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ON SIGNATURE PAGE]

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Jamie Sprenger

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**JAMIE SPRENGER;
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**CHURCH & DWIGHT CO.,
INC.,**

Defendant.

Case No.: '15CV1991 BAS KSC

**CLASS ACTION COMPLAINT
FOR:**

- 1) **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (CAL. CIVIL CODE §§ 1750, ET SEQ.);**
- 2) **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17533.7 (CALIFORNIA FALSE “MADE IN U.S.A.” CLAIM).**
- 3) **VIOLATION OF BUSINESS & PROFESSIONS CODE §§ 17200, ET SEQ. (CALIFORNIA UNFAIR COMPETITION LAW); AND**

JURY TRIAL DEMANDED

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INTRODUCTION

- 1
- 2 1. JAMIE SPRENGER (hereinafter “Plaintiff”) brings this Class Action
- 3 Complaint for damages, injunctive relief, and any other available legal or
- 4 equitable remedies, resulting from the illegal actions of CHURCH &
- 5 DWIGHT CO., INC., (hereinafter “C&D” and/or “Defendant”) in
- 6 unlawfully labeling Defendant’s consumable consumer packaged goods such
- 7 as dietary supplements and over the counter pharmaceutical products with
- 8 the false designation and representation that they are “Made In The USA”
- 9 (or some derivative thereof). The unlawfully labeled consumable products
- 10 are sold online and in various stores throughout the United States.¹ Plaintiff
- 11 alleges as follows upon personal knowledge as to herself and her own acts
- 12 and experiences, and, as to all other matters, upon information and belief,
- 13 including investigation conducted by their attorneys.
- 14 2. As stated by the California Supreme Court in *Kwikset v. Superior Court*
- 15 (January 27, 2011) 51 Cal4th 310, 328-29:

16

17 **Simply stated: labels matter.** The marketing industry is

18 based on the premise that labels matter, that consumers

19 will choose one product over another similar product

20 based on its label and various tangible and intangible

21 qualities that may come to associate with a particular

22 source...In particular, **to some consumers**, the “Made in

23 U.S.A.” label matters. A range of motivations may fuel

24 this preference, from the desire to support domestic jobs

25 to beliefs about quality, to concerns about overseas

26 environmental or labor conditions, to simple patriotism.

The Legislature has recognized the materiality of this

representation by specifically outlawing deceptive and

fraudulent “Made in America” representations. (Cal. Bus.

& Prof. Code section 17533.7; see also Cal. Civ. Code §

1770, subd. (a)(4) (prohibiting deceptive representations

of geographic origin)). The object of section 17533.7 “is

27 ¹ Plaintiff purchased Defendant’s mislabeled Vitafusion - Vitamin D3 Gummy

28 Vitamins, Assorted Flavors product (“Product”), which in part is the subject

matter of this lawsuit, from Amazon.com.

1 to protect consumers from being misled when they
2 purchase products in the belief that they are advancing
the interest of the United States and its industries and
workers...”

- 3 3. The “Made In The USA” claim (or some derivative thereof) is prominently
4 printed on the Defendant’s consumable products, which also include a clear,
5 eye-catching depiction of a United States flag.² (True and correct pictures of
6 Defendant’s products are attached hereto as “Exhibit A”). Contrary to
7 Defendant’s representation and in violation of California law, Defendant’s
8 consumable products, including the specific Product purchased by Plaintiff,
9 include foreign ingredients.

10 **JURISDICTION AND VENUE**

- 11 4. This Court also has jurisdiction over this matter pursuant to the Class Action
12 Fairness Act (CAFA) because the amount in controversy in this matter
13 exceeds \$5,000,000.00 as to all putative Class members, inclusive of
14 attorneys’ fees and costs, and injunctive relief. 28 U.S.C. Sections 1332(d),
15 1453, and 1711-1715.
- 16 5. Venue is proper in the United States District Court for the Southern District
17 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
18 Plaintiff resides in the City of San Diego, County of San Diego, State of
19 California, which is within this judicial district; (ii) the conduct complained
20 of herein occurred within this judicial district; and, (iii) many of the acts and
21 transactions giving rise to this action occurred in this district because
22 Defendant:

23 (a) is authorized to conduct business in this district and has
24

25 ² Plaintiff seeks class wide relief on behalf of all purchasers of any C&D products
26 that are substantially similar, as in consumable consumer packaged goods, to the
27 Product purchased by Plaintiff and labeled as “Made In The USA,” or some
28 derivative thereof, that are foreign-made or incorporates foreign-made
components (in violation of California law), not just the specific Product
purchased by Plaintiff.

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1 intentionally availed itself of the laws and markets within this
2 district;

3 (b) does substantial business within this district;

4 (c) is subject to personal jurisdiction in this district because it has
5 availed itself of the laws and markets within this district; and,

6 (d) the harm to Plaintiff occurred within this district.

7 **PARTIES**

8 6. Plaintiff is an individual residing in the City of San Diego, County of San
9 Diego, State of California.

10 7. Defendant is a corporation that is organized and exists under the laws of the
11 State of Delaware, with a principal place of business in the State of New
12 Jersey.

13 8. Defendant is an American conglomerate that manufactures and/or distributes
14 various products, including consumable consumer packaged goods such as
15 dietary supplements and over the counter pharmaceutical products.
16 Defendant conducts business through Internet sales and enjoys wide retail
17 distribution at numerous stores within the United States. One of the
18 consumable products sold by Defendant is the Product purchased by
19 Plaintiff.³

20 **FACTUAL ALLEGATIONS**

21 9. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
22 of this Complaint as though fully stated herein.

23 10. Defendant manufactures, markets and/or sells various dietary supplements
24 and over the counter pharmaceutical products that have been and are
25 currently still represented as “Made In The USA” (or some derivative

26 ³ Plaintiff purchased the mislabeled Product, which in part is the subject matter of
27 this lawsuit, from Amazon.com, but it is also available at numerous stores within
28 the United States, including, but not limited to, Target, Walgreens, CVS
Pharmacy, Rite Aid, and Ralphs.

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1 thereof), which also include a clear, eye-catching depiction of a United
2 States flag. Defendant's makes these representations on the consumable
3 products themselves, including the Product purchased by Plaintiff.

4 11. Contrary to the representation on the products' labels, Defendant's products
5 are wholly and/or substantially manufactured or produced with components
6 that are manufactured, grown and/or sourced outside of the United States.

7 12. Based upon information and belief, the offending Product purchased by
8 Plaintiff contains foreign ingredients.

9 13. Based upon information and belief, the offending Product purchased by
10 Plaintiff, and presumably all of Defendant's products that are substantially
11 similar and contain foreign ingredients, are wholly or partially made of
12 and/or manufactured with foreign materials, contrary to Defendant's "Made
13 In The USA" representations (or some derivative thereof) ("Class
14 Product/s").

15 14. Defendant marketed, and continues to market, and represent to the general
16 public via its Class Products' labels that Defendant's products are "Made In
17 The USA." As such, Defendant fraudulently concealed, and continues to
18 conceal, the material facts at issue in this matter by misrepresenting to the
19 general public the true source of the component parts in the offending Class
20 Products. Defendant possesses superior knowledge of the true facts that were
21 not disclosed, thereby tolling the running of any applicable statute of
22 limitations.

23 15. Consumers are particularly vulnerable to these deceptive and fraudulent
24 practices. Most consumers possess limited knowledge of the likelihood that
25 products, including the component products therein, claimed to be made in
26 the United States are in fact manufactured in foreign countries. This is a
27 material factor in many individuals' purchasing decisions, as they believe
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1 they are purchasing superior goods, produced under American standards and
2 laws, while supporting American companies and American jobs.

3 16. Consumers generally believe that “Made In The USA” products are of
4 higher quality than their foreign-manufactured counterparts and that they are
5 produced under higher standards, including, but not limited to, higher
6 environmental and labor laws. Due to Defendant’s scheme to defraud the
7 market, members of the general public were fraudulently induced to
8 purchase Defendant’s products at inflated prices.

9 17. On information and belief, Defendant charged excess monies for its Class
10 Products, including the Product purchased by Plaintiff, in comparison to
11 Defendant’s competitors during the entirety of the relevant four-year
12 statutory time period, based on the false “Made In The USA” designation (or
13 some derivative thereof). California laws are designed to protect consumers
14 from such false representations and predatory conduct. Defendant’s scheme
15 to defraud consumers for its own self-interest and monetary gain is ongoing
16 and will victimize consumers daily for the foreseeable future unless altered
17 by judicial intervention.

18 18. On or about June 30, 2015, Plaintiff purchased Defendant’s Product from
19 www.Amazon.com. At the time of Plaintiff’s purchase, the offending
20 Product was described as made in the U.S.A., when the Product actually was
21 made and/or contained components made outside of the United States. As
22 such, Defendant is not entitled to lawfully make representations that the
23 Product was “Made In The USA.”

24 19. In making the decision to purchase Defendant’s Product, Plaintiff relied
25 upon the advertising and/or other promotional materials prepared and
26 approved by Defendant and its agents and disseminated through its Class
27 Products’ packaging containing the misrepresentations alleged herein. Had
28 Plaintiff been made aware that the Product was not actually “Made In The

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1 USA,” she would not have purchased the Product. In other words, Plaintiff
2 would not have purchased Defendant’s Product, but for the “Made In The
3 USA” representations on Defendant’s Product’s label.

4 20.Plaintiff suffered an “injury in fact” because Defendant took Plaintiff’s
5 money as a result of Defendant’s false “Made In The USA” designation set
6 forth on Defendant’s Product and elsewhere.

7 21.In each case when Plaintiff and putative Class members purchased a Class
8 Product, they relied upon Defendant’s “Made In The USA” representation
9 (or some derivative thereof) in their purchasing decision, which is typical of
10 most U.S. consumers. Consequently, they were deceived as a result of
11 Defendant’s actions. Plaintiff believed at the time she purchased the Product
12 that she was purchasing a superior quality product, supporting U.S. jobs and
13 the U.S. economy, and also supporting ethical working conditions.

14 22.Component parts made in the U.S.A. are subject to strict regulatory
15 requirements, including but not limited to environmental, labor, and safety
16 standards. Foreign made component parts are not subject to the same U.S.
17 standards and as a result can be potentially much more dangerous to
18 consumers, especially when ingested like Defendant’s consumable products.
19 Further, foreign made component parts are also generally of lower quality
20 than their U.S. made counterparts, and routinely less reliable and less
21 durable than their U.S. made counterparts.

22 23.Consequently, Defendant’s Class Products containing the foreign
23 ingredients, including the Product purchased by Plaintiff, are of inferior
24 quality, potentially more dangerous and less reliable, as Defendant falsely
25 represented that these products are “Made In The USA.” This results in
26 lower overall customer satisfaction than if the products were truly “Made In
27 The USA” and/or consisting of component parts made in the United States.
28

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1 24. On information and belief, Defendant’s products containing the foreign
2 ingredients, including the Product purchased by Plaintiff, are not worth the
3 purchase price paid by Plaintiff and putative Class members. The precise
4 amount of damages will be proven at the time of trial, in large part, by expert
5 testimony.

6 25. Plaintiff and Class members were undoubtedly injured as a result of
7 Defendant’s false “Made In The USA” representations that are at issue in
8 this matter.

9 **CLASS ACTION ALLEGATIONS**

10 26. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
11 of this Complaint as though fully stated herein.

12 27. Plaintiff brings this action individually and on behalf of all others similarly
13 situated against Defendant, pursuant to Federal Rules of Civil Procedure,
14 Rules 23(a), 23(b)(1), 23(b)(2) and 23(b)(3).

15 28. Plaintiff represents, and is a member of the California Class, (“the Class”)
16 consisting of:

17 All persons within California who purchased one or more
18 of Defendant’s consumable consumer packaged good
19 products regardless of brand under which Defendant
20 marketing the product, that were advertised with a “Made
21 In The USA” country of origin designation (or some
22 derivative thereof), that were foreign-made and/or
23 composed of foreign-made component parts, within the
24 four years prior to the filing of the Complaint.

25 29. The “Class Period” means four years prior to the filing of the Complaint in
26 this action.

27 30. **Ascertainability.** Defendant and its employees and/or agents are excluded
28 from the Class. Plaintiff does not know the number of members in the
Class, but Plaintiff currently believes that there are hundreds of thousands, if
not more, members of the Class within the State of California. Because of

1 the nature of Defendant's products, Defendant and Defendant's distributors
 2 must keep detailed and accurate records of distribution in order to accurately
 3 and effectively execute a recall if so ordered by the Food and Drug
 4 Administration or any other organization. Therefore, the members of the
 5 Class are ascertainable through Defendant's records and/or Defendant's
 6 agents' records regarding retail and online sales, as well as through public
 7 notice. This matter should therefore be certified as a Class action to assist in
 8 the expeditious litigation of this matter.

9 31. *Numerosity*. The numerosity requirement of Fed. R. Civ. P. Rule 23(a)(1) is
 10 satisfied for the aforementioned Class because the members of the Class are
 11 so numerous and geographically disbursed that joinder of all Class members
 12 is impractical and the disposition of their claims in the Class action will
 13 provide substantial benefits both to the parties and to the court.

14 32. *Existence and Predominance of Common Questions of Law and Fact*.

15 There is a well-defined community of interest in the questions of law and
 16 fact involved affecting the parties to be represented. Common questions of
 17 fact and law exist in this matter that predominate over questions that may
 18 affect individual Class members, satisfying the requirement of Fed. R. Civ.
 19 P., Rule 23(a)(2), including, but not limited to, the following:

- 20 a. Whether Defendant committed the wrongful conduct alleged herein;
- 21 b. Whether Defendant's acts, transactions, or course of conduct
- 22 constitute the violations of law alleged herein;
- 23 c. Whether the members of the Class sustained and/or continue to
- 24 sustain damages attributable to Defendant's conduct, and, if so, the
- 25 proper measure and appropriate formula to be applied in determining
- 26 such damages; and
- 27 d. Whether the members of the Class are entitled to injunctive and/or
- 28 any other equitable relief.

1 33.**Typicality.** Plaintiff’s claims are typical of the claims of all other members
2 of the Class and involve the same violations of law by Defendant as other
3 Class members’ claims. Plaintiff and members of the Class also sustained
4 damages arising out of Defendant’s common course of conduct complained
5 herein. Accordingly, Plaintiff satisfies the “typicality” requirement of Fed.
6 R. Civ. P., Rule 23(a)(3) with respect to the Class.

7 34.**Adequacy of Representation.** As a person who purchased one or more of
8 Defendant’s products, that were advertised with a “Made In The USA”
9 country of origin designation (or some derivative thereof), but contain
10 foreign-made ingredients and/or composed of foreign-made component
11 parts, Plaintiff is asserting claims that are typical of the Class. Plaintiff will
12 fairly and adequately represent and protect the interests of other members of
13 the Class in that Plaintiff has no interests antagonistic to any member of the
14 Class. Further, Plaintiff has retained counsel experienced in handling class
15 action claims and claims involving violations of the consumer laws, and
16 specifically violations of the California Business and Professions Code.
17 Thus, Fed. R. Civ. P., Rule 23(a)(4) is satisfied.

18 35.**Superiority.** A class action is a superior method for the fair and efficient
19 adjudication of this controversy. Class-wide damages are essential to induce
20 Defendant to comply with California law. The interest of Class members in
21 individually controlling the prosecution of separate claims against Defendant
22 is small because the damages suffered by individual members of the Class
23 may be minimal. As a result, the expense and burden of litigation would
24 prevent class members from individually redressing the wrongs done to
25 them. A representative class action is both the appropriate vehicle by which
26 to adjudicate these claims and is essential to the interests of justice.
27 Furthermore, a class action regarding the issues presented in this matter
28

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1 creates no significant problems of manageability. Therefore, the superiority
2 and manageability requirements of 23(b)(3) are satisfied.

3 36. This suit seeks only damages and injunctive relief for recovery of economic
4 injury on behalf of the Class, and it expressly is not intended to request any
5 recovery for personal injury and claims related thereto. Plaintiff reserves the
6 right to expand the Class definition to seek recovery on behalf of additional
7 persons as warranted as facts are learned in further investigation and
8 discovery.

9 37. Plaintiff and members of the putative Class have suffered “injury in fact”
10 and have lost money or property as a result of Defendants’ unfair
11 competition, as more fully set forth herein. Plaintiff and members of the
12 putative Class have been injured as they relied on Defendants’ intentional
13 misrepresentation and were induced into purchasing, purchasing more of,
14 and overpaying for Defendant’s Class Products. Plaintiff and members of the
15 Class have been injured, as had they been made aware that the product was
16 not actually “Made In The USA,” they would not have purchased the
17 product. In other words, Plaintiff and members of the Class would not have
18 purchased Defendant’s Class Products, but for the “Made In The USA”
19 representations (or some derivative thereof) on Defendant’s products’ labels.

20 38. Plaintiff and the members of the Class have all suffered irreparable harm as
21 a result of the Defendant’s unlawful and wrongful conduct. Absent a
22 representative class action, members of the Class will continue to face the
23 potential for irreparable harm described herein. In addition, these violations
24 of law will be allowed to proceed without remedy and Defendant will likely
25 continue such illegal conduct. Because of the size of the individual Class
26 member’s claims, few, if any, Class members could not afford to seek legal
27 redress for the wrongs complained of herein. Furthermore, even if separate
28 actions could be brought by individual purchasers, the resulting multiplicity

1 of lawsuits would cause undue hardship and expense for both the Court and
2 the litigants, as well as create the risk of inconsistent rulings and
3 adjudications that might be dispositive of the interests of similarly situated
4 purchasers, thereby substantially impeding purchasers' ability to protect
5 their interests, while establishing incompatible standards of conduct for
6 Defendant. Thus, the proposed Class satisfy the requirements of Fed. R.
7 Civ. P., Rule 23(b)(1).

8 39. Defendant has acted and/or refused to act on grounds generally applicable to
9 the Plaintiff and other members of the Class, thereby rendering class
10 certification and final injunctive relief and corresponding declaratory relief
11 with respect to members of the Class as a whole appropriate. Thus,
12 certification is proper under Fed. R. Civ. P. Rule 23(b)(2).

13 40. As discussed above, numerous common questions of fact and law exist in
14 this matter. These questions predominate over the individual questions
15 presented in this action. Thus, the predominance requirement of Fed. R.
16 Civ. P. Rule 23(b)(3) is satisfied.

17 41. A class action is a superior method for the fair and efficient adjudication of
18 this controversy. Class-wide damages are essential to induce Defendant to
19 comply with California law. The interest of Class members in individually
20 controlling the prosecution of separate claims against Defendant is small
21 because the damages suffered by individual members of the Class may be
22 minimal. As a result, the expense and burden of litigation would prevent
23 class members from individually redressing the wrongs done to them. A
24 representative class action is both the appropriate vehicle by which to
25 adjudicate these claims and is essential to the interests of justice.
26 Furthermore, a class action regarding the issues presented in this matter
27 creates no significant problems of manageability. Therefore, the superiority
28 and manageability requirements of 23(b)(3) are satisfied.

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FIRST CAUSE OF ACTION

VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT

CAL. CIV. CODE SECTION 1750, ET SEQ.

42. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

43. California Civil Code Section 1750 et seq., entitled the Consumers Legal Remedies Act (hereinafter “CLRA”), provides a list of “unfair or deceptive” practices in a “transaction” relating to the sale of “goods” or “services” to a “consumer.” The Legislature’s intent in promulgating the CLRA is expressed in Civil Code Section 1760, which provides, *inter alia*, that its terms are to be:

Construed liberally and applied to promote its underlying purposes, which are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.

44. Defendant’s products constitute “goods” as defined pursuant to Civil Code Section 1761(a).

45. Plaintiff, and the Class members, are each a “consumer” as defined pursuant to Civil Code Section 1761(d).

46. Each of Plaintiff’s and the Class members’ purchases of Defendant’s products constituted a “Transaction” as defined pursuant to Civil Code Section 1761(e).

47. Civil Code Section 1770(a)(2), (4), (5), (7) and (9) provide that:

The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

- [m]isrepresenting the source, sponsorship, approval, or certification of goods or services,
- [u]sing deceptive representations or designations of geographic origin in connection with goods or services,

1 [r]epresenting that goods or services have sponsorship,
2 approval, characteristics, ingredients, uses, benefits, or
3 quantities which they do not have,
4 [r]epresenting that goods or services are of a particular
5 standard, quality, or grade... if they are of another, [and]
6 [a]dvertising goods or services with intent not to sell
7 them as advertised.”

8
9 48. Defendant violated Civil Code Section 1770(a)(2), (4), (5), (7) and (9) by
10 marketing and representing that its products are “Made In The USA” (or
11 some derivative thereof) when they actually contain foreign-made or
12 manufactured ingredients.

13 49. On information and belief, Defendant’s violations of the CLRA set forth
14 herein were done with awareness of the fact that the conduct alleged was
15 wrongful and was motivated solely for Defendant’s self-interest, monetary
16 gain and increased profit. Plaintiff further alleges that Defendant committed
17 these acts knowing the harm that would result to Plaintiff and Defendant
18 engaged in such unfair and deceptive conduct notwithstanding such
19 knowledge.

20 50. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
21 Defendant as a result of Defendant’s false “Made In The USA”
22 representations set forth on Defendant’s actual products.

23 51. As a direct and proximate result of Defendant’s violations of the CLRA,
24 Plaintiff and members of the Class are entitled to a declaration that
25 Defendant violated the Consumer Legal Remedies Act.

26 52. Plaintiff and the Class are also entitled to and seek injunctive relief
27 prohibiting such conduct in the future.

28
SECOND CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE

BUS. & PROF. CODE, SECTION 17533.7

53. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
of this Complaint as though fully stated herein.

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1 54. Business & Professions Code § 17533.7 provides:

2 It is unlawful for any person, firm, corporation or
3 merchandise on which merchandise or on its container
4 there appears the words “Made in U.S.A.,” “Made in
5 America, “ U.S.A.,” or similar words when the
6 merchandise or any article, unit, or part thereof, has been
7 entirely or substantially made, manufactured, or
8 produced outside of the United States.

9 55. Defendant violated Bus. & Prof. Code § 17533.7 by selling and offering to
10 sell products in the State of California with the “Made In The USA” country
11 of origin designation (or some derivative thereof) as fully set forth herein.
12 The products at issue in this matter are wholly and/or substantially
13 manufactured outside of the United States and/or contain ingredients that are
14 manufactured outside of the United States in violation of California law.

15 56. On information and belief, Defendant’s violations of Bus. & Prof. Code §
16 17533.7 as set forth herein were done with awareness of the fact that the
17 conduct alleged was wrongful and was motivated solely for Defendant’s
18 self-interest, monetary gain and increased profit. Plaintiff further alleges that
19 Defendant committed these acts knowing the harm that would result to
20 Plaintiff and Defendant engaged in such unfair and deceptive conduct
21 notwithstanding such knowledge.

22 57. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
23 Defendant as a result of Defendant’s false “Made In The USA”
24 representations set forth on the Defendant’s products.

25 58. As a direct and proximate result of Defendant’s violations of Bus. & Prof.
26 Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess
27 monies paid to Defendant by Plaintiff and the Class relating to the false
28 “Made In The USA” representations (or some derivative thereof) set forth on
the Defendant’s products.

1 59. In prosecuting this action for the enforcement of important rights affecting
2 the public interest, Plaintiff seeks the recovery of attorneys' fees, which is
3 available to a prevailing plaintiff in class action cases such as this matter.

4 **THIRD CAUSE OF ACTION**

5 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

6 **BUS. & PROF. CODE, SECTION 17200, ET SEQ.**

7 60. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
8 of this Complaint as though fully stated herein.

9 61. Plaintiff and Defendant are each "person[s]" as defined by California
10 Business & Professions Code § 17201. California Business & Professions
11 Code § 17204 authorizes a private right of action on both an individual and
12 representative basis.

13 62. "Unfair competition" is defined by Business and Professions Code Section §
14 17200 as encompassing several types of business "wrongs," including: (1)
15 an "unlawful" business act or practice, (2) an "unfair" business act or
16 practice, (3) a "fraudulent" business act or practice, and (4) "unfair,
17 deceptive, untrue or misleading advertising." The definitions in § 17200 are
18 drafted in the disjunctive, meaning that each of these "wrongs" operates
19 independently from the others.

20 63. By and through Defendant's conduct alleged in further detail above and
21 herein, Defendant engaged in conduct which constitutes unlawful, unfair,
22 and/or fraudulent business practices, and unfair, deceptive, untrue or
23 misleading advertising prohibited by Bus. & Prof. Code § 17200 et seq.

24 **A. "Unlawful" Prong**

25 64. Beginning at a date currently unknown through the time of this Complaint,
26 Defendant has committed acts of unfair competition, including those
27 described above, by engaging in a pattern of "unlawful" business practices,
28

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1 within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing,
 2 distributing, and/or marketing Defendant's products with a false country of
 3 origin designation, in violation of Section 17533.7 by falsely representing
 4 that the products referenced herein are "Made In The USA" when
 5 Defendant's products are in fact foreign-made and/or composed of
 6 component parts manufactured and/or grown outside of the United States.

7 **B. "Unfair" Prong**

8
 9 65. Beginning at a date currently unknown and continuing up through the time
 10 of this Complaint, Defendant has committed acts of unfair competition that
 11 are prohibited by Bus. & Prof. Code section 17200 et seq. Defendant
 12 engaged in a pattern of "unfair" business practices that violate the wording
 13 and intent of the statutes by engaging in conduct and practices that threaten
 14 an incipient violation of law/s or violate the policy or spirit of law/s by
 15 manufacturing, distributing, and/or marketing Defendant's products with a
 16 false country of origin designation, in violation of Section 17533.7 by
 17 falsely representing that the products referenced herein are "Made In The
 18 USA" when Defendant's products are in fact foreign-made and/or composed
 19 of component parts manufactured and/or grown outside of the United States.

20 66. Alternatively, Defendant engaged in a pattern of "unfair" business practices
 21 that violate the wording and intent of the abovementioned statute/s by
 22 engaging in practices that are immoral, unethical, oppressive or
 23 unscrupulous, the utility of such conduct, if any, being far outweighed by the
 24 harm done to consumers and against public policy by manufacturing,
 25 distributing, and/or marketing Defendant's products with a false country of
 26 origin designation, in violation of Section 17533.7 by falsely representing
 27 that the products referenced herein are "Made In The USA" when
 28

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1 Defendant's products are in fact foreign-made and/or composed of
2 component parts manufactured and/or grown outside of the United States.

3 67. Alternatively, Defendant engaged in a pattern of "unfair" business practices
4 that violate the wording and intent of the abovementioned statute/s by
5 engaging in practices, including manufacturing, distributing, marketing,
6 and/or advertising Defendant's products with a false country of origin
7 designation, in violation of Section 17533.7 by falsely representing that the
8 products referenced herein are "Made In The USA;" wherein: (1) the injury
9 to the consumer was substantial; (2) the injury was not outweighed by any
10 countervailing benefits to consumers or competition; and (3) the injury was
11 not of the kind that consumers themselves could not have reasonably
12 avoided.

13 **C. "Fraudulent" Prong**

14 68. Beginning at a date currently unknown and continuing up through the time
15 of this Complaint, Defendant engaged in acts of unfair competition,
16 including those described above and herein, prohibited and in violation of
17 Bus. & Prof. Code § 17200 et seq., by engaging in a pattern of "fraudulent"
18 business practices within the meaning of Bus. & Prof. Code § 17200 et seq,
19 by manufacturing, distributing, and/or marketing Defendant's products with
20 a false country of origin designation, in violation of Section 17533.7 by
21 falsely representing that the products referenced herein are "Made In The
22 USA" when Defendant's products are in fact foreign-made and/or composed
23 of component parts manufactured and/or grown outside of the United States.

24 69. Plaintiff reserves the right to allege further conduct that constitutes other
25 fraudulent business acts or practices. Such conduct is ongoing and continues
26 to this date.

27 ///

D. “Unfair, Deceptive, Untrue or Misleading Advertising” Prong

1
2 70. Defendant’s advertising is unfair, deceptive, untrue or misleading in that
3 consumers are led to believe that Defendant’s products are “Made In The
4 USA” and that therefore they are of superior quality and workmanship, and
5 that they were produced according to U.S. standards and laws when in fact
6 they are not entirely “Made In The USA.”

7 71. Plaintiff, a reasonable consumer, and the public would be likely to be, and,
8 in fact were, deceived and misled by Defendant’s advertising as they
9 would, and did, interpret the representation in accord with its ordinary usage,
10 that the products were actually entirely manufactured by Defendant in the
11 USA.

12 72. Defendant’s unlawful, unfair, and fraudulent business practices and unfair,
13 deceptive, untrue or misleading advertising presents a continuing threat to
14 the public in that Defendant continues to engage in unlawful conduct
15 resulting in harm to consumers.

16 73. Defendant engaged in these unlawful, unfair, and fraudulent business
17 practices motivated solely by Defendant’s self-interest with the primary
18 purpose of collecting unlawful and unauthorized monies from Plaintiff and
19 all others similarly situated; thereby unjustly enriching Defendant.

20 74. Such acts and omissions by Defendant are unlawful and/or unfair and/or
21 fraudulent and constitute a violation of Business & Professions Code section
22 17200 et seq. Plaintiff reserves the right to identify additional violations by
23 Defendant as may be established through discovery.

24 75. As a direct and proximate result of the aforementioned acts and
25 representations described above and herein, Defendant received and
26 continues to receive unearned commercial benefits at the expense of their
27 competitors and the public.
28

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1 76.As a direct and proximate result of Defendant’s unlawful, unfair and
2 fraudulent conduct described herein, Defendant has been and will continue
3 to be unjustly enriched by the receipt of ill-gotten gains from customers,
4 including Plaintiff, who unwittingly provided money to Defendant based on
5 Defendant’s fraudulent “Made In The USA” representations when
6 Defendant’s products are in fact foreign-made and/or composed of
7 component parts manufactured and/or grown outside of the United States.

8 77.Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
9 Defendant as a result of Defendant’s false “Made In USA” representations
10 set forth on the Defendant’s products.

11 78.In prosecuting this action for the enforcement of important rights affecting
12 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
13 available to a prevailing plaintiff in class action cases such as this matter.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff respectfully requests the Court grant Plaintiff and
16 the Class members the following relief against Defendant:

- 17 • That the Court determine that this action may be maintained as a Class
18 Action by certifying this case as a Class Action;
- 19 • That the Court certify Plaintiff to serve as the Class representative in this
20 matter;
- 21 • That Defendant’s wrongful conduct alleged herein be adjudged and
22 decreed to violate the consumer protection statutory claims asserted
23 herein;
- 24 • That Plaintiff and each of the other members of the Class recover the
25 amounts by which Defendant has been unjustly enriched;
- 26 • That Defendant be enjoined from continuing the wrongful conduct alleged
27 herein and required to comply with all applicable laws;
- 28

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- That Plaintiff and each of the other members of the class recover their costs of suit, including reasonable attorneys’ fees and expenses as provided by law; and
- That Plaintiff and the members of the Class be granted any other relief the Court may deem just and proper.

TRIAL BY JURY

79.Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: September 8, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ ABBAS KAZEROUNIAN
ABBAS KAZEROUNIAN, ESQ.
ATTORNEYS FOR PLAINTIFF

[ADDITIONAL PLAINTIFF’S COUNSEL]

HYDE & SWIGART

Joshua B. Swigart, Esq. (SBN: 225557)
josh@westcoastlitigation.com
2221 Camino Del Rio South, Suite 101
San Diego, CA 92108-3551
Telephone: (619) 233-7770
Facsimile: (619) 297-1022

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jaime Sprenger, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Abbas Kazerounian, Esq. (249203) Kazerouni Law Group, APC 245 Fischer Avenue, Unit D1, Costa Mesa, CA 92626 (800) 400-6808

DEFENDANTS

Church & Dwight Co., Inc.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) '15CV1991 BAS KSC

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and business location (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation).

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal codes and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1391. Brief description of cause: Violations of the Consumers Legal Remedies Act, Business & Professions Code §§ 17533.7 and 17200

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 09/08/2015 SIGNATURE OF ATTORNEY OF RECORD s/Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

PLAINTIFF'S EXHIBIT A

- 1) Vitafusion
 - 2) L'il Critters
 - 3) Accuflora
-

In The Case Of

Jamie Sprenger; Individually And On Behalf Of All Others Similarly Situated,

v.

Church & Dwight CO., Inc.



on a 2,000 calorie diet.

water, gelatin; less than 2% of: canola lecithin, citric acid, colors (annatto, purple carrot juice concentrate), fractionated coconut oil (contains beeswax, main triglycerides, and natural flavors. **Contains: tree nuts (coconut), egg, fish, shellfish, soy and tree nuts.**

If you have a medical condition, are on medication or are a qualified health care professional before using. Do not use if inner seal is broken or damaged during shipping. Do not expose to excessive heat or moisture. Colors will vary slightly over time. This does not affect the potency of the product.

EN

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 Call 1-888-334-5389 M—F 9AM—5PM ET
www.gummyvites.com
 VFLB-02134-03 70504876



Supplement Facts
 2 Gummy Bears
 Bottle approximately 137

	% Daily Value 2-4 Yrs. 4&Up	Amount Per Serving	% Daily Value 2-4 Yrs. 4&Up
Vitamin B-12		6 mcg	200%
Biotin	1%†	60 mcg	40%
Pantothenic acid	**	5.2 mg	104%
Iodine	84%	42 mcg	60%
Zinc	50%	2.7 mg	34%
Choline	100%	40 mcg	
Inositol	165%	40 mcg	
	286%		100%
	70%		35%

†Percent Daily Values are based on a 2,000 calorie diet.
 **Daily Value not established.

... syrup, sucrose, gelatin, di-alpha-tocopheryl acetate, ascorbic acid, zinc chelate, natural flavors, citric acid, retinyl palmitate, colors (purple carrot juice concentrate, black carrot juice extract, turmeric, beta-carotene, natural iron oxide), pyridoxine HCl, potassium iodide, cyanocobalamin, fractionated coconut oil, inositol.

... Do not exceed suggested dosage. If your child has a medical condition or is on medication, consult your doctor before using this product. Not recommended for children under two years of age due to choking. Do not use if the seal is broken. This product may settle during shipping. Store at room temperature. Do not expose to excessive heat or cold. Do not use if the product has become discolored or if the expiration date has passed. Do not use if the product has become discolored or if the expiration date has passed. Do not use if the product has become discolored or if the expiration date has passed.

... have not been evaluated by the Food and Drug Administration. Intended to diagnose, treat, cure or prevent any disease.

... natural products®
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3) Accuflora

THE GOOD STUFF FROM YOGURT™

ADVANCED CD
accuflora
ProBiotic Supplement
5 PROBIOTIC STRAINS

UP TO 12 HOURS SUPPORT

Supports Digestive Health*

Helps Maintain Bacteria That May Be Beneficial*

60 CAPLETS
easy to swallow

**Advanced CD:
Controlled Delivery**
up to 12 Hours of ProBiotic Support*

ADVANCED CD
accuflora™ ProBiotic Supplement
The Good Stuff From Yogurt™

WHY ACCUFLORA MAY BE HELPFUL?
Accuflora Advanced CD can help naturally support your digestive health and help regulate your body's internal balance.

WHAT AFFECTS MY INTERNAL BALANCE?
High meat, dairy products, processed foods, stress and age can all affect your body's digestion. As a result, you may experience discomfort, bloating and changes in regularity.

WHAT STRAINS ARE IN ACCUFLORA?
Accuflora contains a blend of 5 beneficial strains of live active cultures to help support digestive health:

- *Lactobacillus acidophilus*
- *Lactobacillus rhamnosus*
- *Streptococcus thermophilus*
- *Bifidobacterium bifidum*
- *Lactobacillus salivarius*, which is found in yogurt

Suggested use: As a dietary supplement, swallow two (2) caplets up to 2 times per day. Do not crush or chew.

Supplement Facts

Amount Per Serving	% Daily Value
Total Carbohydrate	1 g < 1% †
Sodium	40 mg 2%
Probiotic Blend	300 mg **

†Percent Daily Values are based on a 2,000 calorie diet. **Daily Value not established.

Other ingredients: Microcrystalline cellulose, hydroxypropyl methylcellulose, pectin, guar gum, silica dioxide, stearic acid, and turmeric.

Contains: Milk

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

1 billion good bacteria per serving at time of manufacture. Bacteria count will vary after time of manufacture. Store in cool, dry place; best if refrigerated after opening.

If you have a medical condition, are on medication or are pregnant or nursing, please seek the advice of a qualified health professional before using. Take only as directed. Do not exceed suggested dosage. Do not use if inner seal is broken or missing.

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MADE IN THE USA

Supplement Facts

Serving Size 2 Caplets
Servings Per Container 30

Amount Per Serving		% Daily Value
Total Carbohydrate	1 g	< 1% †
Sodium	40 mg	2%
Probiotic Blend	300 mg	**

Lactobacillus acidophilus, Lactobacillus rhamnosus, Bifidobacterium bifidum, Lactobacillus salivarius, Streptococcus thermophilus

†Percent Daily Values are based on a 2,000 calorie diet.
**Daily Value not established.

Other ingredients: Microcrystalline cellulose, hydroxypropyl methylcellulose, pectin, guar gum, silica dioxide, stearic acid, and turmeric.

Contains: Milk

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...serving at time of manufacture. Bacteria count will vary after time of manufacture. Store in cool, dry place; best if refrigerated after opening.

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