101. Plaintiff brings this cause of action on behalf of herself and the Nationwide Class.
12 Common law negligent misrepresentation claims are materially similar in all fifty states. In the
13 alternative, Plaintiff brings this claim under California law for herself and members of the California
14 Subclass.

15 102. As alleged more fully above, Defendants made false representations to Plaintiff and
16 class members concerning their statements that the capsules support a healthy heart.

17 103. These representations were false.

18 104. When Defendants made these misrepresentations, they knew or should have known
19 that they were false. Defendants had no reasonable grounds for believing that these representations
20 were true when made.

21 105. Defendants intended that Plaintiff and class members rely on these representations
22 and Plaintiff and class members read and reasonably relied on them.

23 106. In addition, class-wide reliance can be inferred because Defendants'
24 misrepresentations were material, i.e., a reasonable consumer would consider them important in
25 deciding whether to buy the Nature Made Fish Oil Capsules.

26 107. Defendants' misrepresentations were a substantial factor and proximate cause in
27 causing damages and losses to Plaintiff and class members.

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1 108. Plaintiff and class members were injured as a direct and proximate result of
2 Defendants' conduct because: (a) they would not have purchased Nature Made Fish Oil Capsules if
3 they had known that the Products do not actually promote heart health, and (b) they received
4 products that were, in truth, worthless.

5 **Eighth Cause of Action:**

6 **Intentional Misrepresentation**

7 **(by Plaintiff and the California Subclass)**

8 109. Plaintiff incorporates each and every factual allegation set forth above.

9 110. Plaintiff brings this cause of action on behalf of herself and members of the California
10 Subclass.

11 111. As alleged more fully above, Defendants made false representations to Plaintiff and
12 class members concerning their statements that the capsules support a healthy heart.

13 112. These representations were false.

14 113. When Defendants made these misrepresentations, they knew that they were false at
15 the time that it made them and/or acted recklessly in making the misrepresentations.

16 114. Defendants intended that Plaintiff and class members rely on these representations
17 and Plaintiff and subclass members read and reasonably relied on them.

18 115. In addition, subclass-wide reliance can be inferred because Defendants'
19 misrepresentations were material, i.e., a reasonable consumer would consider them important in
20 deciding whether to buy the Products.

21 116. Defendants' misrepresentations were a substantial factor and proximate cause in
22 causing damages and losses to Plaintiff and class members.

23 117. Plaintiff and class members were injured as a direct and proximate result of
24 Defendants' conduct because: (a) they would not have purchased Nature Made Fish Oil Capsules if
25 they had known that the Products do not actually promote heart health and (b) they received products
26 that were, in truth, worthless.

27 **VII. Relief.**

28 118. Plaintiff seeks the following relief for herself and the proposed class:

- 1 • An order certifying the asserted claims, or issues raised, as a class action;
- 2 • A judgment in favor of Plaintiff and the proposed class;
- 3 • Damages, treble damages, and punitive damages where applicable;
- 4 • Restitution;
- 5 • Rescission;
- 6 • Disgorgement, and other just equitable relief;
- 7 • Pre- and post-judgment interest;
- 8 • An injunction prohibiting Defendants' deceptive conduct, as allowed by law;
- 9 • Reasonable attorneys' fees and costs, as allowed by law;
- 10 • Any additional relief that the Court deems reasonable and just.

11 **VIII. Demand for Jury Trial.**

12 119. Plaintiff demands the right to a jury trial on all claims so triable.

14 Dated: April 29, 2024

Respectfully submitted,

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