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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GLENN LIOU, on behalf of himself and all others similarly situated,

Plaintiff,

v.

YOUR SIGNATURE SUPPLEMENTS, LLC,

Defendant.

Case No: **'24CV0102 RSH VET**

CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE UNFAIR COMPETITION LAW

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Plaintiff Glenn Liou, on behalf of himself, all others similarly situated, and the general public, by and through his undersigned counsel, hereby sues Defendant Your Signature Supplements, LLC ("Defendant" or "YSS") and upon information and belief and investigation of counsel, alleges as follows:

I. JURISDICTION AND VENUE

1. Jurisdiction is proper because Defendant is a citizen of California and because all claims are asserted under the laws of California and relate to a product that is sold by Defendant in California.

2. Venue is proper under Bus. & Prof. Code § 17203 because YSS conducts continuous business in this District and sold hundreds of the products at issue in this District, and because hundreds of class members, reside in this District and were harmed by the conduct of Defendant in this District.

II. NATURE OF THE ACTION

3. YSS manufactures, markets, and distributes a suite of nutritional supplements, including a "supplement" called Dementia/Alzheimer's Support ("DAS").

4. YSS markets DAS as product which can purportedly improve cognitive function, reduce symptoms of memory loss, prevent neural damage, and reduce the risk of Alzheimer's disease and dementia.

5. YSS markets DAS as a product capable of providing benefits akin to those which prescription drugs would provide.

6. These claims are contrary to those allowed by the Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq*. ("FDCA"), and subject any individual manufacturing or selling DAS to liability for the sale of an unapproved new drug.

7. Defendant's representations mislead consumers into believing that DAS is safe and effective for its intended purposes.

8. Plaintiff Glenn Liou purchased and used DAS in reliance upon these claims, and with the belief that the product was sold in compliance with state and federal regulations.

9. Mr. Liou used DAS as directed, but the product failed to deliver the advertised benefits, nor any results at all.

10. YSS promotes DAS as capable of providing benefits akin to those prescription drugs would provide, when in truth, DAS cannot deliver the advertised benefits.

11. This action is brought to remedy Defendant's unfair and unlawful conduct. On behalf of the class defined herein, Plaintiff seeks an order compelling YSS to, *inter alia*: (1) cease marketing and selling DAS as an illegal unapproved new drug; (2) conduct a corrective advertising campaign; (3) destroy all unlawful marketing materials and products; (4) award Plaintiff and the Class members restitution; and (5) pay costs, expenses, and attorney fees.

III. PARTIES

12. Defendants Your Signature Supplements, LLC is a Florida corporation with its principal place of business in San Clemente, CA.

13. During the class period, YSS owned, manufactured, distributed, and sold a suite of unapproved drugs, including Dementia/Alzheimer's Support ("DAS").

14. YSS sold DAS throughout California and the United States during the Class Period defined herein.

15. Plaintiff Glenn Liou is a citizen of New Jersey who purchased DAS during the class period for personal consumption.

IV. REGULATORY BACKGROUND

16. The

> Dietary Supplement Health and Education Act (DSHEA) of 1994, which amended the Federal Food, Drug, and Cosmetic Act, transformed FDA's authority to regulate dietary supplements. Under DSHEA, FDA is not authorized to approve dietary supplements for safety and effectiveness before they are marketed. In fact, in many cases, firms can lawfully introduce dietary supplements to the market without even notifying FDA. Since DSHEA was enacted, the dietary supplement market has grown significantly. For example, the number of products has expanded nearly

twenty times since 1994.[1]

17. In a press release issued on February 11, 2019, the FDA stated:

> The U.S. Food and Drug Administration today posted 12 warning letters . . . and 5 online advisory letters . . . issued to foreign and domestic companies that are illegally selling more than 58 products, many that are sold as dietary supplements, which are unapproved new drugs and/or misbranded drugs that claim to prevent, treat or cure Alzheimer's disease and a number of other serious diseases and health conditions. These products, which are often sold on websites and social media platforms, have not been reviewed by the FDA and are not proven safe and effective to treat the diseases and health conditions they claim to treat. These products may be ineffective, unsafe and could prevent a person from seeking an appropriate diagnosis and treatment.[2]

18. In the same press release, FDA Commissioner Scott Gottlieb, M.D. noted that:

> "Science and evidence are the cornerstone of the FDA's review process and are imperative to demonstrating medical benefit, especially when a product is marketed to treat serious and complex diseases like Alzheimer's. **Alzheimer's is a challenging disease that, unfortunately, has no cure. Any products making unproven drug claims could mislead consumers to believe that such therapies exist and keep them from accessing therapies that are known to help support the symptoms of the disease, or worse as some fraudulent treatments can cause serious or even fatal injuries**. Simply put, health fraud scams prey on vulnerable populations, waste money and often delay proper medical care – and we will continue to take action to protect patients and caregivers from misleading, unproven products."

Id. (emphasis added).

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[1] U.S. Food & Drug Admin., Information for Consumers on Using Dietary Supplements (October 21, 2022), available at https://www.fda.gov/food/dietary-supplements/information-consumers-using-dietary-supplements.

[2] U.S. Food & Drug Admin., FDA Takes Action Against 17 Companies for Illegally Selling Products Claiming to Treat Alzheimer's Diseases (February 11, 2019), available at https://www.fda.gov/news-events/press-announcements/fda-takes-action-against-17-companies-illegally-selling-products-claiming-treat-alzheimers-disease.

19. "The term 'drug' means . . . (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals." 21 U.S.C. § 321(g)(1).

20. A "new drug" is any drug "not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the condition prescribed, recommended, or suggested in the labeling thereof . . ." 21 U.S.C. § 321(p)(1).

21. Pursuant to 21 U.S.C § 355(a), "No person shall introduce or deliver for introduction into interstate commerce any new drug . . ." without approval by the FDA.

22. Further, 21 U.S.C. § 331(a) prohibits the "introduction or delivery for introduction into interstate commerce of any food, drug, device, tobacco product, or cosmetic that is adulterated or misbranded."

23. Pursuant to 21 U.S.C. § 352(f), drugs are required to have adequate instructions for safe use.

V. THE SALE OF UNAPPROVED DRUGS POSES A GRAVE DANGER TO PUBLIC HEALTH.

24. "Unapproved prescription drugs pose significant risks to patients because they have not been reviewed by FDA for safety, effectiveness or quality."[3]

25. "Without FDA review, there is no way to know if these drugs are safe and effective for their intended use, whether they are manufactured in a way that ensures consistent drug quality or whether their label is complete and accurate." *Id.*

26. "Unapproved drugs have resulted in patient harm, and the [FDA] works to protect patients from the risks posed by these drugs." *Id.*

[3] U.S. Food & Drug Admin., Unapproved Drugs (June 2, 2021), available at https://www.fda.gov/drugs/enforcement-activities-fda/unapproved-drugs.

27. Further, unapproved drugs lack "labels and prescribing information that has" "been reviewed by FDA for accuracy and completeness."[4]

28. Consumers using unapproved drugs also run the risk of "unexpected and undocumented safety concerns due to lack of rigorous pre- and postmarket safety surveillance." *Id.*

29. Additionally, unapproved drugs lead consumers in need of medical treatment to forego medically proven therapies.

VI. YSS MARKETS DAS WITH DECEPTIVE AND UNLAWFUL EFFICACY CLAIMS.

30. Defendant YSS markets DAS with claims which suggest that the product can affect the structure or function of the human body and cure, mitigate, or treat disease.

31. These claims render the product a "drug."

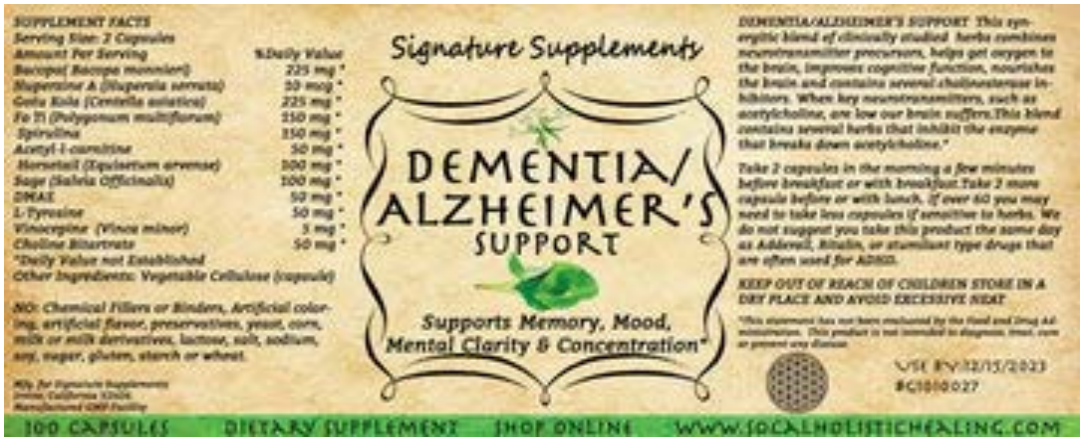
32. However, Defendant failed to obtain FDA approval to market and distribute DAS in violation 21 U.S.C. § 355.

33. During the Class Period, Defendant manufactured, marketed, distributed, and sold Dementia/Alzheimer's Support ("DAS") in packaging bearing claims which suggest the product can mitigate, cure, or treat dementia, Alzheimer's disease, and cognitive decline and which can affect the structure and function of the human body by preventing neuronal damage.

34. Specifically, the DAS label claims the product is a "synergistic blend of clinically studied herbs" which "combines neurotransmitter precursors, helps get oxygen to the brain, improves cognitive function, nourishes the brain and contains several cholinesterase inhibitors" and that the "blends contain several herbs that inhibit the enzyme that breaks down acetylcholine." Defendants further claim that DAS improves "memory, mood, mental clarity & concentration."

[4] U.S. Food & Drug Admin., Unapproved Drugs and Patient Harm (June 2, 2021), https://www.fda.gov/drugs/enforcement-activities-fda/unapproved-drugs-and-patient-harm.


Signature Supplements
DEMENTIA/
ALZHEIMER'S
SUPPORT
Supports Memory, Mood,
Mental Clarity & Concentration*
SHOP ONLINE


SUPPLEMENT FACTS
Serving Size: 2 Capsules
Amount Per Serving
%Daily Value
Bacopa(Bacopa monnieri) 225 mg *
Huperzine A (Huperzia serrata) 50 mcg *
Gotu Kola (Centella asiatica) 225 mg *
Fo Ti (Polygonum multiflorum) 150 mg *
Spirulina 150 mg *
Acetyl-l-carnitine 50 mg *
Horsetail (Equisetum arvense) 100 mg *
Sage (Salvia Officinalis) 100 mg *
DMAE 50 mg *
L-Tyrosine 50 mg *
Vinocepine (Vinca minor) 5 mg *
Choline Bitartrate 50 mg *
*Daily Value not Established
Other Ingredients: Vegetable Cellulose (capsule)
NO: Chemical Fillers or Binders, Artificial color-ing, artificial flavor, preservatives, yeast, corn, milk or milk derivatives, lactose, salt, sodium, soy, sugar, gluten, starch or wheat.
Signature Supplements
DEMENTIA/
ALZHEIMER'S
SUPPORT
Supports Memory, Mood,
Mental Clarity & Concentration*
DEMENTIA/ALZHEIMER'S SUPPORT This synergistic blend of clinically studied herbs combines neurotransmitter precursors, helps get oxygen to the brain, improves cognitive function, nourishes the brain and contains several cholinesterase inhibitors. When key neurotransmitters, such as acetylcholine, are low our brain suffers.This blend contains several herbs that inhibit the enzyme that breaks down acetylcholine."
Take 2 capsules in the morning a few minutes before breakfast or with breakfast.Take 2 more capsule before or with lunch. If over 60 you may need to take less capsules if sensitive to herbs. We do not suggest you take this product the same day as Adderall, Ritalin, or stumilant type drugs that are often used for ADHD.
KEEP OUT OF REACH OF CHILDREN STORE IN A DRY PLACE AND AVOID EXCESSIVE HEAT
*This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.
USE BY:12/15/2023
#C1000027
100 CAPSULES
DIETARY SUPPLEMENT
SHOP ONLINE
WWW.SOCALHOLISTICHEALING.COM

35. Further, during the class period YSS advertised DAS with claims that suggest the product can provide benefits akin to those of a prescription drug.

36. The DAS label and Defendant's website contained the following claims, which show the product is intended to affect the structure and function of the body, and to cure, mitigate, treat, or prevent disease, during the Class Period:

- "Dementia/Alzheimer's Support"
- "Supports Memory, Mood, Mental Clarity & Concentration"
- "This synergistic blends of clinically studied herbs combines neurotransmitter precursors, helps get oxygen to the brain, improves cognitive function, nourishes the brain and contains several cholinesterase inhibitors."
- "Brain Boost IQ"
- "Brain Health"
- "Focus Advantage"
- "shown to reduce symptoms of memory loss" as "well as prevent neuronal damage caused by amyloid-beta plaques, which accumulate in the brain during Alzheimer's disease."

37. These claims suggest that DAS can decrease memory loss, improve cognitive function and concentration, and prevent dementia and Alzheimer's disease. Further, the claims render DAS a "drug" within the meaning of 21 U.S.C. § 321(g)(1)

38. A true and correct copy of the Dementia/Alzheimer's Support page from Defendant's website is attached hereto as **Exhibit 1**.

39. The FDA maintains a database of drugs which it has approved at https://www.accessdata.fda.gov/scripts/cder/daf/index.cfm.

40. Attached hereto as **Exhibit 2** are search results from this FDA database, showing that the search term "Dementia/Alzheimer's Support" "did not return any results."

41. Thus, YSS failed to obtain FDA approval prior to marketing, distributing, and selling DAS.

VII. DAS IS AN UNAPPROVED DRUGS.

42. The term 'drug' means . . . (B) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (C) articles

(other than food) intended to affect the structure or any function of the body of man or other animals." 21 U.S.C. § 321(g)(1).

43. Here, DAS is an unapproved "drug" for regulatory purposes because it is advertised as a product which will cure, mitigate, treat, or prevent disease such as dementia and Alzheimer's disease and which will affect the structure or function of the body by preventing neuronal damage, inhibiting cholinesterase, decreasing memory loss, and improving cognitive function and concentration.

44. The claims on the packaging and website of DAS render it an unapproved new drug.

45. The FDA has determined that the following claims, which are similar to those Defendant makes regarding DAS, constitute "drug claims":

- "Rich in medicinal properties, Lion's Mane mushrooms are thought to guard against dementia" (**Exhibit 3**, FDA Warning Letter to Lone Star Botanicals);
- "eliminate dementia and Alzheimer's disease" (**Exhibit 4**, FDA Warning Letter to Hekma Center, LLC);
- "Lion's Mane May Be Effective in Combating Dementia/Alzheimer's Disease" (**Exhibit 5**, FDA Warning Letter to Brilliant Enterprises, LLC)
- "Reduces Risk for Dementia/Alzheimer's" (**Exhibit 6**, FDA Warning Letter to Spartan Enterprises, Inc.);
- "6 grams (2 tsp or 12 capsules) per day if you have memory issues or DEMENTIA" (**Exhibit 6**);
- "Magnesium repairs the damaged synapses of the brain" (**Exhibit 6**)
- "Decreases the Onset Of Memory Loss" (**Exhibit 6**);
- "Repairs Damaged Synapses" (**Exhibit 6**);
- "Reduces Symptoms of Psychiatric Disorders and Dementia" (**Exhibit 7**, FDA Warning to Moorish Science Temple)
- "Improves memory and mood in Alzheimer's patients" (**Exhibit 7)**
- "Ginko Biloba has been repeatedly evaluated for its ability to reduce anxiety, stress and other symptoms associated with Alzheimer's disease" (**Exhibit 7**)

46. A "new drug" is any drug "not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as

safe and effective for use under the condition prescribed, recommended, or suggested in the labeling thereof . . . .” 21 U.S.C. § 321(p)(1). Here, DAS is a “new drug” within the meaning of the FDCA because it is not generally recognized as safe and effective for its intended use. *See* Title 21 of the Code of Federal Regulations, Chapter I, Subchapter D; 21 C.F.R. § 330.1.

47. “No person shall introduce or deliver for introduction into interstate commerce any new drug . . .” without approval by the FDA. 21 U.S.C § 355(a); *see also* 21 U.S.C. § 331(d).

48. Defendant has not received approval from the FDA to sell DAS.

49. The sale of unapproved new drugs is illegal and dangerous. First, consumers risk purchasing and using a product that will endanger their health. Second, consumers risk purchasing a product that will not effectively treat their condition, forgoing actual treatment of that condition in lieu of an unapproved new drug which may not treat their condition. The FDA’s regulatory regimen helps ensure that such products are kept away from consumers.

50. Defendant’s failure to comply with these regulations puts consumers at risk and gives Defendant an unfair advantage over competitors that do commit the time and expense of complying with such necessary regulations.

51. DAS does not qualify for the reduced level of regulation applicable to certain nutrition supplement products for several reasons. The challenged marketing materials neither describe the role of any nutrient or dietary ingredient intended to affect the structure or function in humans, characterize the documented mechanism by which any nutrient or dietary ingredient acts to maintain such structure or function, nor describe general well-being from consumption of any nutrient or dietary ingredient. 21 U.S.C. § 343(r)(6)(A).

52. California similarly prohibits the sale of unapproved new drugs. Cal. Health & Saf. Code § 111550.

VIII. DEFENDANT'S ADVERTISING FOR DAS IS FALSE AND MISLEADING, RENDERING THE PRODUCTS MISBRANDED.

53. It is unlawful to manufacture or sell any drug that is misbranded. 21 U.S.C. § 331(a), (b), (c), & (g).

54. A drug is misbranded "[i]f its labeling is false or misleading in any particular."[5] 21 U.S.C. § 352(a)(1).

> If an article is alleged to be misbranded because the labeling or advertising is misleading, then in determining whether the labeling or advertising is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, or any combination thereof, but also the extent to which the labeling or advertising fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the articles to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising thereof or under such conditions of use as are customary or usual.

21 U.S.C.S. § 321(n).

55. Defendant's deceptive efficacy representations regarding DAS described herein render the product misbranded pursuant to Cal. Health & Saf. Code § 110100 (adopting all FDA labeling regulations as state regulations), § 110398 ("It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded."), § 111330 (drug label misbranded if false or misleading in any particular), and further violate Cal. Bus. & Prof. Code § 17200 (Unfair Competition Law "Fraudulent" Prong) § 17500 (False Advertising Law) and Cal. Civ. Code § 1750 (CLRA).

56. Because DAS claims to treat conditions not amenable to self-diagnosis, directions are not and likely cannot be written such that a layperson can safely use this product to treat those conditions. The label of DAS therefore lacks "adequate directions for

[5] Under the FDCA, "'labeling' means all labels and other written, printed, or graphic matters (1) upon any article or any of its containers or wrappers, or (2) accompanying such article." 21 U.S.C. § 321(m). This includes websites associated with the products." See *Sandoval v. Pharmacare US, Inc.*, 730 Fed. App'x 417, 420 (9th Cir. 2018).

use," rendering the product misbranded. 21 U.S.C. § 352(f)(1); *see also* 21 C.F.R. § 201.5 ("'Adequate directions for use' means directions under which the layman can use a drug safely and for the purposes for which it is intended.").

57. Plaintiff used DAS, as directed, but it failed to deliver the advertised benefits.

IX. DEFENDANT'S PRACTICES WERE "UNFAIR" WITHIN THE MEANING OF THE CALIFORNIA UNFAIR COMPETITION LAW.

58. Defendant's practices as described herein are "unfair" within the meaning of the California Unfair Competition Law because YSS's conduct is immoral, unethical, unscrupulous, and substantially injurious to consumers, and the utility of this conduct to Defendant does not outweigh the gravity of the harm to Defendant's victims.

59. In particular, while Defendant's marketing of DAS with "drug" claims as defined by 21 U.S.C. § 321(g) and absent FDA approval to do so allowed YSS to realize higher profit margins than if it did not use unlawful marketing tactics, this utility is small and far outweighed by the gravity of the economic harm and potential physical harm Defendant inflicts upon consumers. Further, the injury to consumers from Defendant's practices is substantial, not outweighed by benefits to consumers or competition, and not an injury that consumers themselves could reasonably have avoided.

X. DEFENDANT'S PRACTICES WERE "UNLAWFUL" WITHIN THE MEANING OF THE CALIFORNIA UNFAIR COMPETITION LAW.

60. Defendant's practices as described herein are "unlawful" within the meaning of the California Unfair Competition Law because the marketing, sale, and distribution of DAS violates the Federal Food, Drug, and Cosmetic Act, as well as California's Sherman Food, Drug, and Cosmetic Law.

61. Defendant's conduct described herein is "unlawful" because it violated the following portions of the Federal Food, Drug, and Cosmetic Act ("FDCA"):

- **21 U.S.C. § 331(a)**, prohibiting the "introduction or delivery for introduction into interstate commerce of any food, drug, device, tobacco product, or cosmetic that is adulterated or misbranded";

- **21 U.S.C. § 331(b)**, prohibiting the "adulteration or misbranding of any food, drug, device, tobacco product, or cosmetic in interstate commerce";
- **21 U.S.C. § 352(f)(1)**, requiring drugs to have adequate directions for use
- **21 U.S.C. § 355(a)**, prohibiting the sale of unapproved new drugs.

62. Defendant's conduct described herein also violates multiple provisions of California law including, *inter alia*:

- **Cal. Health & Saf. Code § 110100 *et seq.***, which adopts all FDA labeling regulations as state regulations;
- **Cal. Health & Saf. Code § 111330**, "Any drug or device is misbranded if its labeling is false or misleading in any particular.";
- **Cal. Health & Saf. Code § 110398**, "It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded.";
- **Cal. Health & Saf. Code § 111440**, "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.";
- **Cal. Health & Saf. Code § 111445**, "It is unlawful for any person to misbrand any drug or device.";
- **Cal. Health & Saf. Code § 111450**, "It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device.";
- **Cal. Health & Saf. Code § 111550**, prohibiting sale of new drug unless approved under 21 U.S.C. § 355.

63. YSS's unlawful marketing and advertising of DAS constitute violations of the FDCA and the Sherman Law and, as such, violated the "unlawful" prong of the UCL.

64. Defendant's unlawful acts allowed it to sell more units of DAS, than it would have otherwise, and at a higher price and higher margin.

65. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining Defendant from continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices and to commence a corrective advertising campaign.

66. Plaintiff also seeks an order for the disgorgement and restitution of all revenue received by Defendants from the sale of DAS.

XI. PLAINTIFF'S PURCHASE OF DAS AND RELATED INJURY

67. Plaintiff Glenn Liou purchased DAS from Defendant's website, www.yoursignaturesupplements.com, on March 13, 2023.

68. When Liou purchased DAS, he was seeking a safe and effective product which would improve cognitive performance, decrease memory loss, and prevent dementia and Alzheimer's disease, and which was sold in compliance with FDA regulations and California law.

69. Liou purchased DAS believing it had the qualities he sought based on the product's labeling and website and the natural assumption that products sold in stores and online by supplement manufacturers and distributors would be sold in compliance with FDA regulations and California law.

70. Plaintiff purchased DAS instead of competing products based on Defendant's unlawful conduct described herein.

71. Plaintiff suffered economic injury when he purchased DAS because it was not safe and effective and because it was sold in violation of FDA regulations and California law.

72. Plaintiff would not have purchased DAS had he known that that product was ineffective and sold in violation of federal and California law.

73. DAS was offered for sale in violation of California and federal law and has a value of $0 because it is both illegal and ineffective.

74. Plaintiff would consider purchasing DAS in the future if he could be assured that the product is (1) safe and effective and (2) sold in compliance with all FDA regulations and California law.

XII. DELAYED DISCOVERY

75. Plaintiff did not discover that Defendant's behavior was unfair and unlawful until January 2024, when he learned that YSS had been selling DAS in violation of federal and California law for years. Until this time, he lacked the knowledge regarding the facts of his claims against YSS.

76. Plaintiff is a reasonably diligent consumer who exercised reasonable diligence in his purchase, use, and consumption of DAS. Nevertheless, he would not have been able to discover Defendant's unfair and unlawful practices and lacked the means to discover them given that, like nearly all consumers, he is not an expert on FDA regulations or California law pertaining to the marketing of drugs.

XIII. ADDITIONAL TOLLING ALLEGATIONS

77. At all relevant times, YSS was aware that its marketing of DAS violated FDA regulations and California law.

78. As a supplement producer and distributor, Defendant had a continuing and affirmative moral and legal obligation to refrain from marketing and selling supplements with claims that violate FDA regulations and California law.

79. Class members had no duty and no reason to inquire as to whether DAS was marketed in violation of state and federal law. California, as a matter of economic regulation, places the burden of ensuring that supplements are safe, effective, and sold in compliance with FDA regulations and California law, on their manufacturers, not the general public.

80. Reasonable consumers, including Plaintiff, had no reason to suspect YSS's unfair competition and violations of federal and state law prohibiting the sale of unapproved and misbranded drugs.

81. YSS owed a special duty to Plaintiff and all Class Members, akin to a fiduciary duty, which it violated by marketing DAS with claims that suggest the product can affect the structure or function of the human body or can treat, mitigate, or cure disease without obtaining FDA approval to do so. During the entire Class Period, YSS was aware that its conduct was oppressive and cruel, causing economic injury and discouraging consumers from seeking medically proven treatments, yet consciously continued these acts for years while knowing the extent of the harm it was causing. Equity and the public policy of California, embodied in its statutes, jointly demand, in such circumstance, that laches and tolling cannot apply in such a way to permit Defendant to continue to enjoy the fruits of its

intentional, cruel, oppressive, and unlawful acts.

XIV. CLASS ACTION ALLEGATIONS

82. Plaintiff brings this action on behalf of himself, and all others similarly situated (the "Class"), excluding Defendant's officers, directors, and employees, and the Court, its officers and their families. The Class is defined as:

> All individuals who purchased Dementia/Alzheimer's Support in the United States for their own personal or household use, and not for resale, from January 1, 2015 to the present.

83. Questions of law and fact common to Plaintiff and the Class include:

a. Whether Defendant's conduct constituted a violation of the unfair prong of California's Unfair Competition Law;

b. Whether Defendant's conduct constituted a violation of the unlawful prong of California's Unfair Competition Law;

c. Whether Defendant's conduct was immoral, unethical, unscrupulous, or substantially injurious to consumers;

d. Whether the slight utility Defendant realized as a result of its conduct outweighs the gravity of the harm the conduct caused to its victims;

e. Whether Defendant's conduct violated public policy as declared by specific constitutional, statutory, or regulatory provisions;

f. Whether the injury to consumers from Defendant's practices is substantial;

g. Whether the injury to consumers from Defendant's practices is outweighed by benefits to consumers or competition;

h. Whether Class members are entitled to restitution;

i. Whether Class members are entitled to an injunction and, if so, its terms; and

j. Whether Class members are entitled to any further relief.

84. By purchasing DAS, all Class members were subjected to the same wrongful conduct.

85. Plaintiff's claims are typical of the Class's claims because all Class members

were subjected to the same economic harm when they purchased DAS and suffered economic injury.

86. Plaintiff will fairly and adequately protect the interests of the Class, has no interests that are incompatible with the interests of the Class, and has retained counsel competent and experienced in class litigation.

87. The Class is sufficiently numerous, as it includes thousands of individuals who purchased DAS in the United States during the Class Period.

88. Class representation is superior to other options for the resolution of the controversy. The relief sought for each Class member is small, as little as $15 for some Class members. Absent the availability of class action procedures, it would be infeasible for Class members to redress the wrongs done to them.

89. Questions of law and fact common to the Class predominate over any questions affecting only individual members.

CAUSES OF ACTION

First Cause of Action

Unfair Competition Law, Unfair Prong

Cal. Bus. & Prof. Code §§ 17200 *et seq.*

90. In both causes of action, Plaintiff realleges and incorporates by reference each and every allegation contained elsewhere in the Complaint, as if fully set forth herein.

91. The business practices and omissions of Defendants as alleged herein constitute "unfair" business acts and practices in that Defendant's conduct is immoral, unethical, unscrupulous, and substantially injurious to consumers and the utility of its conduct, if any, does not outweigh the gravity of the harm to Defendant's victims.

92. Further, Defendant's practices were unfair because they violated public policy as declared by specific constitutional, statutory, or regulatory provisions, including those embodied in the FDCA and the California Health and Safety Code.

93. Moreover, Defendant's practices were unfair because the injury to consumers from Defendant's practices was substantial, not outweighed by benefits to consumers or

competition, and not one that consumers themselves could reasonably have avoided or should be obligated to avoid.

Second Cause of Action

Unfair Competition Law, Unlawful Prong

Cal. Bus. & Prof. Code §§ 17200 *et seq.*

94. Defendant has made and distributed, in interstate commerce and in this state, products that were marketed with unlawful "drug claims" without obtaining FDA approval to do so.

95. Defendant's conduct violated the following portions of the Federal Food, Drug, and Cosmetic Act ("FDCA"):

- **21 U.S.C. § 331(a)**, prohibiting the "introduction or delivery for introduction into interstate commerce of any food, drug, device, tobacco product, or cosmetic that is adulterated or misbranded";
- **21 U.S.C. § 331(b)**, prohibiting the "adulteration or misbranding of any food, drug, device, tobacco product, or cosmetic in interstate commerce";
- **21 U.S.C. § 352(f)(1)**, requiring drugs to have adequate directions for use;
- **21 U.S.C. § 355(a)**, prohibiting the sale of unapproved new drugs; and

96. Defendants' conduct also violates other provisions of California law including, *inter alia:*

- **Cal. Health & Saf. Code § 110100 *et seq.***, which adopts all FDA regulations as state regulations;
- **Cal. Health & Saf. Code § 111330**, "Any drug or device is misbranded if its labeling is false or misleading in any particular.";
- **Cal. Health & Saf. Code § 110398**, "It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded.";
- **Cal. Health & Saf. Code § 111440**, "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.";
- **Cal. Health & Saf. Code § 111445**, "It is unlawful for any person to misbrand any drug or device.";
- **Cal. Health & Saf. Code § 111450**, "It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device.";

- **Cal. Health & Saf. Code § 111550**, prohibiting sale of new drug unless approved under 21 U.S.C. § 355.

97. The challenged labeling and website statements made by Defendant thus constitute violations of the FDCA and the Sherman Law and, as such, violated the "unlawful" prong of the UCL.

98. Defendant employed unlawful marketing tactics to induce Plaintiff and members of the Class to purchase products that were of lesser value and quality than advertised and which were not safe and effective, or FDA approved.

99. The marketing and sale of DAS described herein constitute violations of the FDCA and the Sherman Law and, as such, violated the "unlawful" prong of the UCL.

100. Had Plaintiff known that DAS was offered for sale in violation of California and federal regulations, he would not have purchased it.

101. Had class members known that DAS was offered for sale in violation of California and federal regulations, they would not have purchased it.

102. Plaintiff suffered injury in fact and lost money or property as a result of Defendant's unlawful conduct: he was denied the benefit of the bargain when he decided to purchase DAS over competing products, which are legal, less expensive, and do not make drug claims on their packaging and web properties.

103. Defendants' unlawful acts allowed it to sell more units of DAS than it would have otherwise, and at a higher price, and higher margin.

104. Had Plaintiff been aware of Defendant's unlawful marketing tactics, he would not have purchased DAS, and had Defendant not advertised DAS in an unlawful manner, Plaintiff would have paid less for it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, all others similarly situated, and the general public, prays for judgment against Your Signature Supplements, LLC as follows:

A. An order confirming that this class action is properly maintainable as a class action as defined above, appointing Plaintiff and his undersigned counsel to represent the Class, and requiring YSS to bear the cost of class notice;

B. An award of restitution of $10 million;

C. An order requiring YSS to conduct a corrective advertising campaign;

D. Declaratory relief that the conduct alleged herein is unlawful;

E. Pre-judgment, and post-judgment interest; and

F. An award of attorney fees and costs.

NO JURY DEMAND

Plaintiff makes no jury demand.

DATED: January 16, 2024

Respectfully Submitted,

THE WESTON FIRM
GREGORY S. WESTON

Counsel for Plaintiff Glenn Liou