

1 PEARSON, SIMON &
2 WARSHAW, LLP
3 Daniel L. Warshaw
4 dwarshaw@pswlaw.com
5 Michael H. Pearson
6 mpearson@pswlaw.com
7 15165 Ventura Blvd., Suite 400
8 Sherman Oaks, CA 91403
9 Tel: (818) 788-8300
10 Fax: (818)788-8104

LEVIN, PAPANTONIO, THOMAS,
MITCHELL, RAFFERTY & PROCTOR, PA
Matthew D. Schultz
mschultz@levinlaw.com
Brenton Goodman
bgoodman@levinlaw.com
316 S. Baylen St., Suite 600
Pensacola, FL 32502
Tel: (850) 435-7140
Fax: (850) 436-6140

WHITFIELD, BRYSON &
MASON, LLP
Daniel K. Bryson
dan@wbmlp.com
900 W Morgan St
Raleigh, NC 27603
Tel: (919) 600-5000
Fax: (919) 600-5035

GREG COLEMAN LAW, PC
Gregory F. Coleman
greg@gregcolemanlaw.com
800 S. Gay St., Suite 1100
Knoxville, TN 37929
Tel: (865) 247-0080
Fax: (865) 522-0049

Counsel for Plaintiffs & the Proposed Class & Subclass

11
12
13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15
16 JUSTIN LYTLE and CHRISTINE
17 MUSTHALER,

18 Plaintiffs

19 vs.

20 NUTRAMAX LABORATORIES, INC.
21 and NUTRAMAX LABORATORIES
22 VETERINARY SCIENCES, INC.

23 Defendants

)
)
) Case No.: 5:19-cv-00835-JBG-SP
) **SECOND AMENDED CLASS ACTION**
) **COMPLAINT FOR:**
) **(1) Violations of Cal. Civil Code § 1750**
) **(CLRA)**
) **(2) Violations of Various State**
) **Consumer Protection Laws**
)
) **DEMAND FOR JURY TRIAL**
)
)
)
)
)

1 Plaintiffs Justin Lytle and Christine Musthaler, on behalf of themselves and all
2 others similarly situated (“the Class” or “Class members,” as defined below), bring this
3 Second Amended Class Action Complaint against Defendants Nutramax Laboratories,
4 Inc., and Nutramax Laboratories Veterinary Sciences, Inc., (collectively, “Defendants”) based upon Defendants’ misrepresentations concerning the benefits and effectiveness of
5 their canine supplements branded under the name Cosequin. The Court has subject
6 matter jurisdiction over this action pursuant to 28 USC § 1332.

8 NATURE OF THE ACTION

9 1. This is a class action on behalf of purchasers of Defendants’ Cosequin canine
10 joint health supplements, (“Cosequin” or “the Products”), for which Defendants make
11 incomplete and inaccurate claims—both in advertising and on the packaging and
12 packages—that would mislead and have in fact misled reasonable consumers into
13 purchasing, using, and continuing to use the Products. Defendants’ claims are refuted by
14 peer-reviewed, randomized, controlled clinical trials as alleged in detail below.

15 2. Defendants research, develop, manufacture, market and sell supplements and
16 nutraceuticals (foods or nutrients with purported medicinal or therapeutic benefits) both
17 for human consumption and for consumption by household pets and other animals.

18 3. Among the products is Cosequin, which Defendants market as the “#1
19 veterinarian-recommended retail joint health supplement brand” for dogs.

20 4. Defendants hold Nutramax family of companies out as the “Leader in Joint
21 Health.”

22 5. Defendants tout the Products as high-quality, “scientifically researched,”
23 efficacious nutritional supplements that are subject to strict quality standards and which
24 have been “[s]hown to be safe, *effective*, and absorbable in peer-reviewed, published,
25 controlled, U.S. veterinary studies.” Defendants claim through imagery and text that,
26 among other things, the products enhance joint flexibility and mobility and that they
27 support or restore joint health, none of which is supported by any reliable science.

28 6. Defendants’ representations are not substantiated by any randomized,

1 controlled, peer-reviewed, published studies, and the published studies upon which
2 Defendants' representations rely pertain to other products; are of poor quality; and are not
3 generalizable. Defendants fail to reference the randomized, controlled, peer-reviewed,
4 published studies directly contradicting Defendants' representations. In all, Defendants'
5 representations in advertising, marketing, packaging, and packages are incomplete and
6 inaccurate and therefore are misleading to reasonable consumers.

7 **PARTIES**

8 7. Plaintiff Justin Lytle is a resident and citizen of Apple Valley, San Bernardino
9 County, California.

10 8. Plaintiff Christine Musthaler is a resident and citizen of Laguna Niguel, Orange
11 County, California.

12 9. Defendant Nutramax Laboratories, Inc., ("Nutramax Labs") is a South Carolina
13 corporation located in Lancaster, South Carolina. Nutramax Labs researched and
14 developed the Products. Nutramax Labs was served with the original complaint and will
15 be served this Second Amended Complaint through electronic service.

16 10. Defendant Nutramax Laboratories Veterinary Sciences, Inc., ("NVS") is an
17 affiliate of Defendant Nutramax Labs. It is a South Carolina corporation located in
18 Lancaster, South Carolina. Among other activities, NVS has since at least 2014
19 researched, marketed, distributed and sold the Products, including sale of the Products
20 through Defendants' websites Nutramaxlabs.com and Cosequin.com. Nutramax Labs
21 researched and developed the Products. Nutramax Labs was served with the original
22 complaint and will be served this Second Amended Complaint through electronic service.

23 **JURISDICTION & VENUE**

24 11. This Court has **general personal jurisdiction** over Defendants because
25 Defendants have purposefully availed themselves of the privilege of doing business within
26 the state, including within this district; have had continuous and systematic general
27 business contacts within the state, including within this district; and Defendants can be
28 said to have reasonably anticipated being haled into court in this forum.

1 12. This Court has **specific personal jurisdiction** over Defendants because this
2 action arises out of and relates to Defendants' contacts with this forum. Specifically,
3 Defendants knowingly directed the Products through the stream of commerce into this
4 district. Defendants have advertised and marketed within this district through the use of
5 sales representatives, through the wires and mails, and via e-commerce websites through
6 which residents of this state and district can purchase the Products. Defendants
7 knowingly direct electronic activity into this state and district with the intent to engage in
8 business interactions and have in fact engaged in such interactions. Defendants sold the
9 Products to veterinarians and other consumers in this district, including to Plaintiffs, who
10 purchased the Products in this district and whose losses were incurred here.

11 13. This Court has original **subject matter jurisdiction** over this action
12 pursuant to CAFA, Pub. L. 109-2, 119 Stat. 4 (codified in scattered sections of Title 28 of
13 the *United States Code*), under 28 U.S.C. § 1332(d), which provides for the original
14 jurisdiction of the federal district courts over "any civil action in which the matter in
15 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and
16 [that] is a class action in which . . . any member of a class of plaintiffs is a citizen of a
17 State different from any defendant." 28 U.S.C. § 1332(d)(2)(A). Plaintiffs are diverse from
18 all Defendants. Plaintiffs allege the matter in controversy exceeds \$5,000,000.00 in the
19 aggregate, exclusive of interest and costs. Finally, "the number of members of all proposed
20 plaintiff classes in the aggregate" is greater than 100. *See* 28 U.S.C. § 1332(d)(5)(B).

21 14. **Venue** is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part
22 of the events or omissions giving rise to Plaintiffs' claims occurred within this district.
23 Plaintiffs purchased the Products in this district and incurred losses in this district,
24 including in this division. Numerous other Class members also purchased the Products in
25 this district. Defendants caused the Products to be offered for sale and sold to
26 veterinarians and to the public, including Plaintiffs, in this district.

27 15. **Venue** is proper pursuant to 28 U.S.C. § 1391(c)(2) because this Court
28 maintains personal jurisdiction over Defendants.

1 **FACTUAL ALLEGATIONS APPLICABLE TO ALL COUNTS**

2 16. Plaintiffs reallege and incorporate by reference the facts set forth in ¶¶ 1-15.

3 17. The Cosequin for Dogs product line includes a variety of formulas and
 4 specifically includes the products identified below, all of which are researched, developed,
 5 produced, marketed and sold by Defendants, and all of which contain glucosamine/
 6 chondroitin (“Gl/Ch”) as an ingredient. (See Ex. A, Color Reproductions of Product
 7 Packages & Accompanying Information from Cosequin.com.)

Product Name	Active Ingredients
(a.) Cosequin Regular Strength (capsule)	<ul style="list-style-type: none"> • glucosamine hydrochloride (250 mg) • sodium chondroitin sulfate (200 mg) • manganese (2 mg)
(b.) Cosequin DS Capsules (sprinkle capsule)	<ul style="list-style-type: none"> • glucosamine hydrochloride (500 mg) • sodium chondroitin sulfate (400 mg) • manganese (2.5 mg)
(c.) Cosequin DS (chewable tablet)	<ul style="list-style-type: none"> • glucosamine hydrochloride (500 mg) • sodium chondroitin sulfate (400 mg) • manganese (3 mg)
(d.) Cosequin DS Maximum Strength (chewable tablet)	<ul style="list-style-type: none"> • glucosamine hydrochloride (500 mg) • sodium chondroitin sulfate (400 mg) • manganese ascorbate (3 mg)
(e.) Cosequin Minis Plus MSM & Boswellia (soft chew (mini))	<ul style="list-style-type: none"> • glucosamine hydrochloride (260 mg) • methylsulfonylmethane (MSM) (175 mg) • sodium chondroitin sulfate (130 mg) • boswellia serrata extract (10 mg)
(f.) Cosequin DS Maximum Strength Plus MSM & Omega-3's (chewable tablets)	<ul style="list-style-type: none"> • glucosamine hydrochloride (600 mg) • sodium chondroitin sulfate (300 mg) • methylsulfonylmethane (MSM) (250 mg) • manganese ascorbate (3 mg)
(g.) Cosequin DS Maximum Strength Plus MSM & Boswellia (soft chew)	<ul style="list-style-type: none"> • glucosamine hydrochloride (600 mg) • methylsulfonylmethane (MSM) (400 mg) • sodium chondroitin sulfate (300 mg) • boswellia serrata extract (30 mg)
(h.) Cosequin ASU Active Lifestyle (chewable tablet)	<ul style="list-style-type: none"> • glucosamine hydrochloride (600 mg) • sodium chondroitin sulfate (125 mg) • methylsulfonylmethane (MSM) (125 mg) • avocado/soybean unsaponifiables (ASU) powder (38 mg) • boswellia serrate extract (20 mg) • biotin (7.5mg) • sodium hyaluronate (HA) (3 mg) • manganese ascorbate (1.5 mg)

(i.) Cosequin Advanced (chewable tablet)	<ul style="list-style-type: none"> • glucosamine (1200 mg) • sodium chondroitin sulfate (300 mg) • vitamins and minerals (varying amounts)
(j.) Cosequin Minis Maximum Strength with MSM Plus Omega-3's (soft chew)	<ul style="list-style-type: none"> • glucosamine hydrochloride (260 mg) • methylsulfonylmethane (MSM) (175 mg) • sodium chondroitin sulfate (130 mg) • total omega-3s (30 mg) • EPA (15mg) • DHA (10 mg)
(k.) Cosequin MaxStrength Plus MSM (chewable tablet)	<ul style="list-style-type: none"> • glucosamine hydrochloride (600 mg) • sodium chondroitin sulfate (300 mg) • methylsulfonylmethane (MSM) (250 mg) • manganese ascorbate (3 mg)
(l.) Cosequin MaxStrength with MSM Plus Omega-3's (soft chew)	<ul style="list-style-type: none"> • glucosamine hydrochloride (600 mg) • methylsulfonylmethane (MSM) (400 mg) • sodium chondroitin sulfate (300 mg) • total omega-3s (70 mg) • EPA (35mg) • DHA (20 mg)

Sale of the Products.

18. Defendants produce and sell hundreds of thousands of units of canine Cosequin products in the United States each year.

19. Defendants placed the Products in the stream of commerce and distributed, offered for sale, and sold the Products to lay consumers including Plaintiff and Class members in California and throughout the United States.

20. Defendants placed the Products in the stream of commerce and distributed, offered for sale, and sold the Products to veterinarians with the knowledge and intent that veterinarians would (a) prescribe and sell the Products to dog-owning consumers and/or (b) sell the Products to dog-owning consumers without a prescription.

21. Defendants researched, developed, designed, manufactured, marketed, advertised, sold, and warranted the Products.

22. Defendants' Cosequin.com website advises consumers that "Cosequin is available at your veterinarian, online and in most stores nationwide," and the site directs consumers to online and physical retail locations where they can purchase the Products, including (a) online retailers such as Chewy.com and PetSupplies4Less; (b) "nationwide retailers" such as Wal-Mart, Sam's Club, Costco, Target, and others; and (c) "in-store only" retailers such as Petsense, Pet Supplies Plus, Pet Supermarket, Kroger, and others.

1 23. Defendants also offer the Products for sale nationwide directly through their
2 online “Cosequin Store,” which is sponsored by Defendant NVS.

3 24. Defendants have consistently made public representations concerning the
4 Products’ benefits and effectiveness since at least 2014.

5 25. Defendants’ representations appear, among other places, on Defendants’ web
6 pages; in other online vending and marketing forums including sponsored videos on
7 Youtube; in product pamphlets and other literature distributed by Defendants to
8 veterinarians and lay consumers; on the product packaging (e.g., boxes containing the
9 packages); and on the packages themselves. Defendants also make representations to
10 veterinarians through sales representatives.

11 26. Defendants intended for consumers—both lay consumers and veterinarians—
12 to rely upon Defendants’ representations concerning the Products’ benefits and
13 effectiveness and Defendants expected, or had reason to expect, that veterinarians would
14 convey Defendants’ representations concerning the Products to lay consumers.

15 27. It would be reasonable for both lay consumers and veterinarians to rely upon
16 Defendants’ representations concerning the Products’ benefits and effectiveness.

17 28. It would be reasonable for veterinarians to convey to lay consumers the
18 substance of representations made by Defendants to veterinarians and for lay consumers
19 to rely upon those representations.

20 29. Defendants’ representations concerning the Products’ benefits and
21 effectiveness were made with the intent to generate sales of the Products.

22 **Defendants’ Misrepresentations About the Products.**

23 30. Defendants make representations concerning the benefits and effectiveness of
24 Cosequin canine products both generally and with respect to the various specific
25 formulations (sub-brands or styles) of the Products identified in ¶ 17.

26 31. Defendants make both express and implied representations concerning the
27 Products’ benefits and effectiveness.

28 32. Defendants’ representations have been refuted by randomized, controlled

1 trials and thus are inaccurate and misleading to the extent they expressly or impliedly
2 claim:

- 3 a. that Cosequin improves lameness or inactivity;
- 4 b. that Cosequin improves joint flexibility or canine mobility;
- 5 c. that Cosequin improves canine interaction with toys, other dogs, or owners;
- 6 d. that Cosequin will restore elderly dogs to a state of youthful vigor;
- 7 e. that Cosequin maintains or rebuilds cartilage or supports or maintains
- 8 healthy joints or that it accomplishes any of the above by doing so; and/or
- 9 f. that any of the above claims have been demonstrated or substantiated
- 10 through controlled trial or other reliable scientific study.

11 33. The representations identified in ¶ 32 and any substantively similar
12 representations by Defendants are untruthful.

13 34. The representations identified in ¶ 32 and any substantively similar
14 representations by Defendants are not supported by published studies or veterinary
15 medical literature.

16 35. The representations identified in ¶ 32 and any substantively similar
17 representations by Defendants are not supported by any unpublished internal studies
18 performed by Defendants or on their behalf.

19 36. The representations identified in ¶ 32 and any substantively similar
20 representations by Defendants are not supported by any other unpublished studies.

21 37. **Representations Regarding Canine Cosequin Products Generally.** Via
22 the Cosequin.com website (why-joint-health-supplements-for-dogs), Defendants' make the
23 following representations, among others, concerning all canine Cosequin products in
24 general:

- 25 a. "Joint Health Supplement"
- 26 b. "YOUR BEST FRIEND'S JOINT HEALTH"
- 27 c. "Observed changes in your dog may include: Less active, Difficulty going up
- 28 and down stairs; Difficulty sitting or standing; Stiff or uncomfortable when

1 getting up; Decreased interest in interacting with you, other animals or toys.”

2 d. “With age, injury, or over-activity, the process of [cartilage] breakdown can
3 exceed the process of replacement leading to problems in the joints. These
4 problems result in less flexibility. That’s when it’s time for Cosequin which
5 maintains the cartilage structure and inhibits the enzymes that break down
6 cartilage.”

7 e. “The ingredients in Cosequin work together to help support and protect the
8 cartilage.”

9 f. [Video]: “It’s a glucosamine/chondroitin supplement that really helps
10 maintain healthy joints.”

11 38. The representation in ¶ 37c. implies that use of Cosequin will rectify the
12 “observed changes” in a consumer’s pet dog and thereby implies that Cosequin improves
13 canine flexibility and mobility (e.g., improving “stiff[ness]” or improving mobility on
14 stairs). The representation at ¶ 37d. implies that use of Cosequin will improve flexibility
15 and prevent further cartilage breakdown. The claims in ¶ 37a-b. and 37e-f. regarding joint
16 health are inaccurate in that they appear together with the misleading representations in
17 ¶ 37c-d. and thus imply that the benefits and effects of “joint health” and “maintain[ing]
18 healthy joints” are those identified in ¶ 37c-d.

19 39. No randomized, controlled, peer-reviewed, published study of Cosequin has
20 demonstrated objectively that Cosequin improves flexibility or mobility or leads to
21 increased activity; causes increased interest in interacting with owners or toys; or
22 prevents cartilage breakdown by “supporting and protecting” cartilage or otherwise.

23 40. In fact, randomized, controlled, peer-reviewed, published studies show that
24 GI/Ch supplements administered to dogs—including Cosequin—lead to no significant
25 improvement in gait, joint mobility, overall activity, or joint health.

26 41. Defendants make similar and at times identical claims for specific Cosequin
27 canine formulations in addition to making them for all formulations generally.

28 42. In short, the representations set out in ¶ 37: (a) are not substantiated by any

1 rigorous or reliable scientific study; (b) have been refuted by randomized, controlled trials,
2 and (c) are inaccurate, and therefore are misleading.

3 **43. Additional Representations Regarding Canine Cosequin Products**

4 **Generally.** Via the Cosequin.com website (cosequin-difference), Defendants' make the
5 following additional representations concerning all canine Cosequin products in general:

6 a. "Why Cosequin for Dogs? Cosequin Joint Health Supplement is a scientifically
7 researched nutritional supplement to help dogs maintain healthy joints."

8 b. "How Can Cosequin Help Your Pet? Shown to be safe, effective, and
9 absorbable in peer-reviewed, published, controlled, U.S. veterinary studies."

10 c. "As dogs age, it is common for their joints to become less flexible which
11 impacts their mobility and quality of life. You may have noticed that your
12 dog has difficulty walking up stairs or jumping on the bed. While he used to
13 be eager to play, now he is content to rest. Even at younger ages some dogs
14 are subject to joint health concerns which affect flexibility and mobility.
15 Cosequin contains TRH122 chondroitin sulfate, FCHG49 glucosamine and
16 manganese ascorbate. These ingredients have been scientifically formulated
17 to support and maintain the health of your dog's joints. Published studies
18 have shown that the specific combination of ingredients in Cosequin works
19 together to maintain the structure of the cartilage in your dog's joints while
20 inhibiting the enzymes that break down cartilage. It is very important to note
21 that the published studies on Cosequin do not apply to other brands."

22 44. As stated in ¶ 43a., Cosequin has been "scientifically researched;" but the
23 implication that scientific research supports Defendants' claims is inaccurate and
24 misleading. The representation in ¶ 43b. implies that "peer-reviewed, published,
25 controlled U.S. veterinary studies" support the claims set forth here, which is untrue.

26 45. The representation quoted in ¶ 43c. implies that use of Cosequin will improve
27 mobility by rectifying the behaviors described (e.g., inability to climb stairs or jump on
28 beds). Likewise, it implies that use of Cosequin will improve "flexibility and mobility" by

1 maintaining cartilage structure and inhibiting breakdown of cartilage.

2 46. No randomized, controlled, peer-reviewed, published study of Cosequin has
3 demonstrated objectively that Cosequin helps dogs maintain healthy joints; that it is
4 “effective” with respect to any of the behaviors or conditions described by Defendants as
5 set forth in ¶ 43; or that it improves flexibility or mobility.

6 47. In fact, randomized, controlled, peer-reviewed, published studies have shown
7 that Gl/Ch supplements administered to dogs—including Cosequin—led to no significant
8 improvement in gait, joint mobility, overall activity or joint health, including no higher
9 “activity counts” when compared to placebo.

10 48. Defendants make similar and at times identical claims for specific Cosequin
11 canine formulations in addition to making them for all formulations generally.

12 49. In short, the representations set out in ¶ 43: (a) are not substantiated by any
13 rigorous or reliable scientific study; (b) have been refuted by randomized, controlled trials;
14 and (c) are inaccurate and therefore misleading.

15 **50. Representations Regarding Canine Cosequin Effects on Flexibility &**
16 **Mobility.** As seen herein, Defendants’ marketing of the Products consistently touts
17 Cosequin as effective in addressing lack of flexibility and mobility, leading to greater
18 activity and a greater range of activities for dogs who take Cosequin. Other examples
19 abound.

- 20 a. [Video]: “Why does Duke take Cosequin? So he can get up and down the
21 stairs. Keep ‘em moving with Cosequin” (showing dog climbing and
22 descending stairs).
- 23 b. [Video]: “Thanks to the Cosequin Mini Soft Chews for his joints, Scout can
24 make use of all the space in his new home” (showing dog running outdoors).
- 25 c. [Video]: “Throughout the years, you’ve kept your best friend moving, with
26 Cosequin! Because no other brand compares” (showing lab puppy ascending
27 stairs and elderly lab descending stairs).
- 28 d. [Youtube Video]: “Why does Walter take Cosequin? So he can keep up with

1 the ladies. You go dog! Keep ‘em moving with Cosequin joint health
2 supplements” (depicting bulldog walking among a pack of French
3 poodles).

4 e. [Youtube Video w/Jack Hanna as Spokesman]: “Love your pet and trust your
5 vet. Keep ‘em moving with Cosequin” (showing running dogs).

6 f. [Youtube Video]: “Why does Daisy take Cosequin? So she can jump in and
7 call shotgun.... unless somebody called it first. Keep ‘em moving with
8 Cosequin joint health supplements” (showing dog running across field and
9 jumping into bed of pickup truck).

10 g. [Youtube Video]: “Why do Sophie and Sadie take Cosequin? So they can climb
11 up those stairs and settle in for the night. Keep ‘em moving with Cosequin
12 joint health supplements” (showing dogs running up stairs).

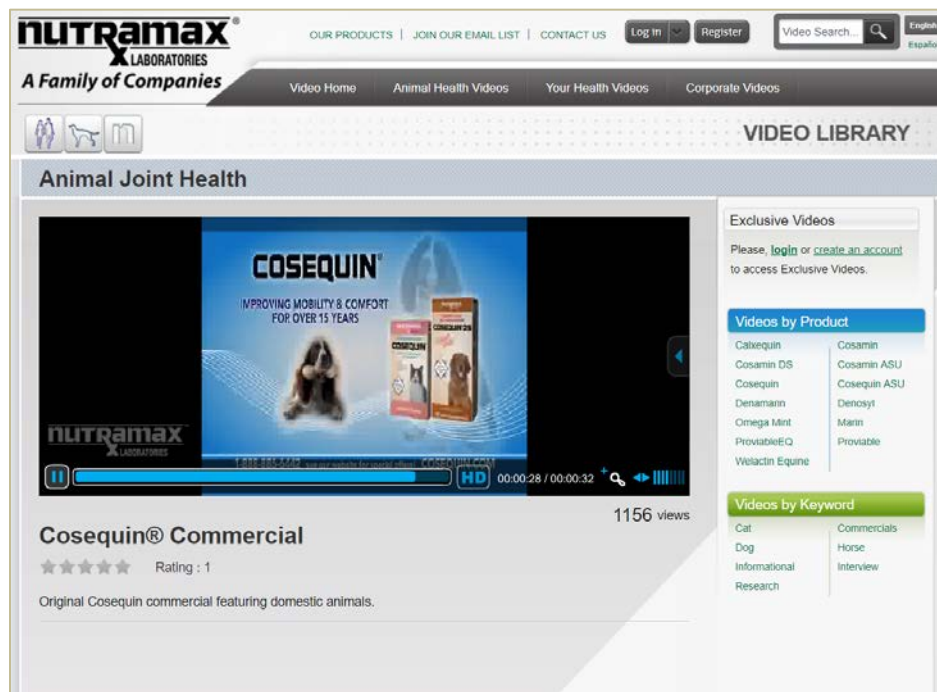
13 h. [Youtube Video]: “Why does Romeo take Cosequin? So he can run across
14 the field and live up to his name. Keep ‘em moving with Cosequin joint health
15 supplements” (showing dog running across field).

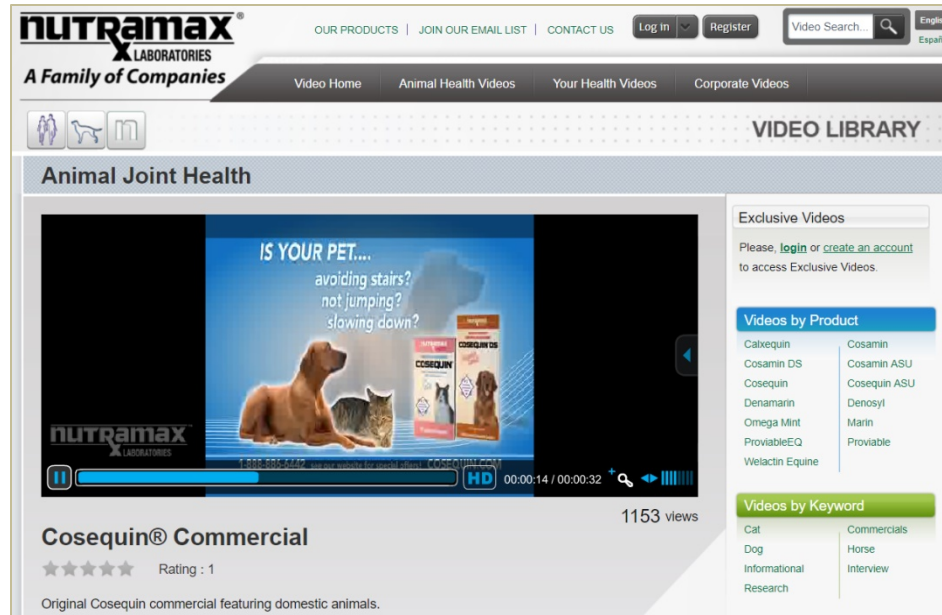
16 51. Defendants feature videos on their nutramaxlabs.com website as well,
17 including one entitled “Animal Joint Health,” which claims that “When Nutramax
18 Laboratories introduced Cosequin to the veterinary market, the concept of using natural
19 ingredients to protect joint cartilage took a while to catch on; but veterinarians became
20 convinced once they saw that Nutramax Laboratories was committed to using quality
21 ingredients that had been the subject of published, peer-reviewed studies for absorption,
22 safety and efficacy.” Ms. Barbara Eves (“Director, Veterinary Science Division Nutramax
23 Laboratories, Inc.”) claims “It’s the only product that has been proven safe, effective, and
24 absorbable in dogs in published controlled studies” (while on the screen is an article titled
25 “The Bioavailability and Pharmacokinetics of Glucosamine Hydrochloride and Low
26 Molecular Weight Chondroitin Sulfate After Single and Multiple Doses to Beagle Dogs,”
27 which, as its title suggests, studied bioavailability and pharmacokinetics, but did not
28 study effectiveness) (Adebowale, 2002). The video features a veterinarian stating, “One of

1 the most important things to me is that the product has been referenced that I can point
2 out to my clients that other people in controlled studies have looked at it and the product
3 works.” He later states that pets who take Cosequin “are really better, that they are
4 running, they are playing.... wanting to play and jump.”

5 52. The claims made in the video discussed in ¶ 51 are consistent with other
6 marketing claims described in this Complaint and they are incomplete, inaccurate and
7 therefore are misleading in their particulars and on the whole for the same reasons as
8 other similar representations described in this Complaint.

9 53. Another video on the nutramaxlabs.com website (still shot below) describes
10 Cosequin as “the #1 veterinarian-recommended joint health supplement brand, used to
11 improve mobility and comfort in pets. So if your pets are showing signs of slowing down, it
12 may be their joints. Try Cosequin. Whether it’s your dog or cat, help keep their joints
13 lasting longer with Cosequin.” Text in the video above a dog and cat and next to Cosequin
14 canine and feline products asks “IS YOUR PET... avoiding stairs? not jumping? slowing
15 down?” and later claims Cosequin has been “IMPROVING MOBILITY AND COMFORT
16 FOR OVER 15 YEARS.”





54. The commercial described in ¶ 53 has run in web locations other than just the nutramaxlabs.com website and the claims made in the video are consistent with other marketing claims described in this Complaint. They are incomplete, inaccurate and therefore are misleading in their particulars and on the whole for the same reasons as other similar representations described in this Complaint.

55. A virtually identical commercial appears on the Defendants' website and makes identical claims with respect to dogs and cats, but also includes exotic animals. It is misleading for the same reasons described above.

56. Yet another video commercial on the same site (titled "Cosequin – A trusted product") features a veterinarian in a lab coat claiming that Cosequin is a "safe, effective and proven product and one that I can trust in and believe in."

57. The commercial described in ¶ 56 has run in web locations other than just the nutramaxlabs.com website and the claims made in the video are consistent with other marketing claims described in this Complaint. They are incomplete, inaccurate and therefore are misleading in their particulars and on the whole for the same reasons as other similar representations described in this Complaint.

58. These and other video commercials making substantively identical claims are

1 featured in numerous internet sites and reasonable consumers would consistently be
2 misled by Defendants' incomplete and inaccurate claims that Cosequin has been proven to
3 improve flexibility, mobility, activity levels, and the like when, in fact, randomized,
4 controlled trials directly refute these claims.

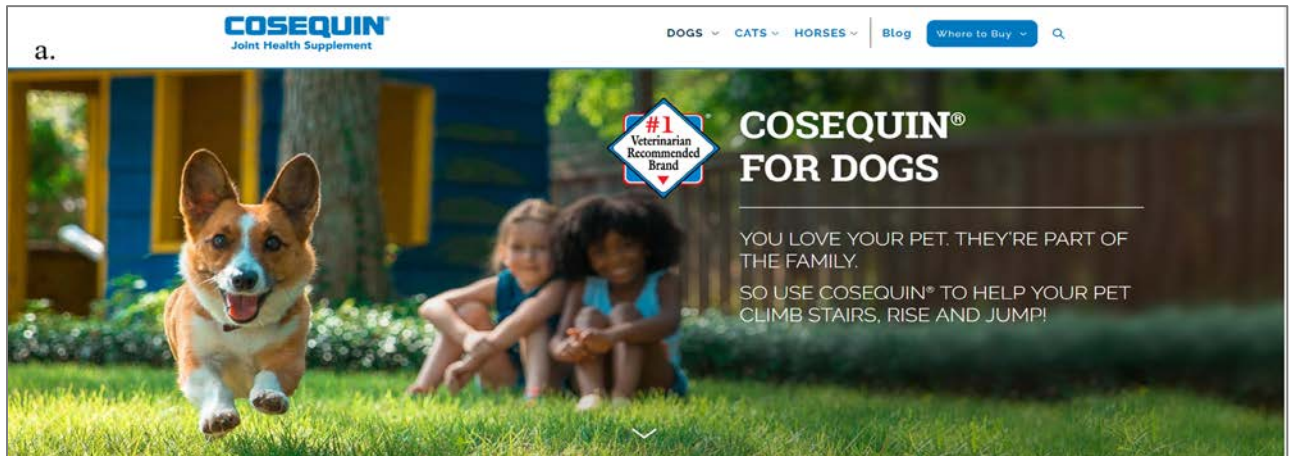
5 59. The "Official Facebook page for Cosequin" includes the same and similar
6 videos and delivers the same messaging. For example, Cosequin posted on February 15,
7 2019: "Giving your dog adequate exercise is vital for their health and overall wellness. Use
8 Cosequin to help their joints mobility!" The Cosequin Facebook presence is replete with
9 similar messaging and imagery and "keep them moving with Cosequin"-themed ads.

10 60. Similarly, Defendants' Instagram presence is replete with images suggesting
11 Cosequin improves flexibility, mobility, activity levels, and the like while consistently, and
12 inaccurately, claiming or suggesting through text and imagery that Cosequin will restore
13 older dogs to a state of youthful vigor and otherwise improve their ability to run, jump,
14 climb stairs, and the like, all of which is inaccurate and therefore is misleading. Examples
15 include those seen below.





61. Packaging and packages for the Products are consistent with the imagery and messaging seen on Defendants’ website, Facebook page, and elsewhere on the internet. Below are (a) the banner from cosequin.com/dogs; (b) the banner from the Cosequin Store, and (c-e) images of Cosequin packaging and packages from the online Cosequin Store, all of which convey through text and imagery an active, healthy lifestyle for dogs taking Cosequin, thereby implying improved flexibility and mobility.





62. The packaging and packages for various Cosequin formulations exemplify Defendants' emphasis on "mobility" (see superimposed colored boxes, which are used throughout the complaint) and a "healthy lifestyle," despite the fact that no rigorous or reliable scientific study has objectively established that Cosequin improves mobility or promotes a "healthy lifestyle," and, in fact, randomized controlled trials on Cosequin have shown no increased flexibility, mobility or activity as compared to placebo.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 63. Similarly, this image of the back of a Cosequin DS package states bluntly (and
2 inaccurately), as seen in the superimposed red box: “Use Cosequin to help your pet Climb
3 stairs, Rise, and Jump!” The package also includes the misleading claim that Cosequin
4 provides “Maximum joint protection.”



64. The packaging for Cosequin Advanced Plus Vitamins and Minerals expressly (and inaccurately) claims enhanced mobility, both textually and graphically. The package also, like others, claims Cosequin will “help your pet climb stairs, rise and jump!”—a claim devoid of any scientifically-validated foundation.



1 65. Packaging for Cosequin Hip & Joint Support Plus includes the same imagery
2 and misleading messaging that Cosequin helps your dog “Climb stairs, Rise, and Jump!”
3
4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

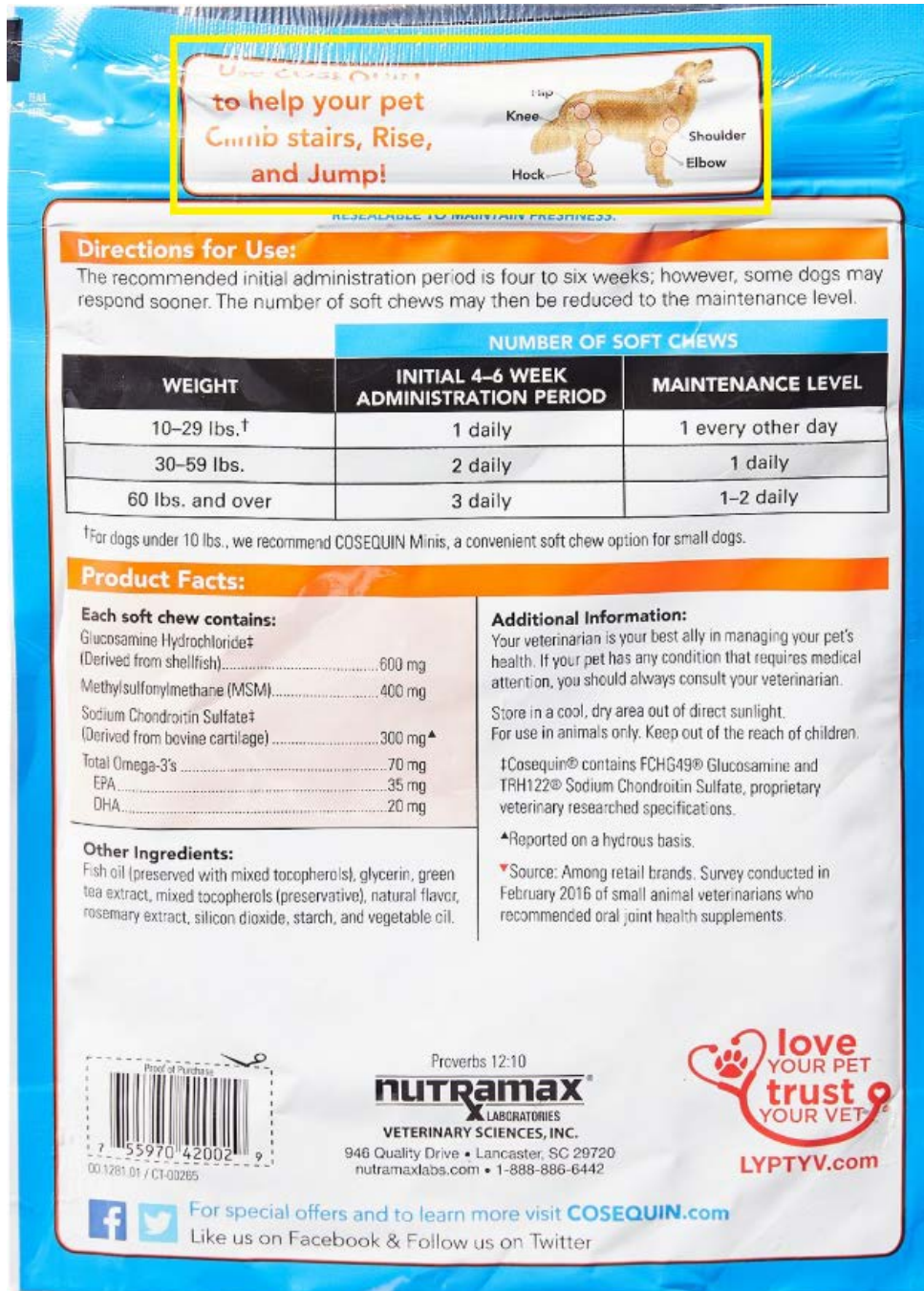
26

27

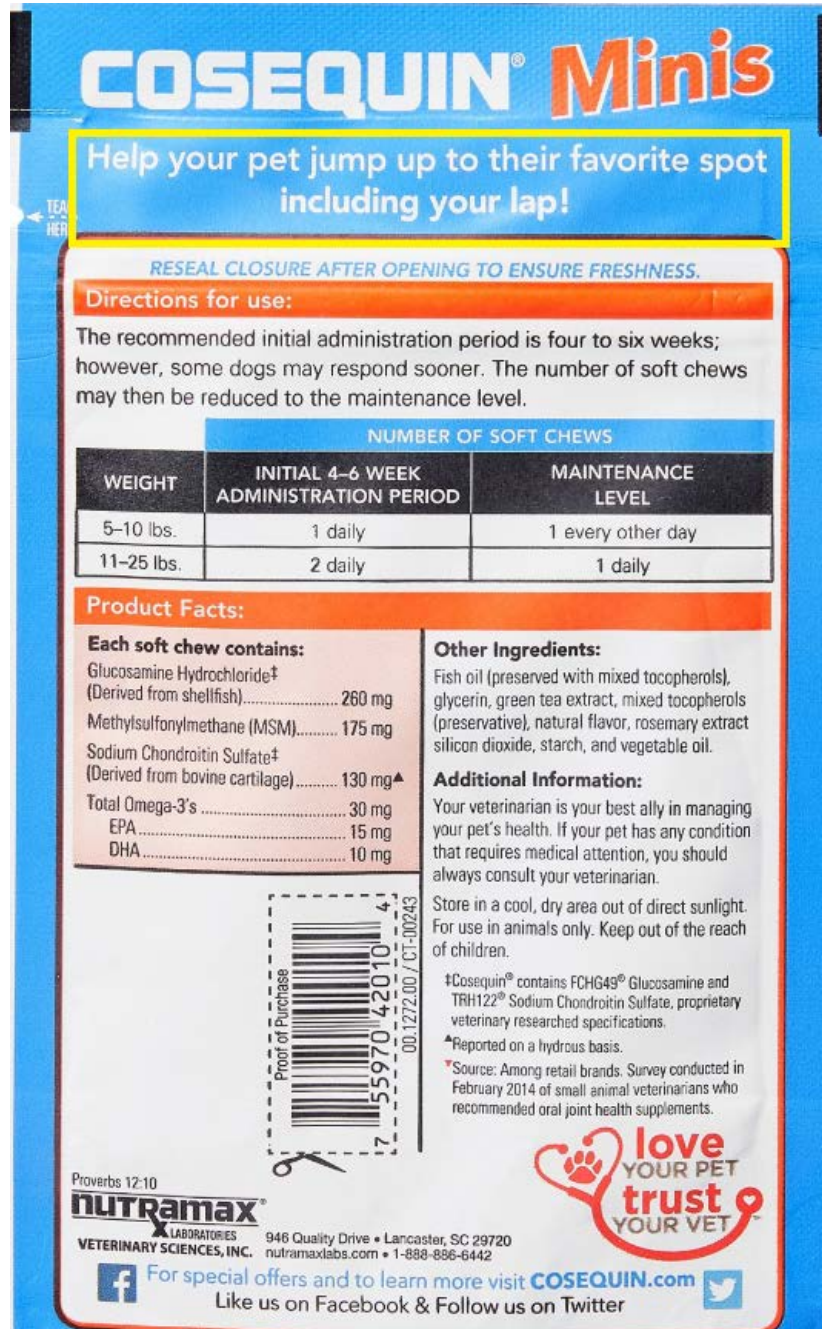
28

The advertisement is a vertical rectangular graphic. At the top, a blue header contains the text "Why Cosequin®?". Below this, on the left, is a diamond-shaped logo with a red border and a blue background, containing the text "#1 Veterinarian Recommended Brand" in white and red. To the right of the logo, the text reads: "Cosequin is the #1 Veterinarian Recommended Retail Joint Health Supplement Brand" followed by a red downward-pointing triangle, and "formulated to **support and maintain** the health of your pet's joints and cartilage." Below this text is a small source note: "Source: Among retail brands. Survey conducted in July 2012 of small animal veterinarians who recommended oral joint health supplements." The middle section features the headline "Use Cosequin to help your pet Climb stairs, Rise, and Jump!" in blue. Below the headline is a photograph of a golden retriever dog in profile, facing right. A semi-transparent skeletal overlay is shown on the dog's body. Five red circular callouts with white outlines are placed over the dog's joints: Hip, Knee, Hock, Shoulder, and Elbow. Lines connect each label to its corresponding joint. At the bottom left is a QR code. To the right of the QR code, the text reads: "FOR SPECIAL OFFERS or additional information scan our QR code, call 1-888-886-6442, or visit **Cosequin.com**".

66. Again the marketing claim that Cosequin helps pets “Climb stairs, rise and jump!” is seen on the back of the package for Cosequin Maximum Strength DS Plus MSM Soft Chews (see front of package touting “mobility” in ¶ 62):



67. The back of the package for Cosequin Minis Maximum Strength with MSM Plus Omega-3's (see front of package touting "mobility" in ¶ 61e.) again shows Defendants' marketing focus on "mobility," which not only has never been scientifically validated, but has been shown through valid, controlled studies to be no more true for Cosequin than for placebo:



68. The back of the package for Cosequin Minis Plus MSM & Boswellia (see front of package touting “mobility” in ¶ 62) contains the same claim:



1 69. Defendants’ consistent messaging across different formulations/sub-brands,
2 different media, and across all marketing touchpoints means that messaging for any one
3 formulation/sub-brand reinforces its inaccurate and misleading claims for other and all
4 formulations/sub-brands.

5 70. Defendants also employ integrated marketing with the intent that consumers
6 will be exposed to as many Cosequin marketing messages as possible. For example, the
7 packages depicted in ¶¶ 66-67 reference special offers at Cosequin.com and include icons
8 for Facebook, Twitter and lyptyv.com (which redirects one to Cosequin.com), where, if
9 visited, consumers would be exposed to different formulations and additional and
10 consistent marketing messages for all Cosequin canine products (as well as feline and
11 equine products, which are marketed making similar and sometimes identical claims).

12 71. Despite Defendants’ consistent marketing focus on flexibility and mobility,
13 (e.g., running, jumping, stair-climbing, and so forth), no randomized, controlled, peer-
14 reviewed, published study of Cosequin has demonstrated objectively that Cosequin
15 improves flexibility or mobility or enhances a dog’s ability to engage in any physical
16 activity.

17 72. In fact, as alleged below, the only two randomized controlled trials of Cosequin
18 or Cosequin ingredients both demonstrated no improvement in this regard over placebo.

19 **The Lack of Scientific Foundation for Defendants’ Representations.**

20 73. Responsible pet supplement manufacturers ensure there is reliable scientific
21 support for any claim they make concerning a supplement’s benefits or effectiveness.

22 74. The Food and Drug Administration does not regulate the design, manufacture
23 or marketing of Cosequin.

24 75. However, a comparison of the science behind Defendants’ claims about
25 Cosequin’s benefits and effectiveness and that required for approval of a new drug is
26 pertinent and illustrative.

27 76. When new pharmaceutical interventions are evaluated, FDA often requires
28 four phases of clinical study—Phase I trials on small groups to evaluate safety, determine

1 safe dosages, and identify potential side effects; Phase II trials on larger groups to study
2 effectiveness and further evaluate safety risks; Phase III trials with large groups to
3 confirm effectiveness, to monitor side effects, to compare to other commonly used
4 treatments, and to collect other safety-related information; and Phase IV post-marketing
5 studies to provide additional information on benefits, risks, and the best use for drugs.

6 77. Although Defendants claim Cosequin has life-altering therapeutic benefits,
7 because Cosequin is an unregulated nutraceutical/supplement for use in pets, Defendants
8 were required to do none of the above and chose not to do so voluntarily.

9 78. Nevertheless, the scientific and veterinary community—sometimes sponsored
10 by pet supplement manufacturers and sometimes independently—carries out *in vitro*, *ex*
11 *vivo* and *in vivo* studies of various supplements and nutraceuticals from time to time,
12 including randomized controlled trials of supplements and nutraceuticals.

13 79. GI/Ch pet supplements are among the most widely purchased and prescribed
14 of pet supplements and nutraceuticals and as such have received the attention of
15 veterinary researchers.

16 80. To appreciate the value of any given study, one must first distinguish between
17 *in vitro* studies (those taking place outside of living organisms, e.g., in a Petri dish or test
18 tube), *ex vivo* studies (testing on tissue from an organism in an external environment) and
19 *in vivo* studies (taking place with/in living organisms, e.g., animal testing or clinical
20 trials).

21 81. *In vitro* and *ex vivo* studies can never alone, nor solely in conjunction with
22 other *in vitro* or *ex vivo* studies, prove cause-and-effect relationships in whole living
23 organisms, including causal claims of effectiveness.

24 82. More specifically, *in vitro* and/or *ex vivo* studies of Cosequin or other GI/Ch-
25 based supplements—whether alone or in conjunction with other such *in vitro* or *ex vivo*
26 studies—could not and do not provide reliable scientific support for claims that Cosequin
27 is effective in causing joint support or protection in dogs; effective in causing improved
28 flexibility or mobility in dogs; effective in causing the prevention of cartilage breakdown in

1 dogs, effective in rebuilding cartilage in dogs; effective in causing greater or more youthful
2 activity in dogs; or effective in improving dog interactions with owners, toys, or other dogs.

3 83. Even controlled studies of two or more drug or supplement *ingredients* cannot
4 provide valid conclusions about the safety or effectiveness of those ingredients when
5 combined into a single therapy so, for example, Ingredient A may be proven effective in
6 reducing inflammation and Ingredient B may be proven effective in reducing pain; but it
7 does not follow necessarily that a supplement containing Ingredients A and B would
8 possess effective anti-inflammatory and analgesic properties in living organisms.

9 84. Further, to appreciate the value of any given study, one also must distinguish
10 between observational and experimental studies.

11 85. Observational studies involve observing the effect of a risk factor,
12 intervention, etc., without affecting who is exposed to it. The predominant forms of
13 observational study are cohort studies and case control studies.

14 86. While observational studies can be quite valuable, they do not alone, nor
15 solely in conjunction with other observational studies, prove cause-and-effect relationships
16 (such as the effectiveness of a drug or supplement) because they are not randomized and
17 therefore do not account for unknown and/or unmeasurable exposures, factors, or
18 variables that may influence study results.

19 87. As opposed to observational studies, experimental studies are ones where
20 researchers introduce an intervention (e.g., a drug) and study its effects. The most
21 effective experimental studies are double-blinded, randomized, controlled trials (RCTs).
22 RCTs, if properly designed and executed, are considered the “gold standard” in therapeutic
23 research and can support claims for cause-and-effect relationships (e.g., that a drug causes
24 a given therapeutic benefit or risk or that it does not cause such benefit or risk).

25 88. The Federal Judicial Center’s *Reference Manual on Scientific Evidence* (3d ed.
26 2011) at 217-18 puts it this way: “When causation is the issue, anecdotal evidence can be
27 brought to bear. So can observational studies or controlled experiments. Anecdotal reports
28 may be of value, but they are ordinarily more helpful in generating lines of inquiry than in

1 proving causation. Observational studies can establish that one factor is associated with
2 another, but work is needed to bridge the gap between association and causation.

3 Randomized controlled experiments are ideally suited for demonstrating causation.”

4 89. These principles apply in veterinary science. The Journal of the American
5 Veterinary Medical Association (JAVMA) has correctly stated: “A sound experimental
6 design includes all of the following safeguards: Control groups; Placebos or sham
7 procedures; Blinded procedures; Random assignment of subjects to study groups [and]
8 Adequate statistical power.... [O]bservational studies always have a high risk of
9 confounded effects.... Whenever possible, the results of observational studies should be
10 confirmed or disconfirmed through conduction of well-designed experimental studies.”¹

11 90. A handful of RCTs have been performed on Cosequin and other Gl/Ch
12 supplements and nutraceuticals intended for use in dogs.

13 91. To date, no peer-reviewed, published RCT provides objective support for
14 claims that Cosequin is effective in causing joint support or protection in dogs; that
15 Cosequin is effective in causing improved flexibility or mobility in dogs; that Cosequin is
16 effective in preventing cartilage breakdown in dogs; that Cosequin is effective in
17 rebuilding cartilage in dogs; that Cosequin is effective in causing greater or more youthful
18 activity in dogs; or that Cosequin is effective in improving dog interactions with owners,
19 other dogs, or toys.

20 92. **Moreau, 2003.**² This double-blind, placebo-controlled RCT involving 71 dogs
21 over 60 days evaluated Cosequin, carprofen (an NSAID) vs. meloxicam (an NSAID). Dogs
22 were assigned to one of four conditions: placebo, meloxicam, carprofen, or Cosequin DS.
23 The authors objectively assessed improvements in pain-related functional impairment by
24 measuring ground reaction forces of arthritic limbs and there was subjective assessment
25 by surgeons and owners of gait, joint mobility, joint pain and discomfort, lameness, and

26
27 ¹ Shott, Designing studies that answer questions, *JAVMA* Vol. 238, No. 1 (Jan. 1, 2011).

28 ² Moreau, M., et al., Clinical evaluation of a nutraceutical, carprofen and meloxicam for
the treatment of dogs with osteoarthritis, *Vet. Record* No. 152 at 323-29 (2003).

1 activity. Notably, researchers found, “The dogs treated with CS-G-M [Cosequin DS]
2 showed no significant response in terms of the objective gait analysis or either of the
3 subjective assessments during the study,” while there was a significant response with the
4 NSAID carprofen. Likewise, “In terms of the owners’ subjective assessment, no significant
5 improvements were provided by either CS-G-M [Cosequin DS] or carprofen over the 60
6 days of treatment.” In sum, Cosequin at recommended doses showed no significant
7 improvement on subjective or objective assessment.

8 **93. McCarthy, 2007.**³ This double-blind, active-controlled RCT of 35 dogs over
9 70 days evaluated the efficacy of Synoquin—a Gl/Ch supplement.⁴ Some dogs were given
10 Synoquin and others carprofen (an NSAID), as a control. No placebo was used. No
11 objective assessment was involved. Instead, veterinarians subjectively assessed the dogs
12 and used a 5-point scale to describe lameness, joint mobility, pain on palpation, weight-
13 bearing, and an overall score of clinical condition. Dogs in the Synoquin group showed
14 statistically significant improvement for pain, weight-bearing and overall condition
15 compared to pre-treatment scores. Lameness and joint mobility scores were not
16 significantly improved. The carprofen group improved in all categories. The authors
17 acknowledge the limitation of not using objective assessment (as Moreau did). The study
18 was funded by VetPlus, Ltd., which markets Synoquin, the supplement under study. In
19 sum, the study showed that a Gl/Ch supplement other than Cosequin improved pain and
20 weight bearing, but not lameness or joint mobility, on subjective assessment. The study is
21 compromised by using “within group” comparisons.

22
23
24 ³ McCarthy, G. et al., Randomised double-blind, positive-controlled trial to assess the
25 efficacy of Gl/Ch for the treatment of dogs with osteoarthritis, *Vet. J.* No. 174 at 54-61
(2007).

26 ⁴ Like Cosequin, the primary ingredients in Synoquin were glucosamine hydrochloride and
27 chondroitin sulfate, but the formulation was not identical to any Cosequin formulation
28 (e.g., it included zinc sulfate, ascorbic acid and *N*-acetyl-D-glucosamine). Defendants state
on their Cosequin.com website that “published studies on Cosequin do not apply to other
brands.”

1 94. **D’Altilio, 2007.**⁵ This double-blind, placebo-controlled RCT studied for 120
2 days (+30-day withdrawal period) 20 dogs presenting with joint stiffness, lameness,
3 moderate pain, swollen joints, difficulty getting up/down, and difficulty walking in
4 horizontal areas or stairs. Subjective assessments of pain were made based on observation
5 as compared to baseline. There were four arms: (1) Glucosamine hydrochloride/
6 chondroitin sulfate (2000/1600mg) + collagen, (2) GI/CS only, (3) collagen only, and (4)
7 placebo. Glucosamine hydrochloride/chondroitin sulfate supplements were formulated by a
8 Nutramax competitor.⁶ The placebo arm saw no reductions in pain. The GI/Ch arm
9 experienced a reduction in pain but it was not significant and showed relapse following the
10 30-day treatment withdrawal period. In sum, GI/Ch treatment did not result in
11 significant reductions in OA-related pain in dogs based on subjective assessment. The
12 authors make numerous statistical errors and fail to report significant factors that impact
13 the statistical analysis.

14 95. **Gupta, 2012.**⁷ This double-blind, placebo-controlled RCT of 31-37 dogs
15 evaluated the efficacy of collagen and GI/Ch products in treating canine osteoarthritis. It
16 used ground force plates and impulse area measurements to objectively assess for pain.
17 Subjective assessments included overall pain, pain upon manipulation, pain after physical
18 exertion, signs of lameness, severity of pain during activity, and overall performance
19 (including running, participating in activities, and sitting/standing activities). Cosequin
20 was not used and the formulation used was not identical to any Cosequin canine
21 formulation. Dogs (n=7-10) were assigned to one of four conditions: (I) placebo, (II)
22 collagen, (III) GI/Ch 2000/1600mg and (IV) collagen + GI/Ch. Based on subjective
23

24 ⁵ Therapeutic Efficacy and Safety of Undenatured Type II Collagen Singly or in
25 Combination with Glucosamine and Chondroitin in Arthritic Dogs, *Tox. Mechanisms &*
Methods, 17:189-196 (2007).

26 ⁶ The GI/Ch formulation used was not identical to any Cosequin formulation.

27 ⁷ Gupta, R.C., et al., Comparative therapeutic efficacy and safety of type-II collagen (uc-II),
28 glucosamine and chondroitin in arthritic dogs: pain evaluation by ground force plate, *J. of*
Animal Physiology & Animal Nutr. 96(5) at 770-77 (2012).

1 assessments, there was statistically significant pain reduction in groups II, III & IV. There
2 was no objective evidence of decreased arthritic pain in the Gl/Ch groups. In sum, the
3 study showed significant pain reduction for a Gl/Ch supplement, but objective assessment
4 showed no significant pain reduction. The authors make numerous statistical errors and
5 fail to report significant factors that impact the statistical analysis.

6 96. **Scott, 2017.**⁸ This double-blind, randomized and placebo-controlled trial
7 studied 60 dogs over 97 days. The dogs either were orally administered glucosamine
8 hydrochloride/chondroitin sulfate (n=30) or a placebo (n=30). The supplement was
9 Dasuquin, which is manufactured by Defendants and which is made with the same
10 proprietary Gl/Ch formula used in Cosequin.⁹ Activity was objectively monitored
11 continuously throughout the 97-day study by activity monitors that generated activity
12 counts. Results were statistically analyzed. No difference was found between groups when
13 evaluating daily activity counts during the seven-day pre-treatment period and the 90-day
14 treatment period. Owner assessment (pain interference and pain severity scores) improved
15 over the 90-day treatment period for both groups, however no difference was found
16 between treatment groups. The authors conclude that owner assessment scores suggest a
17 caregiver placebo effect. As the authors concluded, “In this randomized, placebo-controlled,
18 clinical trial, we found that Glu/CS+ [Dasuquin] did not have a beneficial treatment effect
19 when compared to placebo treatment when evaluated by [subjective] daily owner
20 questionnaire and [objective] patient activity counts.”

21 97. In all, only one published, peer-reviewed RCT has assessed a Cosequin
22 product (Moreau, 2003). It was a prospective, double-blind, placebo-controlled study and it
23

24 ⁸ Scott, et al., Efficacy of an oral nutraceutical for the treatment of canine arthritis: A
25 double-blind randomized, placebo-controlled prospective clinical trial, *Vet. Comp. Ortho.*
Traumatol., 30 at 318-23 (2017)

26 ⁹ Dasuquin contains the same proprietary glucosamine hydrochloride and sodium
27 chondroitin sulfate used in Cosequin. It also includes avocado/soybean unsaponifiables
28 (ASU) powder, which at least one Cosequin formulation contains. But it is not identical to
any Cosequin formulation. (<https://www.dasuquin.com/en/dasuquin-soft-chews/>)

1 found (a) that objective evidence showed no improvement in pain-related functional
2 impairment (assessed based on kinetic gait analysis) and (b) that subjective assessments
3 by pet owners and orthopedic surgeons showed no improvements in joint mobility, joint
4 pain and discomfort (a proxy for flexibility, i.e., how far can a joint flex without
5 experiencing pain), lameness, or activity. In other words, the study refutes Defendants'
6 claims concerning joint health, joint flexibility, mobility, pain relief, lameness and activity
7 levels.

8 98. Another RCT (Scott, 2017) tested Dasuquin, a product employing Defendants'
9 proprietary Gl/Ch formulation, but which is not identical to any Cosequin formulation.
10 This prospective, double-blind, placebo-controlled RCT concluded that the supplement was
11 no more beneficial than placebo in objective assessment of activities or upon subjective
12 assessment by pet owners. In other words, the study refutes Defendants' claims
13 concerning mobility and activity levels—the primary thrust of Defendants' marketing
14 efforts.

15 99. Among the RCTs of other (i.e., non-Cosequin) Gl/Ch supplements, one found
16 pain and weight-bearing improvements upon subjective assessment (no placebo), but no
17 improvements in lameness or joint mobility (McCarthy, 2007); another found temporary,
18 insignificant reductions in pain on subjective assessment (D'Altilio, 2007); and another
19 found significant pain reduction upon subjective assessment, but not on objective
20 assessment (Gupta, 2012). All three are compromised by weak design and statistical
21 reporting but, in any event, none provides objective support for Defendants'
22 representations about Cosequin's benefits or effectiveness.

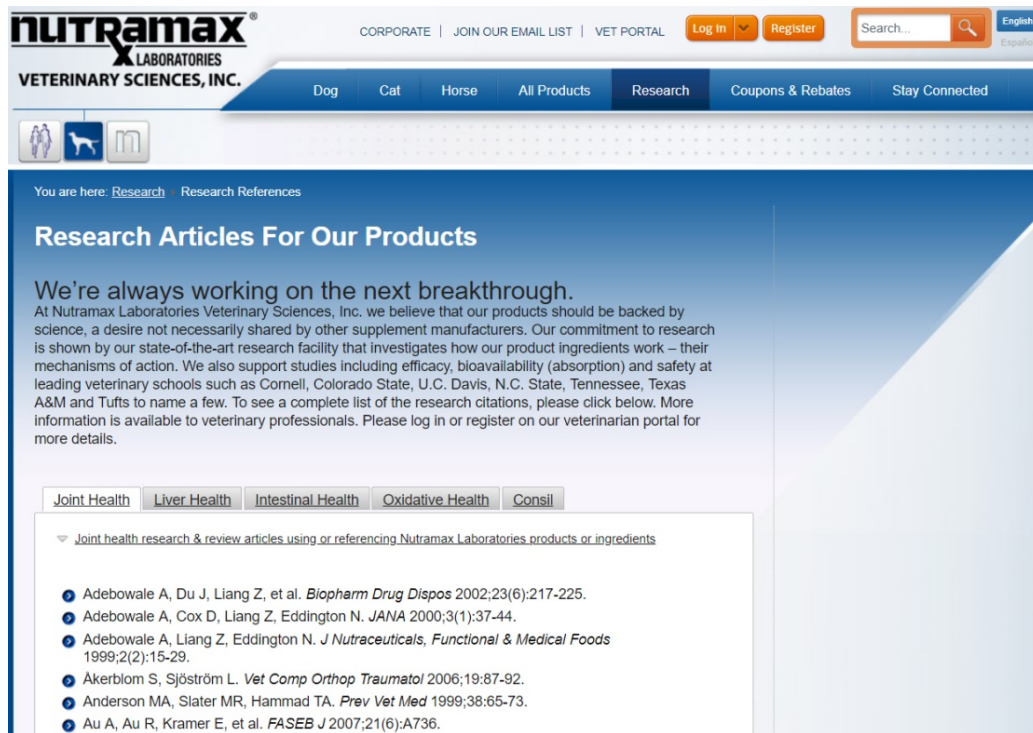
23 100. In the 16 years since the Moreau study, Defendants have not commissioned or
24 carried out any peer-reviewed, published RCT to challenge the results of Moreau's clinical
25 trial or any study to justify their marketing representations about the benefits and
26 effectiveness of Cosequin, which are contrary to Moreau's findings.

27 101. Defendants have not commissioned or carried out any peer-reviewed,
28 published RCT to challenge the conclusions of Scott's 2017 clinical trial (i.e., that use of

1 Defendants' proprietary GI/Ch formula has no beneficial effect over placebo with respect to
2 canine activity levels), which are contrary to Defendants' graphic and textual
3 representations about Cosequin's benefits and effectiveness.

4 102. Defendants' Cosequin.com website says Cosequin has been proven "effective"
5 through peer-reviewed, published studies; but it cites no studies.

6 103. Defendants' Nutramaxlabs.com website purports to provide ample scientific
7 support for their claims and states, "We believe that our products should be backed by
8 science" and that Defendants "support studies *including efficacy* ... at leading veterinary
9 schools" while purporting to provide a "complete list" of research citations.



10 104. Defendants' "complete list of the research citations" for Joint Health includes
11 more than 80 citations characterized as "[j]oint health research & review articles using or
12 referencing Nutramax products or ingredients."
13

14 105. Defendants' "complete list of the research citations" for Joint Health does not
15 include the Moreau (2003) RCT, which used "Nutramax Laboratories products or
16 ingredients" and which found no objective or subjective evidence of effectiveness in
17
18
19
20
21
22
23
24
25
26
27
28

1 improving pain-related functional impairment, joint mobility, joint pain and discomfort,
2 lameness, or activity in dogs.

3 106. Defendants’ “complete list of the research citations” for Joint Health does not
4 include the Scott (2017) RCT, which used “Nutramax Laboratories products or
5 ingredients” and which found the GI/Ch supplement under study (Nutramax’s Dasuquin)
6 was no more beneficial than placebo in objective assessment of canine activities or upon
7 subjective assessment by dog owners.

8 107. Defendants’ “complete list of the research citations” does not include any
9 randomized controlled trial in dogs of Cosequin or Cosequin’s proprietary ingredients.

10 108. Defendants’ list of citations does not include titles of articles or links to the
11 cited sources and some sources require membership in an organization or payment for the
12 source, all of which makes it difficult for a veterinarian or consumer to verify whether, as
13 Defendants state, the study involved Nutramax products or ingredients and which makes
14 it difficult for a veterinarian or consumer to verify, as Defendants imply, that the studies
15 all support Defendants’ representations concerning the Products.

16 109. While omitting randomized controlled trials that demonstrate the Products’
17 lack Defendants’ claimed efficacy, Defendants’ list includes citations to less rigorous and
18 less scientifically/medically probative sources such as symposium posters (e.g., Grzanna,
19 2009 and Kettenacker, 2007); case reports (e.g., van Blitterswijk, 2003) and a “workbook”
20 from a veterinary conference (Orth, 2004).

21 110. Defendants’ list of citations in fact is not a “complete list of the research
22 citations” for “[j]oint health research & review articles using or referencing Nutramax
23 Laboratories products or ingredients.”

24 111. Because Defendants’ list of citations regarding “[j]oint health research” is
25 incomplete and omits rigorous controlled trials demonstrating lack of efficacy for the
26 Products and/or their ingredients, Defendants’ list of citations is inaccurate and
27 misleading.

28 112. Cosequin has potential side effects including diarrhea, upset stomach, loss of

1 appetite, vomiting, and allergic reactions.

2 113. The long-term safety of Cosequin has not been rigorously studied.

3 114. The pharmacokinetics of Cosequin have not been scientifically verified
4 through rigorous and repetitive study.

5 115. Other medical literature provides ancillary support for Plaintiffs' allegations
6 that Defendants' representations inaccurate and misleading.

7 a. *Plumb's Veterinary Handbook*—a leading text in the field—concludes in
8 both its 2008 and 2017 editions that Gl/Ch supplements are “[w]ell tolerated,
9 but efficacy is uncertain.”

10 b. The *Banfield Journal* concluded in 2010 that “The limited number of high
11 quality clinical trials and the lack of data on objective measures of
12 efficacy preclude recommendations of glucosamine hydrochloride and
13 chondroitin sulfate nutraceuticals as a sole medical treatment for joint
14 disease in dogs and cats. In brief, the benefits of using a combination of
15 glucosamine hydrochloride and chondroitin sulfate nutraceuticals to improve
16 symptoms associated with canine and feline joint disease has yet to be
17 determined.”¹⁰

18 c. A 2010 comment in the Journal of the American Veterinary Medicine
19 Association reviewed the evidence to date and concluded, “Glucosamine and
20 chondroitin are perhaps the most widely used nutraceuticals for treatment of
21 osteoarthritis in human and veterinary patients. It is worth considering,
22 however, that there is only very weak clinical trial evidence to support this
23 practice and that it is appropriate for veterinarians to temper their
24 recommendations to their clients accordingly.”¹¹

25
26 ¹⁰ Addleman, A., Evaluation of glucosamine hydrochloride/chondroitin sulfate
27 nutraceuticals as a treatment to improve symptoms associated with canine and feline joint
28 disease, *Banfield J.* at 3-6 (Winter 2010).

¹¹ What is the Evidence? *JAVMA* Vol. 237 No. 12 at 1382-83 (Dec. 15, 2010).

1 d. A 2013 article in the journal *Veterinary Clinics of America: Small Animal*
2 *Practice*, observed that “[g]lucosamine and chondroitin are nutritional
3 supplements that are *anecdotally* recommended for use in patients with
4 osteoarthritis.” (emphasis added) The author continued: “There has been
5 only 1 published clinical trial incorporating both positive and negative
6 controls that evaluated the efficacy of glucosamine and chondroitin
7 supplements in dogs. Compared with placebo, no significant effects could be
8 attributed to glucosamine and chondroitin, but significant improvements
9 were shown for both carprofen [an NSAID] and meloxicam[an NSAID].
10 Current literature does not support the use of glucosamine and chondroitin
11 supplements for the control of osteoarthritis pain in dogs.”¹²

12 e. A 2015 publication from the American College of Veterinary Nutrition in
13 *Today’s Veterinary Practice* observed, “Supplements are aggressively
14 marketed for use in osteoarthritis but have limited evidence supporting their
15 use, with the exception of DHA and EPA.”¹³

16 116. Defendants bolster the purported credibility of their misrepresentations by
17 presenting Nutramax as a sophisticated company or group of companies distinguished by
18 adherence to rigorous scientific and technical standards. The examples below are from
19 Defendant Nutramax Labs’ website (<https://www.nutramaxlabs.com/corporate> (2/19/19)).
20
21
22
23
24

25 ¹² KuKanich, V. Outpatient Oral Analgesics in Dogs and Cats Beyond Nonsteroidal Anti-
26 inflammatory Drugs: An Evidence-based Approach. *Vet. Clin. Small Anim.*, Vol. 43 1109–
27 1125 (2013).

28 ¹³ Shmalberg, *Today’s Vet. Practice*, “Nutrition Notes: Canine Rehabilitative Nutrition”
(Jan./Feb. 2015).

Quality Assurance (QA)



The Nutramax Manufacturing, Inc. Quality Assurance Department is staffed by professionals who ensure that the products manufactured and tested are made in accordance with the regulations governing our industry. The QA department audits for compliance to all applicable regulations. From incoming materials to release of product, QA ensures that the Good Manufacturing Practices (GMPs) are adhered to and all products manufactured meet label claims. The QA department is the independent reviewer of all internal operations.

Quality Control (QC)



The Quality Control Department has three groups of technical experts: QC-Incoming, Analytical Chemistry, and Microbiology. These professionals ensure that ingredients received at Nutramax Laboratories are tested to meet specifications before being used in our products, during manufacturing, and after the manufacturing process. cGMP guidelines are the core for all QC lab operations.

Research and Product Development



Our research and development team consists of cellular and molecular biologists who work together to identify and test ingredients contributing to the development of novel, science-based products for human and veterinary applications. Our focus is to demonstrate the efficacy of raw materials to ensure our products meet our quality standards.

As a general policy Nutramax Laboratories pays a maximum of 15% indirect costs to universities and other research organizations for external research collaborations.

117. In addition to bolstering the companies' and Products' credibility, the web page depicted above contains statements that are inaccurate, misleading or simply untrue.

118. Defendants' Cosequin.com website contains similar content, depicting a scientist at work and touting the Products as "different" from other brands because they are "scientifically researched" in "published studies" and contain "scientifically formulated" compounds to improve "flexibility and mobility," among other things:

1

2

3

4

5

6

7

8

9

10

11

12

13



The Cosequin® Difference

Cosequin® is a scientifically researched nutritional supplement dispensed by thousands of veterinarians to help dogs maintain healthy joints. As dogs age, it is common for their joints to become less flexible which impacts their mobility and quality of life. You may have noticed that your dog has difficulty walking up stairs or jumping on the bed. While he used to be eager to play, now he is content to rest.

Even at younger ages some dogs are subject to joint health concerns which affect flexibility and mobility. Cosequin® contains TRH122®* chondroitin sulfate, FCHG49®* glucosamine and manganese ascorbate. These ingredients have been scientifically formulated to support and maintain the health of your dog's joints.

Published studies have shown that the specific combination of ingredients in Cosequin® works together to maintain the structure of the cartilage in your dog's joints while inhibiting the enzymes that break down cartilage. It is very important to note that the published studies on Cosequin® do not apply to other brands.

14 119. The Cosequin.com website also touts Defendants' "Strict Quality Standards,"
15 claiming the Products are "Manufactured under very strict quality standards."

16 120. Defendants' nutramaxlabs.com website includes FAQs stating: "Cosequin is
17 manufactured in the United States by Nutramax Laboratories Veterinary Sciences, Inc.
18 following manufacturing standards adopted by the pharmaceutical [sic] industry. Each
19 batch of Cosequin is subjected to stringent quality control measures and meets label claim,
20 while a study published in the Journal of the American Nutraceutical Association showed
21 that over 80% of glucosamine/chondroitin sulfate brands did not meet their own label
22 claim."

23 121. The representations and web content reflected in ¶¶ 118-120 include
24 statements that are inaccurate, misleading, or simply untrue.

25 122. In short, Defendants' advertising and marketing represents to the public that
26 Defendants' claims about the benefits and effectiveness of the Products have been
27 scientifically established, but Defendants do not possess the level of proof claimed or any
28 reliable level of proof for the claims and, indeed, rigorous studies refute their claims.

1 123. As a result of the Defendants' consistent and pervasive misrepresentations
2 regarding the Products, Plaintiffs and the Class have suffered damages including but not
3 limited to (a) the purchase price for Products that reasonable consumers would not have
4 bought had Defendants' misrepresentations and omissions not occurred and/or (b) the
5 price premium Defendants are able to charge above and beyond generic GI/Ch products
6 due to Defendants' misrepresentations and omissions.

7 **Factual Allegations Specific to Plaintiffs.**

8 124. Plaintiff Justin Lytle, a resident of this district, purchased Cosequin DS
9 Maximum Strength Plus MSM for his pet dogs Ziva and Zoeh from Amazon and PetSmart
10 in California (see Ex. A(k)). Mr. Lytle's last purchase was in February 2019.

11 125. Mr. Lytle researched Cosequin online including visits to the Defendants'
12 Cosequin and Nutramax websites; he has seen Cosequin advertisements and he read the
13 packaging and package before giving Cosequin to his dogs.

14 126. Plaintiff Christine Musthaler, a resident of this district, purchased Cosequin
15 DS Maximum Strength Plus MSM chewable tablets for her pet dog Boomer from Ralph's
16 Grocery in California (see Ex. A(k)). Her last purchase was in February 2019.

17 127. Ms. Musthaler researched Cosequin online and compared it to other products,
18 including a visit or visits to nutramaxlabs.com; she has seen Cosequin advertisements and
19 she read the packaging and package before giving Cosequin to her dog Boomer.

20 128. Plaintiffs, as reasonable consumers, relied upon Defendants' representations
21 in purchasing Cosequin and expected the Products to be effective as claimed on the
22 packaging and in Defendants' marketing and advertising. However, neither Plaintiff saw
23 improvement in their pets. Both are still in possession of unused product.

24 129. Plaintiffs, as reasonable consumers, would not have purchased the Products
25 had Defendants apprised Plaintiffs that there is no scientifically valid basis for the
26 representations made regarding the products on the packaging and/or through
27 Defendants' marketing and advertising.
28

1 **CLASS ACTION ALLEGATIONS**

2 130. Pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure,
3 Plaintiffs bring this action on behalf of a proposed **National Class** defined as follows:

4 *All persons residing in the United States who purchased canine Cosequin products*
5 *for personal use and not for resale within four years of the filing of this Complaint.*

6 and on behalf of a proposed **California Subclass** defined as follows:

7 *All persons residing in California who purchased canine Cosequin products for*
8 *personal use and not for resale within four years of the filing of this Complaint.*

9 131. Excluded from the National Class and California Subclass (referred to jointly
10 in this section as “the Class”) are: Defendants, Defendants’ board members, executive-
11 level officers, and attorneys, and immediately family members of any of the foregoing;
12 governmental entities; the Court, the Court’s immediate family, and staff; and any person
13 who timely and properly excludes himself or herself from the Class.

14 132. Plaintiffs reserve the right to alter the Class definition as necessary to the full
15 extent that the Federal Rules of Civil Procedure, the Local Rules of the United States
16 District Court for the Central District of California, and applicable precedent allow.

17 133. Certification of Plaintiffs’ claims for class-wide treatment is appropriate
18 because Plaintiffs can prove the elements of the claims on a class-wide basis using the
19 same evidence as individual Class members would use to prove those elements in
20 individual actions alleging the same claims.

21 134. **Numerosity; Rule 23(a)(1):** The size of the Class is so large that joinder of
22 all Class members is impracticable. Joint health pet supplements, including GI/Ch
23 supplements, are among the most widely prescribed and sold of all pet supplements and
24 nutraceuticals in the United States. Defendants tout Cosequin as the #1 Veterinarian
25 Recommended Brand of joint health supplement. Plaintiffs believe there are thousands or
26 tens of thousands of Subclass members geographically dispersed throughout the State of
27 California (California Subclass) and tens of thousands or hundreds of thousands more
28 outside of California (National Class).

1 **135. Existence and Predominance of Common Questions of Law and Fact;**

2 **Rule 23(a)(2), (b)(3):** There are questions of law and fact common to the Class. These
3 questions predominate over any questions that affect only individual Class members.

4 Common legal and factual questions/issues include but are not limited to:

- 5 a. what representations Defendants have made regarding the Products over
6 time;
- 7 b. the state of scientific and industry knowledge, including Defendants'
8 knowledge, regarding the effectiveness of GI/Ch-based canine joint health
9 supplements;
- 10 c. whether the Products in fact have any beneficial effect in dogs;
- 11 d. whether Defendants have any reliable factual or scientific basis to support
12 their representations regarding the Products;
- 13 e. whether Defendants knew or should have known that their representations
14 were misleading in light of b.-d. above;
- 15 f. whether Defendants purported to disclaim any implied warranty;
- 16 g. whether any limitation on warranty fails to meet its essential purpose;
- 17 h. whether Defendant intended for Plaintiffs, the Class members, and others to
18 rely upon Defendants' representations in using, recommending, or
19 purchasing the Products;
- 20 i. whether Defendants otherwise foresaw that Plaintiffs, the Class members,
21 and others would rely upon Defendants' representations in using,
22 recommending or purchasing the products;
- 23 j. whether reasonable consumers would rely upon Defendants' representations
24 in using, recommending or purchasing the products;
- 25 k. whether the Class members suffered direct losses or damages;
- 26 l. whether the Class members suffered indirect losses or damages; and
- 27 m. whether the Class members are entitled to actual damages or other forms of
28 monetary relief.

1 136. Defendants engaged in a common course of conduct in contravention of the
2 laws Plaintiffs seek to enforce individually and on behalf of the Class members. Similar or
3 identical violations of law, business practices, and injuries are involved. Individual
4 questions, if any, pale by comparison, in both quality and quantity, to the numerous
5 common questions that predominate this action. Moreover, the common questions will
6 yield common answers that will substantially advance the resolution of the case.

7 137. **Typicality; Rule 23(a)(3):** Plaintiffs' claims are typical of the claims of the
8 Class members because Defendants injured all Class members through the uniform
9 misconduct described herein; all Class members suffered injury due to Defendants'
10 misrepresentations; and Plaintiffs seek the same relief as the Class members.

11 138. There are no defenses available to Defendants that are unique to the named
12 Plaintiffs.

13 139. **Adequacy of Representation; Rule 23(a)(4):** Plaintiffs are fair and
14 adequate representative of the Class because Plaintiffs' interests do not conflict with the
15 Class members' interests. Plaintiffs will prosecute this action vigorously and are highly
16 motivated to seek redress against Defendants. Furthermore, Plaintiffs have selected
17 competent counsel who are experienced in class action and other complex litigation.
18 Plaintiffs and Plaintiffs' counsel are committed to prosecuting this action vigorously on
19 behalf of the Class and have the resources to do so.

20 140. **Superiority; Rule 23(b)(3):** The class action mechanism is superior to other
21 available means for the fair and efficient adjudication of this controversy for reasons
22 including but not limited to the following:

- 23 a. The damages individual Class members suffered are small compared to the
24 burden and expense of individual prosecution of the complex and extensive
25 litigation needed to address Defendants' misconduct.
- 26 b. It would be virtually impossible for the Class members individually to redress
27 effectively the wrongs done to them. Even if Class members themselves could
28 afford such individual litigation, the court system could not. Individualized

1 litigation would unnecessarily increase the delay and expense to all parties
2 and to the court system and presents a potential for inconsistent or
3 contradictory rulings and judgments. By contrast, the class action device
4 presents far fewer management difficulties, allows the hearing of claims
5 which might otherwise go unaddressed because of the relative expense of
6 bringing individual lawsuits, and provides the benefits of single adjudication,
7 economies of scale, and comprehensive supervision by a single court.

8 c. The prosecution of separate actions by individual Class members would
9 create a risk of inconsistent or varying adjudications, which would establish
10 incompatible standards of conduct for Defendant.

11 d. The prosecution of separate actions by individual Class members would
12 create a risk of adjudications with respect to them that would, as a practical
13 matter, be dispositive of the interests of other Class members not parties to
14 the adjudications or that would substantively impair or impede their ability
15 to protect their interests.

16 141. **Notice:** Plaintiffs and Plaintiffs' counsel anticipate that notice to the proposed
17 Class will be effectuated through recognized, Court-approved notice dissemination
18 methods, which may include United States mail, electronic mail, Internet postings, and/or
19 published notice.

20 CLAIMS FOR RELIEF

21 **COUNT I: Violations of California's Consumers Legal Remedies Act** 22 **(Cal. Civil Code § 1750, et seq.) on Behalf of the California Subclass**

23 142. Plaintiffs reallege and incorporate by reference ¶¶ 1-129 above.

24 143. The CLRA prohibits deceptive practices by any business that provides goods,
25 property, or services primarily for personal, family, or household purposes.

26 144. Plaintiffs and the Class members are "consumers" as defined in California
27 Civil Code § 1761(d).

28 145. The Products are "goods" as defined in California Civil Code § 1761(a).

1 146. Defendants are “persons” as defined in California Civil Code § 1761(c).

2 147. Plaintiffs’ and the Class members’ purchases of the Products are
3 “transactions” as defined in California Civil Code § 1761(e).

4 148. Defendants’ representations and omissions concerning the quality, benefits,
5 and effectiveness of the Products were false and/or misleading as alleged herein.

6 149. Defendants’ false or misleading representations and omissions were such that
7 a reasonable consumer would attach importance to them in determining his or her
8 purchasing decision.

9 150. Defendants’ false or misleading representations and omissions were made to
10 the entire Class.

11 151. Defendants knew or should have known their representations and omissions
12 were material and were likely to mislead consumers, including Plaintiffs and the Class.

13 152. Defendants’ practices, acts, and course of conduct in marketing and selling the
14 Products were and are likely to mislead a reasonable consumer acting reasonably under
15 the circumstances to his or her detriment.

16 153. Defendants’ false and misleading representations and omissions were
17 designed to, and did, induce the purchase and use of the Products for personal, family, or
18 household purposes by Plaintiffs and Class members, and violated and continue to violate
19 the following sections of the CLRA:

20 a. § 1770(a)(5): representing that goods have characteristics, uses, or benefits
21 which they do not have;

22 b. § 1770(a)(7): representing that goods are of a particular standard, quality, or
23 grade if they are of another;

24 c. § 1770(a)(9): advertising goods with intent not to sell them as advertised; and

25 d. § 1770(a)(16): representing the subject of a transaction has been supplied in
26 accordance with a previous representation when it was not.

27 154. Defendants profited from the sale of the falsely, deceptively, and unlawfully
28 advertised Products to unwary consumers.

1 155. Defendants' wrongful business practices constituted, and constitute, a
2 continuing course of conduct in violation of the CLRA.

3 156. Defendants' wrongful business practices were a direct and proximate cause of
4 actual harm to Plaintiffs and to each Class member.

5 157. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiffs provided
6 notice to Defendants of its alleged violations of the CLRA, demanding that Defendants
7 correct such violations, and providing them with the opportunity to correct their business
8 practices. Notice was sent via certified mail, return receipt requested on April 5, 2019,
9 (received April 10) and April 15, 2019 (received April 22). Neither Defendant responded.
10 Accordingly, Plaintiffs seek monetary relief, including but not limited to the damages
11 described in ¶ 123 and specifically including actual damages in the form of a full refund of
12 all money spent on the Product or Products.

13 158. Pursuant to California Civil Code § 1780, Plaintiffs seek their reasonable
14 attorneys' fees and costs and any other relief the Court deems proper.

15 **COUNT II: Violation of Various State Consumer Protection Laws**
16 **On Behalf of the National Class**

17 159. Plaintiffs reallege and incorporate by reference ¶¶ 1-129 above.

18 160. Plaintiffs bring this claim for deceptive acts and practices in violation of
19 various states' consumer protection statutes against Defendant on behalf of the National
20 Class.

21 161. Defendants have engaged in deceptive acts and unfair practices that have
22 caused actual damages to Plaintiffs and the National Class, as described herein, including
23 the misrepresentations and omissions described with respect to the marketing,
24 advertising, promotion, packaging, and sale of canine Cosequin products.

25 162. Defendants' deceptive and unfair trade practices have been carried out in the
26 course of conducting Defendants' business, trade, and commerce

27 163. Defendants' acts—including its intentional efforts to mislead consumers
28 regarding the benefits and effectiveness of canine Cosequin—are willful, unfair,

1 unconscionable, deceptive, contrary to public policy and injurious to consumers.

2 164. Defendants' false, deceptive and misleading statements and omissions would
3 be material to any reasonable consumer's decision whether to buy a canine Cosequin
4 product.

5 165. Any objectively reasonable consumer acting reasonably in the circumstances
6 would have been deceived by Defendants' acts and practices.

7 166. Defendants' acts are unconscionable and actuated by bad faith, lack of fair
8 dealing, actual malice, are accompanied by a wanton and willful disregard for consumers'
9 well-being, and are motivated solely by the desire for financial gain.

10 167. As a direct and proximate result of Defendants' deceptive practices, Plaintiffs
11 and the National Class have sustained actual damages including but not limited to those
12 described in ¶ 123.

13 168. Plaintiffs and the National Class demand damages, attorneys' fees and costs,
14 and any other relief to which they may be entitled.

15 169. Plaintiffs' claims are representative of similar claims available to non-
16 California National Class members under the laws of other states, which also are
17 amenable to further subclass treatment. Such laws may include, but are not limited to:
18 Ala. Code § 8-19-1 *et seq.*; Alaska Stat. § 45.50.471 *et seq.*; Ariz. Rev. Stat. Ann. § 44-1521
19 *et seq.*; Ark. Code Ann. § 4-88-101 *et seq.*; Cal. Civil Code § 1750 *et seq.* and Cal. Bus. &
20 Prof. Code § 17200 *et seq.* & 17500 *et seq.*; Colo. Rev. Stat. § 6-1-101 *et seq.*; Conn. Gen.
21 Stat. § 42-110a *et seq.*; Del. Code Ann. tit. 6 § 2511 *et seq.* & 2580 *et seq.*; D.C. Code Ann. §
22 28-3901 *et seq.*; Fla. Stat. § 501.201 *et seq.*; Ga. Code Ann. § 10-1-390 *et seq.*; Haw. Rev.
23 Stat. § 480-1 *et seq.*; Idaho Code Ann. § 48-601 *et seq.*; 815 Ill. Comp. Stat. 505/1 *et seq.*;
24 Ind. Code Ann. § 24-5-0.5-1 *et seq.*; Iowa Code § 714.16 *et seq.*; Kan. Stat. Ann. § 50-623 *et*
25 *seq.*; Ky. Rev. Stat. Ann. § 367.110 *et seq.*; La. Rev. Stat. Ann. § 51:1401 *et seq.*; Me. Rev.
26 Stat. Ann. tit. 5, § 205-A *et seq.*; Md. Code Ann., Com. Law § 13-101 *et seq.*; Mass. Gen.
27 Laws ch. 93A, § 1 *et seq.*; Mich. Comp. Laws § 445.901 *et seq.*; Minn. Stat. § 831 and §
28 325F.67 *et seq.*; Miss. Code Ann. § 75-24-1 *et seq.*; Mo. Ann. Stat. § 407.010 *et seq.*; Mont.

1 Code Ann. § 30-14-101 *et seq.*; Neb. Rev. Stat. Ann. § 59-1601 *et seq.*; Nev. Rev. Stat. Ann.
2 § 598.0903 *et seq.*; N.H. Rev. Stat. Ann. § 358-A:1 *et seq.*; N.J. Stat. Ann. § 56:8-1 *et seq.*;
3 N.M. Stat. § 57-12-1 *et seq.*; N.Y. Gen. Bus. Law § 349 *et seq.* and § 350 *et seq.*; N.C. Gen.
4 Stat. § 75-1.1 *et seq.*; N.D. Cent. Code § 51-12-01 *et seq.* and § 51-15-01 *et seq.*; Ohio Rev.
5 Code Ann. § 1345.01 *et seq.*; Okla. Stat. tit. 15, § 751 *et seq.*; Or. Rev. Stat. § 646.605 *et*
6 *seq.*; 73 Pa. Stat. Ann. §§ 201-1 *et seq.*; R.I. Gen. Laws §§ 6-13.1-1 *et seq.*; S.C. Code Ann. §
7 39-5-10 *et seq.*; S.D. Codified Laws § 37-24-1 *et seq.*; Tenn. Code Ann. § 47-18-1091 *et seq.*;
8 Tex. Bus. & Com. Code Ann. § 17.41 *et seq.*; Utah Code Ann. § 13-11-1 *et seq.*; Vt. Stat.
9 Ann. tit. 9, § 2451 *et seq.*; Va. Code Ann. §§ 59.1-196 *et seq.*; Wash Rev. Code § 19.86.010 *et*
10 *seq.*; W. Va. Code § 46A-6-101 *et seq.*; Wis. Stat. § 100.18 *et seq.*; and Wyo. Stat. Ann. §§ 40-
11 12-101 *et seq.*

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, individually and on behalf of the members of the
14 National Class and California Subclass, respectfully request the Court to enter an Order
15 or Orders:

16 A. certifying the proposed Class and Subclass under Federal Rule of Civil
17 Procedure 23(a) and (b)(3), as set forth above, naming Plaintiffs as Class representatives
18 and appointing Plaintiffs' counsel as Class counsel;

19 B. declaring that Defendants are financially responsible for notifying the Class
20 members of the pendency of this action;

21 C. awarding monetary damages including but not limited to any compensatory,
22 incidental, consequential, and/or punitive damages in an amount that the Court or jury
23 will determine, in accordance with applicable law and in accordance with the above
24 allegations;

25 D. awarding Plaintiffs' reasonable costs and expenses of suit, including attorneys'
26 fees;

27 G. awarding pre- and post-judgment interest to the extent the law allows; and
28

1 H. providing such further relief in law or equity as this Court may deem just and
2 proper.

3 **DEMAND FOR JURY TRIAL**

4 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby
5 demand a trial by jury on all claims so triable.

6 Dated this 11th day of October, 2019.

7 s/Matthew D. Schultz
8 LEVIN, PAPANTONIO, THOMAS,
9 MITCHELL, RAFFERTY & PROCTOR, P.A.
10 Matthew D. Schultz (PHV)
11 mschultz@levinlaw.com
12 Brenton Goodman (PHV)
13 bgoodman@levinlaw.com
14 316 S. Baylen St., Suite 600
15 Pensacola, FL 32502
16 Tel: (850) 435-7140
17 Fax: (850) 436-6140

18 PEARSON, SIMON & WARSHAW, LLP
19 Daniel L. Warshaw
20 dwarshaw@pswlaw.com
21 Michael H. Pearson
22 mpearson@pswlaw.com
23 15165 Ventura Blvd., Suite 400
24 Sherman Oaks, CA 91403
25 Tel: (818) 788-8300
26 Fax: (818)788-8104

27 WHITFIELD, BRYSON & MASON, LLP
28 Daniel K. Bryson (PHV)
dan@wbmlp.com
900 W Morgan St
Raleigh, NC 27603
Tel: (919) 600-5000
Fax: (919) 600-5035

GREG COLEMAN LAW, PC
Gregory F. Coleman (PHV)
greg@gregcolemanlaw.com
800 S. Gay St., Suite 1100
Knoxville, TN 37929
Tel: (865) 247-0080
Fax: (865) 522-0049

*Counsel for Plaintiffs & the Proposed Class &
Subclass*

1 **EXHIBIT A TO SECOND AMENDED CLASS ACTION COMPLAINT**¹⁴

2 **PACKAGES & ACCOMPANYING INFORMATION**
3 **FOR PRODUCTS IDENTIFIED IN ¶17**

4 (a.) Cosequin Regular Strength (capsule)



18
19
20
21

COSEQUIN[®] Regular Strength

- 22
23
24
- ✓ #1 Veterinarian recommended joint health supplement brand ▼
 - ✓ Formulated to help keep healthy dogs active

25
26

Available From Your Veterinarian

27
28

AVAILABLE IN: 132ct

¹⁴ Source: <https://www.cosequin.com/products/dogs> (2/17/19).

1 (b.) Cosequin DS Capsules (sprinkle capsule)



18
19

COSEQUIN[®] DS Capsules

- 20
21
22
23
24
- ✓ #1 Veterinarian recommended joint health supplement brand ▼
 - ✓ Formulated to help keep healthy dogs active
 - ✓ Cosequin[®] brand joint health supplement is shown to be safe, effective, and bioavailable in peer-reviewed, published, controlled U.S. veterinary studies

25
26

Available From Your Veterinarian

27
28

AVAILABLE IN: 132ct

1 (c.) Cosequin DS (chewable tablet)



18 **COSEQUIN[®] DS Chewable**
19 **Tablets**

- 20 ✓ #1 Veterinarian recommended joint health supplement
21 brand ▼
22 ✓ Available in capsules and chewable tablets
23 ✓ Formulated to help keep healthy dogs active
24 ✓ Cosequin[®] brand joint health supplement is shown to be
25 safe, effective, and bioavailable in peer-reviewed,
26 published, controlled U.S. veterinary studies

27 **Available From Your Veterinarian**

28 AVAILABLE IN: 132ct, 250ct, 650ct

1 (d.) Cosequin DS Maximum Strength (chewable tablet)



18 **COSEQUIN[®] DS Maximum**
19 **Strength**

- 20
- 21 ✓ #1 Veterinarian recommended retail joint health
22 supplement brand ▼
 - 23 ✓ Helps Support Mobility for a Healthy Lifestyle
 - 24 ✓ Available in tasty chewable tablets
 - 25 ✓ Cosequin[®] brand joint health supplement is shown to be
26 safe, effective, and bioavailable in peer-reviewed,
27 published, controlled U.S. veterinary studies

28 **AVAILABLE IN: 110ct. Only**

1 (e.) Cosequin Minis Plus MSM & Boswellia (soft chew (mini))



19 **COSEQUIN[®] Minis Plus**
20 **MSM & Boswellia**

- 21 ✓ A **petite** bite for your pampered pet!
- 22 ✓ #1 Veterinarian recommended retail joint health
23 supplement brand. ▼
- 24 ✓ Specially formulated and designed for dogs under 25 lbs.
- 25 ✓ Contains Boswellia for additional joint health support.

26
27 AVAILABLE IN: 45ct. Only

1 (f.) Cosequin DS Maximum Strength Plus MSM & Omega-3's (chewable tablets)



18
19
20
21

COSEQUIN[®] DS Maximum Strength Plus MSM & Omega-3's Chewable Tablets

- 22
23
24
25
26
27
- ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - ✓ Available in tasty soft chews and chewable tablets
 - ✓ Helps keep dogs active by maintaining healthy cartilage and providing joint support
 - ✓ Cosequin[®] brand joint health supplements have been shown to be safe and effective in peer-reviewed, published controlled U.S. veterinary studies

28
AVAILABLE IN 6oct, 12oct, 18oct

1 (g.) Cosequin DS Maximum Strength Plus MSM & Boswellia (soft chew)



18 **COSEQUIN[®] DS Maximum**
19 **Strength Plus MSM &**
20 **Boswellia**

- 21
- 22 ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - 23 ✓ Supports Mobility for a Healthy Lifestyle
 - 24 ✓ Available in a convenient and tasty soft chew
 - 25 ✓ Cosequin[®] brand joint health supplement is shown to be safe, effective, and bioavailable in peer-reviewed, published, controlled U.S. veterinary studies
- 26
27

28 AVAILABLE IN 60ct

1 (h.) Cosequin ASU Active Lifestyle (chewable tablet)



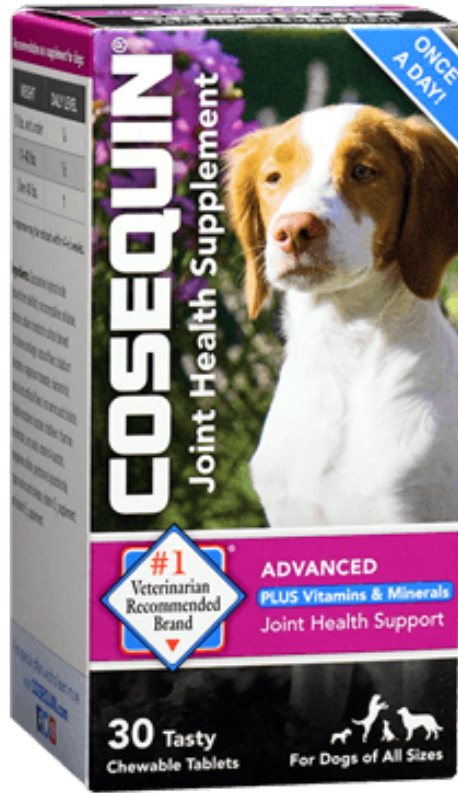
18 **COSEQUIN® ASU Active Lifestyle**

- 19
20
21
22
23
24
25
26
- ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - ✓ Formulated for active dogs who enjoy running, hiking and backyard play
 - ✓ Multiple ingredients for joint health support
 - ✓ Contains biotin to help support pad and coat health

27
28

AVAILABLE IN: 6oct. Only

1 (i.) Cosequin Advanced (chewable tablet)



19
20

COSEQUIN[®] Advanced

- 21
22
23
24
25
26
- ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - ✓ Once a day joint support PLUS vitamins and minerals
 - ✓ Contains the same researched trademarked ingredients as found in Cosequin[®] DS
 - ✓ Tasty chewable tablet

27
28

AVAILABLE IN: 30ct

1 (j.) Cosequin Minis Maximum Strength with MSM Plus Omega-3's (soft chew)



15
16
17
18
19

COSEQUIN® Minis Maximum Strength with MSM Plus Omega-3's

- 20
21
22
23
24
25
26
- ✓ Joint Support with Skin & Coat Support
 - ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - ✓ Specially formulated and designed for dogs under 25 lbs.
 - ✓ Tasty formula
 - ✓ Mini sized chews
 - ✓ Cosequin® brand joint health supplement is shown to be safe, effective, and bioavailable in peer-reviewed, published, controlled U.S. veterinary studies

27
28

AVAILABLE IN: 45ct Only

1 (k.) Cosequin MaxStrength Plus MSM (chewable tablet)



18 **COSEQUIN® Maximum**
19 **Strength Plus MSM**
20 **Chewable Tablets**

- 21
- 22 ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - 23 ✓ Available in chewable tablets
 - 24 ✓ Tasty formula to help keep healthy dogs active
 - 25 ✓ Cosequin® brand joint health supplement is shown to be safe, effective, and bioavailable in peer-reviewed, published, controlled U.S. veterinary studies
- 26
27

28 AVAILABLE IN 60ct, 132ct, 250ct

1 (1.) Cosequin MaxStrength with MSM Plus Omega-3's (soft chew)



17
18
19
20
21

COSEQUIN® Maximum Strength with MSM Plus Omega-3's Soft Chew

- 22
23
24
25
26
27
- ✓ #1 Veterinarian recommended retail joint health supplement brand ▼
 - ✓ Joint Support with Skin & Coat Support
 - ✓ Tasty easy to give soft chews
 - ✓ Cosequin® brand joint health supplement is shown to be safe, effective, and bioavailable in peer-reviewed, published, controlled U.S. veterinary studies

28
29

AVAILABLE IN 6oct, 12oct