

1 THE CARRICK LAW GROUP  
A PROFESSIONAL CORPORATION  
2 Roger Lane Carrick (State Bar No. 096342)  
3 350 South Grand Avenue, Suite 2930  
Los Angeles, California 90071-3406  
4 Telephone: (213) 346-7930  
Facsimile: (213) 346-7931

**ORIGINAL FILED**

JAN 24 2006

**LOS ANGELES  
SUPERIOR COURT**

5 Attorneys for Plaintiffs  
6 KATHERINE LEE BUCKLAND AND CALIFORNIA  
WOMEN'S LAW CENTER

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF LOS ANGELES

11 KATHERINE LEE BUCKLAND, an individual,  
AND CALIFORNIA WOMEN'S LAW CENTER,  
12 a CALIFORNIA non-profit corporation,

Case No. BC 344046

[Hon. Robert L. Hess]

13 Plaintiffs,

**FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE RELIEF,  
RESTITUTION, CIVIL PENALTIES,  
DAMAGES AND PUNITIVE  
DAMAGES; DEMANDS FOR JURY  
TRIAL**

14 v.

15 THRESHOLD ENTERPRISES, LTD., a  
DELAWARE corporation; ALLVIA  
16 INTEGRATIVE PHARMACEUTICALS, INC., a  
ARIZONA corporation; AT LAST NATURALS,  
17 INC., a NEW YORK corporation; BIOCENTRIC  
LABS, INC., a COLORADO corporation; BIO-  
18 HEALTH, A DIVISION OF ZLABS LLC, a  
ARIZONA limited liability company; BIOTECH  
19 INTERNATIONAL CORPORATION, a  
CONNECTICUT corporation; CANNON  
20 MEDICAL CLINIC, INC., A DIVISION OF  
GEORGE L. CANNON, M.D., INC., a ARIZONA  
21 professional corporation; CANYON GROUP  
CORPORATION, a NEVADA corporation;  
22 METABOLIC RESPONSE MODIFIERS, INC., a  
CALIFORNIA corporation; MATOL  
23 BOTANICAL INTERNATIONAL LTD., INC., a  
CANADIAN corporation; MAXIMUM LIVING,  
24 INC., a CALIFORNIA corporation; MEAD LABS,  
LLC, a OREGON limited liability company;  
25 NATURE'S LIGHT, INC., a COLORADO  
corporation; NOW HEALTH GROUP, INC., a  
26 ILLINOIS corporation D/B/A NOW FOODS;

Bus. & Prof. Code § 17200 *et seq.*;  
Bus. & Prof. Code § 17500 *et seq.*;  
Civil Code §1709;  
Civil Code §1710;  
Civil Code 1750 *et seq.*; and  
Health & Safety Code § 25249.6 *et seq.*

Environmental/Toxic Tort (30)

Action Filed: December 7, 2005

Hearing Date: None Set  
Time: None Set  
Location: Dept. 24, Room 314

27  
28 *CAPTION CONTINUES ON NEXT PAGE*

1 PURE ESSENCE LABORATORIES, INC., a  
2 NEVADA corporation; SUPERNUTRITION  
3 LIFE-EXTENSION RESEARCH, INC., D/B/A  
4 SUPERNUTRITION, a CALIFORNIA  
5 corporation; SWANSON HEALTH PRODUCTS,  
6 INC., a NORTH DAKOTA corporation;  
7 VITAMIN POWER, INCORPORATED, a NEW  
8 YORK corporation; VITAMIN SHOPPE  
9 INDUSTRIES, INC., a NEW YORK corporation;  
10 MADISON PHARMACY ASSOCIATES, INC., a  
11 WISCONSIN corporation; WOMEN'S HEALTH  
12 AMERICA, INC., a WISCONSIN corporation;  
13 YOUNG AGAIN NUTRITION, LLC, a TEXAS  
14 limited liability company D/B/A YOUNG AGAIN  
15 NUTRIENTS; CREATIVISION, INC., a  
16 COLORADO corporation D/B/A ALTERNATIVE  
17 MEDICINE NETWORK; BETTER HEALTH  
18 NATURALLY, INC., a CALIFORNIA  
19 corporation; FOUNTAIN OF YOUTH  
20 TECHNOLOGIES, INC., a OHIO corporation;  
21 HELEN PENSANTI, M.D., INC., a  
22 CALIFORNIA corporation; BOTANICAL  
23 LABORATORIES, a WASHINGTON corporation  
24 D/B/A ZAND HERBAL FORMULAS; ELATION  
25 THERAPY, INC., a GEORGIA corporation;  
26 KENOGEN, INC., a OREGON corporation;  
27 NATURE'S BOUNTY, INC., a NEW YORK  
28 corporation; NBTY, INC., a DELAWARE  
corporation; NUTRI-COLOGY, INC., a  
CALIFORNIA corporation; OPTIMUM  
SOLUTIONS, LLC, a LOUISIANA limited  
liability company; RADIANT LIFE SYSTEMS,  
LLC, a NEW MEXICO limited liability company;  
WOMEN'S MEDICINE, INC., A DIVISION OF  
THE NATURAL HORMONE INSTITUTE OF  
AMERICA, a FLORIDA corporation; ANGEL  
FOOD DISTRIBUTORS, INC., a GEORGIA  
corporation; BEFORE & AFTER COSMETICS,  
LLC, an unknown limited liability company;  
GENERAL NUTRITION CORPORATION, a  
PENNSYLVANIA corporation; HEALTH  
ALTERNATIVE WEST, INC., a DELAWARE  
corporation; NATURAL PAUSE, an unknown  
corporation; SUNRISE WHOLESAL DIRECT  
D/B/A SUNRISEWD.COM, an unknown  
corporation; and DEFENDANT DOES 1 through  
1,000, inclusive,

Defendants.

1 Plaintiffs, by and through their counsel, hereby allege the following on information and  
2 belief:

### 3 INTRODUCTION

4 1. This first amended complaint (“Complaint”) seeks to remedy the continuing  
5 failure of THRESHOLD ENTERPRISES, LTD., a DELAWARE corporation; ALLVIA  
6 INTEGRATIVE PHARMACEUTICALS, INC., a ARIZONA corporation; AT LAST  
7 NATURALS, INC., a NEW YORK corporation; BIOCENTRIC LABS, INC., a COLORADO  
8 corporation; BIO-HEALTH, A DIVISION OF ZLABS LLC, a ARIZONA limited liability  
9 company; BIOTECH INTERNATIONAL CORPORATION, a CONNECTICUT corporation;  
10 CANNON MEDICAL CLINIC, INC., A DIVISION OF GEORGE L. CANNON, M.D., INC., a  
11 ARIZONA professional corporation; CANYON GROUP CORPORATION, a NEVADA  
12 corporation; METABOLIC RESPONSE MODIFIERS, INC., a CALIFORNIA corporation;  
13 MATOL BOTANICAL INTERNATIONAL LTD., INC., a CANADIAN corporation;  
14 MAXIMUM LIVING, INC., a CALIFORNIA corporation; MEAD LABS, LLC, a OREGON  
15 limited liability company; NATURE’S LIGHT, INC., a COLORADO corporation; NOW  
16 HEALTH GROUP, INC., a ILLINOIS corporation D/B/A NOW FOODS; PURE ESSENCE  
17 LABORATORIES, INC., a NEVADA corporation; SUPERNUTRITION LIFE-EXTENSION  
18 RESEARCH, INC., D/B/A SUPERNUTRITION, a CALIFORNIA corporation; SWANSON  
19 HEALTH PRODUCTS, INC., a NORTH DAKOTA corporation; VITAMIN POWER,  
20 INCORPORATED, a NEW YORK corporation; VITAMIN SHOPPE INDUSTRIES, INC., a  
21 NEW YORK corporation; MADISON PHARMACY ASSOCIATES, INC., a WISCONSIN  
22 corporation; WOMEN’S HEALTH AMERICA, INC., a WISCONSIN corporation; YOUNG  
23 AGAIN NUTRITION, LLC, a TEXAS limited liability company D/B/A YOUNG AGAIN  
24 NUTRIENTS; CREATIVISION, INC., a COLORADO corporation D/B/A ALTERNATIVE  
25 MEDICINE NETWORK; BETTER HEALTH NATURALLY, INC., a CALIFORNIA  
26 corporation; FOUNTAIN OF YOUTH TECHNOLOGIES, INC., a OHIO corporation; HELEN  
27 PENSANTI, M.D., INC., a CALIFORNIA corporation; BOTANICAL LABORATORIES, a  
28 WASHINGTON corporation D/B/A ZAND HERBAL FORMULAS; ELATION THERAPY,

1 INC., a GEORGIA corporation; KENOGEN, INC., a OREGON corporation; NATURE'S  
2 BOUNTY, INC., a NEW YORK corporation; NBTY, INC., a DELAWARE corporation;  
3 NUTRI-COLOGY, INC., a CALIFORNIA corporation; OPTIMUM SOLUTIONS, LLC, a  
4 LOUISIANA limited liability company; RADIANT LIFE SYSTEMS, LLC, a NEW MEXICO  
5 limited liability company; WOMEN'S MEDICINE, INC., A DIVISION OF THE NATURAL  
6 HORMONE INSTITUTE OF AMERICA, a FLORIDA corporation; ANGEL FOOD  
7 DISTRIBUTORS, INC., a GEORGIA corporation; BEFORE & AFTER COSMETICS, LLC, an  
8 unknown limited liability company; GENERAL NUTRITION CORPORATION, a  
9 PENNSYLVANIA corporation; HEALTH ALTERNATIVE WEST, INC., a DELAWARE  
10 corporation; NATURAL PAUSE, an unknown corporation; SUNRISE WHOLESALE DIRECT  
11 D/B/A SUNRISEWD.COM, an unknown corporation; and DEFENDANT DOES 1 through  
12 1,000, inclusive, (collectively "Defendants") to comply with various federal and state laws in the  
13 sale of Defendants' respective progesterone and testosterone consumer creams, gels and/or  
14 lotion products containing Progesterone, Medroxyprogesterone acetate, Testosterone and its  
15 esters, Methyltestosterone, Testosterone cypionate, and/or Testosterone enanthate ("Products").  
16 The Products are strictly regulated as drugs by the U.S. Food and Drug Administration  
17 ("US/FDA") under the federal Food, Drug and Cosmetic Law. Progesterone,  
18 Medroxyprogesterone acetate, Testosterone and its esters, Methyltestosterone, Testosterone  
19 cypionate, and/or Testosterone enanthate (collectively "Regulated Chemicals") are hormones as  
20 well as dangerous toxic chemicals known to the State of California to cause cancer and/or  
21 reproductive harm. Individuals in California who purchase and use these Products are exposed  
22 to these Regulated Chemicals when those individuals use the Products.

### 23 STATEMENT OF FACTS

24 2. Defendants are manufacturers, distributors and/or sellers of these Products, which  
25 are marketed and labeled making health-related claims. These companies know that thousands  
26 of their Products are purchased and used by individuals, including pregnant women, women of  
27 childbearing age as well as women experiencing menopause, each year in California.

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1           3.       US/FDA regulates these types of Products as drugs pursuant to Title 21 United  
2 States Code § 201(g) and Title 21 Code of Federal Regulation, Part 310.530, Over-The-Counter  
3 Topically Applied Hormone Drug Products. This regulation states that any over-the-counter  
4 drug product that is labeled, represented, or promoted as a topically applied hormone-containing  
5 product for drug use, other than hydrocortisone, is regarded as a new drug. Any such Product  
6 making any form of health claim is being sold as a drug. The US/FDA has moved to enforce  
7 this regulation against the unlawful sale of these types of Products as recently as November of  
8 2005. No Defendant in this matter has filed a New Drug Application or otherwise complied  
9 with the US/FDA regulations regarding the sale of the Products at issue in these claims, making  
10 each Defendant's Product a misbranded drug pursuant to 21 United States Code §§ 352 and 355.

11           4.       Selling a misbranded drug to a consumer in California is also a violation of  
12 California Health & Safety Code § 111330 *et seq.*; an unlawful, unfair and fraudulent business  
13 practice pursuant to the California Unlawful Competition Law (California Business &  
14 Professions Code § 17200 *et seq.*); a violation of the California False Advertising Law  
15 (California Business & Professions Code § 17500 *et seq.*); a violation of the California Legal  
16 Remedies Act (California Civil Code §§ 1750 and 1770); and constitutes fraud by concealment  
17 and misrepresentation pursuant to California Civil Code §§ 1709 and 1710.

18           5.       The Products contain the Regulated Chemicals, which are listed pursuant to the  
19 Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65" – California Health  
20 & Safety Code § 25249.5 *et seq.*) as follows: Progesterone (listed as a carcinogen);  
21 Medroxyprogesterone acetate (listed as a carcinogen and reproductive toxin); Testosterone and  
22 its esters (listed as a carcinogen); Methyltestosterone (listed as a reproductive toxin);  
23 Testosterone cypionate (listed as a reproductive toxin); and Testosterone enanthate (listed as a  
24 reproductive toxin). The Regulated Chemicals have each been listed for more than twelve  
25 months by the Governor of the State of California as being chemicals known by the State of  
26 California to cause cancer or reproductive toxicity, or both cancer and reproductive toxicity.  
27 Each Defendant has failed to give each individual that purchases a Product a clear and  
28 reasonable warning that each Regulated Chemical in a Product is a chemical known to the State

1 of Chemical to be a carcinogen and/or a reproductive toxin in violation of California Health &  
2 Safety Code § 25249.6.

3 6. Defendants' Products are distributed to and for the use of California consumers,  
4 amongst others. Defendants have each sold and distributed their respective Products in  
5 California for times up to continuously over the four years preceding the filing of this action.

6 7. The Products contain the Regulated Chemicals, each of which comes into contact  
7 with a consumers' skin when the Product applied to the consumer's skin using Defendants'  
8 Products as recommended by the Products' directions as supplied by Defendants.

9 8. Defendants know that their respective Products contain these Regulated  
10 Chemicals and that individuals are exposed to each of these Regulated Chemicals through the  
11 intended and foreseeable use of their respective Products.

12 9. The Products' directions for use state the manner in which each Defendant intends  
13 its respective Products be applied. The use of the Products in this manner results in exposing  
14 consumers in California to one or more of the Regulated Chemicals contained in each of the  
15 Products.

16 10. Since December 7, 2001, each Defendant has failed to provide a clear and  
17 reasonable warning regarding the reproductive toxicity or the carcinogenicity caused by  
18 exposure to one or more Regulated Chemicals from use of its Products sold after that date.

19 11. Each Defendant fails to provide any disclosure that its Products contains one or  
20 more of the Regulated Chemicals, any disclosure that these products are required to be approved  
21 as new drugs, any disclosure or warning as to the potential adverse health effects from contact  
22 with each of these Regulated Chemicals, or any disclosure or warning that the State of California  
23 has officially determined each of these Regulated Chemicals to be known to cause cancer and/or  
24 reproductive toxicity.

25 12. Each Defendant knows or should reasonably know that its failure to disclose the  
26 presence of each Regulated Chemical in its respective Products, while at the same time  
27 promoting its respective Products in a fashion likely to create expectations of safety and well-  
28

1 being among the users of its respective Products, is likely to deceive, and is deceiving, the public  
2 in California regarding the nature and safety of each Defendants' respective Products.

### 3 **PARTIES**

4 13. Plaintiff Katherine Lee Buckland ("Ms. Buckland") is the Executive Director of  
5 the Plaintiff California Women's Law Center ("CWLC"), a non-profit California corporation.  
6 Prior to joining the CWLC as its Executive Director, Ms. Buckland served as a Special Assistant  
7 to Los Angeles City Attorney Rocky Delgadillo. Her prosecutorial work included creating the  
8 Neighborhood Prosecutor Project, a program that places prosecutors in neighborhoods to  
9 improve the quality of life in local communities. She also oversaw media and public affairs as  
10 City Attorney Delgadillo's Communications Director. Ms. Buckland is a resident of the City  
11 and County of Los Angeles, California.

12 14. Ms. Buckland purchased one or more of each Defendant's respective Products for  
13 her personal, family or household purposes.

14 15. Since it's founding in 1989, Plaintiff CWLC has served as a unique advocate in  
15 California, working in collaboration with others to protect, secure and advance the  
16 comprehensive civil rights of women and girls. CWLC prides itself on forging novel approaches  
17 to the problems that confront women and girls, proposing unique strategies to implement those  
18 approaches, and recasting issues in new terms. CWLC programs are designed to empower  
19 individuals to use the law that governs their rights and to address the legal issues that perpetuate  
20 women and children's growing poverty. The California Women's Law Center works to ensure,  
21 through systemic change, that life opportunities for women and girls are free from unjust social,  
22 economic, and political constraints. In this overall policy context, CWLC has recently embarked  
23 on a women and girls' health protection program, of which the above-captioned matters  
24 represent an integral element. CWLC is based in Los Angeles, and was incorporated under the  
25 laws of the State of California in 1989.

26 16. Ms. Buckland is a "consumer" within the meaning of California Civil Code  
27 ("Civil Code") § 1761(d), and is a "person" within the meaning of California Business and  
28 Professions ("B&P") Code §§ 17201, 17204 and 17506.

1 17. CWLC is a “person” within the meaning of Health & Safety (“H&S”) Code  
2 § 25249.11(a), and brings this enforcement action in the public interest pursuant to H&S Code  
3 § 25249.7(d).

4 18. The term “Plaintiffs” as used herein is defined to be Ms. Buckland and CWLC,  
5 and the term “Plaintiff” as used herein may be used to describe either Ms. Buckland or CWLC.

6 19. Defendant THRESHOLD ENTERPRISES, LTD. (“Threshold”) is a DELEWARE  
7 corporation with its principal place of business and/or headquarters located at 23 Janis Way,  
8 Scotts Valley, CA 95066. Threshold manufactures, distributes, and/or sells its Products across  
9 the United States, including in California, through various distributors and retail outlets.  
10 Threshold is a person in the course of doing business within the meaning of Civil Code  
11 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
12 B&P Code §§ 17201 and 17506.

13 20. Defendant ALLVIA INTEGRATIVE PHARMACEUTICALS, INC. (“Allvia”), is  
14 an ARIZONA corporation with its principal place of business and/or headquarters located at  
15 11202 North 24th Avenue, Phoenix, AZ 85029. Allvia manufactures, distributes, and/or sells  
16 its Products across the United States, including in California, through various distributors and  
17 retail outlets. Allvia is a person in the course of doing business within the meaning of Civil  
18 Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
19 B&P Code §§ 17201 and 17506.

20 21. Defendant AT LAST NATURALS, INC. (“At Last Naturals”), is a NEW YORK  
21 corporation with its principal place of business and/or headquarters located at 401 Columbus  
22 Avenue, Valhalla, NY 10595. At Last Naturals manufactures, distributes, and/or sells its  
23 Products across the United States, including in California, through various distributors and retail  
24 outlets. At Last Naturals is a person in the course of doing business within the meaning of Civil  
25 Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
26 B&P Code §§ 17201 and 17506.

27 22. Defendant BIOCENTRIC LABS, INC. (“Biocentric”), is a COLORADO  
28 corporation with its principal place of business and/or headquarters located at 854 Baseline

1 Place, Suite B, Brighton, CO 80603. Biocentric manufacturers, distributes, and/or sells its  
2 Products across the United States, including in California, through various distributors and retail  
3 outlets. Biocentric is a person in the course of doing business within the meaning of Civil Code  
4 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
5 B&P Code §§ 17201 and 17506.

6 23. Defendant BIO-HEALTH, A DIVISION OF ZLABS LLC (“Bio-Health”), is a  
7 ARIZONA limited liability company with its principal place of business and/or headquarters  
8 located at 70 S. Val Vista Drive, Suite A-3, PMB 442, Gilbert, AZ 85296. Bio-Health  
9 manufacturers, distributes, and/or sells its Products across the United States, including in  
10 California, through various distributors and retail outlets. Bio-Health is a person in the course of  
11 doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code  
12 § 25249.11, and is a person within the meaning of B&P Code §§ 17201 and 17506.

13 24. Defendant BIOTECH INTERNATIONAL CORPORATION (“Biotech”), is a  
14 CONNECTICUT corporation with its principal place of business and/or headquarters located at  
15 107 Oakwood Drive, Glastonbury, CT 06033. Biotech manufacturers, distributes, and/or sells  
16 its Products across the United States, including in California, through various distributors and  
17 retail outlets. Biotech is a person in the course of doing business within the meaning of Civil  
18 Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
19 B&P Code §§ 17201 and 17506.

20 25. Defendant CANNON MEDICAL CLINIC, INC., A DIVISION OF GEORGE L.  
21 CANNON, M.D., INC. (“Cannon Medical”), is a ARIZONA professional corporation with its  
22 principal place of business and/or headquarters located at 13000 N. 103rd Avenue, Suite 97, Sun  
23 City, AZ 85351-3060. Cannon Medical manufacturers, distributes, and/or sells its Products  
24 across the United States, including in California, through various distributors and retail outlets.  
25 Cannon Medical is a person in the course of doing business within the meaning of Civil Code  
26 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
27 B&P Code §§ 17201 and 17506.

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1           26. Defendant CANYON GROUP CORPORATION (“Canyon Group”), is a  
2 NEVADA corporation with its principal place of business and/or headquarters located at  
3 P.O. Box 158, Highway 187, Vanderpool, TX 78885. Canyon Group manufactures,  
4 distributes, and/or sells its Products across the United States, including in California, through  
5 various distributors and retail outlets. Canyon Group is a person in the course of doing business  
6 within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a  
7 person within the meaning of B&P Code §§ 17201 and 17506.

8           27. Defendant METABOLIC RESPONSE MODIFIERS, INC. (“MRM”), is a  
9 CALIFORNIA corporation with its principal place of business and/or headquarters located at  
10 236 Calle Pintoresco, San Clemente, CA 92673. MRM manufactures, distributes, and/or sells  
11 its Products across the United States, including in California, through various distributors and  
12 retail outlets. MRM is a person in the course of doing business within the meaning of Civil  
13 Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
14 B&P Code §§ 17201 and 17506.

15           28. Defendant MATOL BOTANICAL INTERNATIONAL LTD., INC. (“Matol”), is  
16 a CANADIAN corporation with its principal place of business and/or headquarters located at  
17 290 Labrosse Avenue, Pointe-Claire, QC H9R 6R6 CANADA. Matol manufactures,  
18 distributes, and/or sells its Products across the United States, including in California, through  
19 various distributors and retail outlets. Matol is a person in the course of doing business within  
20 the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person  
21 within the meaning of B&P Code §§ 17201 and 17506.

22           29. Defendant MAXIMUM LIVING, INC. (“Maximum Living”), is a CALIFORNIA  
23 corporation with its principal place of business and/or headquarters located at 20071  
24 Soulsbyville Road, Soulsbyville, CA 95372. Maximum Living manufactures, distributes,  
25 and/or sells its Products across the United States, including in California, through various  
26 distributors and retail outlets. Maximum Living is a person in the course of doing business  
27 within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a  
28 person within the meaning of B&P Code §§ 17201 and 17506.

1           30. Defendant MEAD LABS, LLC (“Mead Labs”), is a OREGON limited liability  
2 company with its principal place of business and/or headquarters located at 4444 SW Corbett  
3 Avenue, Portland, OR 97239. Mead Labs manufacturers, distributes, and/or sells its Products  
4 across the United States, including in California, through various distributors and retail outlets.  
5 Mead Labs is a person in the course of doing business within the meaning of Civil Code  
6 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
7 B&P Code §§ 17201 and 17506.

8           31. Defendant NATURE’S LIGHT, INC. (“Nature’s Light”), is a COLORADO  
9 corporation with its principal place of business and/or headquarters located at P.O. Box 443,  
10 280 Colfax Avenue, Bennett, CO 80102. Nature’s Light manufacturers, distributes, and/or sells  
11 its Products across the United States, including in California, through various distributors and  
12 retail outlets. Nature’s Light is a person in the course of doing business within the meaning of  
13 Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning  
14 of B&P Code §§ 17201 and 17506.

15           32. Defendant NOW HEALTH GROUP, INC., a ILLINOIS corporation D/B/A NOW  
16 FOODS (“NOW”), with its principal place of business and/or headquarters located at 395 Glen  
17 Ellyn Road, Bloomingdale, IL 60108. NOW manufacturers, distributes, and/or sells its  
18 Products across the United States, including in California, through various distributors and retail  
19 outlets. NOW is a person in the course of doing business within the meaning of Civil Code  
20 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
21 B&P Code §§ 17201 and 17506.

22           33. Defendant PURE ESSENCE LABORATORIES, INC. (“Pure Essence”), is a  
23 NEVADA corporation with its principal place of business and/or headquarters located at  
24 P.O. Box 95397, 1999 Whitney Mesa Drive, Suite A, Henderson, NV 89014. Pure Essence  
25 manufacturers, distributes, and/or sells its Products across the United States, including in  
26 California, through various distributors and retail outlets. Pure Essence is a person in the course  
27 of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code  
28 § 25249.11, and is a person within the meaning of B&P Code §§ 17201 and 17506.

1           34. Defendant SUPERNUTRITION LIFE-EXTENSION RESEARCH, INC., D/B/A  
2 SUPERNUTRITION (“Supernutrition”), is a CALIFORNIA corporation with its principal place  
3 of business and/or headquarters located at 100 Santa Rosa Avenue, Pacifica, Ca 94044.  
4 Supernutrition manufactures, distributes, and/or sells its Products across the United States,  
5 including in California, through various distributors and retail outlets. Supernutrition is a person  
6 in the course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a),  
7 H&S Code § 25249.11, and is a person within the meaning of B&P Code §§ 17201 and 17506.

8           35. Defendant SWANSON HEALTH PRODUCTS, INC. (“Swanson”), is a NORTH  
9 DAKOTA corporation with its principal place of business and/or headquarters located at  
10 P.O. Box 2803, 4075 40th Avenue SW, Fargo, ND 58108-2803. Swanson manufactures,  
11 distributes, and/or sells its Products across the United States, including in California, through  
12 various distributors and retail outlets. Swanson is a person in the course of doing business  
13 within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a  
14 person within the meaning of B&P Code §§ 17201 and 17506.

15           36. Defendant VITAMIN POWER, INCORPORATED (“Vitamin Power”), is a NEW  
16 YORK corporation with its principal place of business and/or headquarters located at 199 Union  
17 Avenue, Lynbrook, NY 11563; and 39 St. Marys Place, Freeport, NY 11520. Vitamin Power  
18 manufactures, distributes, and/or sells its Products across the United States, including in  
19 California, through various distributors and retail outlets. Vitamin Power is a person in the  
20 course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code  
21 § 25249.11, and is a person within the meaning of B&P Code §§ 17201 and 17506.

22           37. Defendant VITAMIN SHOPPE INDUSTRIES, INC. (“Vitamin Shoppe”), is a  
23 NEW YORK corporation with its principal place of business and/or headquarters located at  
24 2101 - 91st Street, North Bergen, NJ 07047. Vitamin Shoppe manufactures, distributes, and/or  
25 sells its Products across the United States, including in California, through various distributors  
26 and retail outlets. Vitamin Shoppe is a person in the course of doing business within the  
27 meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within  
28 the meaning of B&P Code §§ 17201 and 17506.

1           38.     Defendant MADISON PHARMACY ASSOCIATES, INC. (“Madison  
2 Pharmacy”), is a WISCONSIN corporation with its principal place of business and/or  
3 headquarters located at 1289 Deming Way, Madison, WI 53717-1955. Madison Pharmacy  
4 manufacturers, distributes, and/or sells its Products across the United States, including in  
5 California, through various distributors and retail outlets. Madison Pharmacy is a person in the  
6 course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code  
7 § 25249.11, and is a person within the meaning of B&P Code §§ 17201 and 17506.

8           39.     Defendant WOMEN’S HEALTH AMERICA, INC. (“Women’s Health”), is a  
9 WISCONSIN corporation with its principal place of business and/or headquarters located at  
10 1289 Deming Way, Madison, WI 53717-1955. Women’s Health manufacturers, distributes,  
11 and/or sells its Products across the United States, including in California, through various  
12 distributors and retail outlets. Women’s Health is a person in the course of doing business  
13 within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a  
14 person within the meaning of B&P Code §§ 17201 and 17506.

15           40.     Defendant YOUNG AGAIN NUTRITION, LLC, a TEXAS limited liability  
16 company D/B/A YOUNG AGAIN NUTRIENTS (“Young Again”), with its principal place of  
17 business and/or headquarters located at P.O. Box 8234, Spring, TX 77387; and 1935 Cattle  
18 Drive, Magnolia, TX 77354. Young Again manufacturers, distributes, and/or sells its Products  
19 across the United States, including in California, through various distributors and retail outlets.  
20 Young Again is a person in the course of doing business within the meaning of Civil Code  
21 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
22 B&P Code §§ 17201 and 17506.

23           41.     Defendant CREATIVISION, INC., a COLORADO corporation D/B/A  
24 ALTERNATIVE MEDICINE NETWORK (collectively “Creativision”), with its principal place  
25 of business and/or headquarters located at 601 - 16th Street, Suite C-105, Golden, CO 80401-  
26 4361; and 30520 Rancho California Road, Suite 107-149, Temecula, CA 92591, respectively.  
27 Creativision manufacturers, distributes, and/or sells its Products across the United States,  
28 including in California, through various distributors and retail outlets. Creativision is a person in

1 the course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a  
2 person within the meaning of B&P Code §§ 17201 and 17506.

3 42. Defendant BETTER HEALTH NATURALLY, INC. (“Better Health”), is a  
4 CALIFORNIA corporation with its principal place of business and/or headquarters located at  
5 419 Narcissus Avenue, Corona Del Mar, Ca 92625-2414. Better Health manufacturers,  
6 distributes, and/or sells its Products across the United States, including in California, through  
7 various distributors and retail outlets. Better Health is a person in the course of doing business  
8 within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a person within the meaning of  
9 B&P Code §§ 17201 and 17506.

10 43. Defendant FOUNTAIN OF YOUTH TECHNOLOGIES, INC., a OHIO  
11 corporation (“Fountain of Youth”), with its principal place of business and/or headquarters  
12 located at P.O. Box 608, 12395 Lancaster Street, Millersport, OH 43046. Fountain of Youth  
13 manufacturers, distributes, and/or sells its Products across the United States, including in  
14 California, through various distributors and retail outlets. Fountain of Youth is a person in the  
15 course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a  
16 person within the meaning of B&P Code §§ 17201 and 17506.

17 44. Defendant HELEN PENSANTI, M.D., INC. (“Pensanti”), is a CALIFORNIA  
18 corporation with its principal place of business and/or headquarters located at 25 Ambroise,  
19 Newport Coast, CA 92657. Pensanti manufacturers, distributes, and/or sells its Products across  
20 the United States, including in California, through various distributors and retail outlets.  
21 Pensanti is a person in the course of doing business within the meaning of Civil Code §§ 1761(c)  
22 and 1780(a), and is a person within the meaning of B&P Code §§ 17201 and 17506.

23 45. Defendant BOTANICAL LABORATORIES, a WASHINGTON corporation  
24 D/B/A ZAND HERBAL FORMULAS (“Botanical Laboratories”), with its principal place of  
25 business and/or headquarters located at 1441 W. Smith Road, Ferndale, WA 98248-8933.  
26 Botanical Laboratories manufacturers, distributes, and/or sells its Products across the United  
27 States, including in California, through various distributors and retail outlets. Botanical  
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1 Laboratories is a person in the course of doing business within the meaning of Civil Code  
2 §§ 1761(c) and 1780(a), and is a person within the meaning of B&P Code §§ 17201 and 17506.

3 46. Defendant ELATION THERAPY, INC. (“Elation”), is a GEORGIA corporation  
4 with its principal place of business and/or headquarters located at 825 Jamerson Road, Suite 206,  
5 Marietta, GA 30066. Elation manufactures, distributes, and/or sells its Products across the  
6 United States, including in California, through various distributors and retail outlets. Elation is a  
7 person in the course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a),  
8 and is a person within the meaning of B&P Code §§ 17201 and 17506.

9 47. Defendant KENOGEN, INC. (“Kenogen”), is an OREGON corporation with its  
10 principal place of business and/or headquarters located at 1430 Willamette Street, Suite 521,  
11 Eugene, OR 97401. Kenogen manufactures, distributes, and/or sells its Products across the  
12 United States, including in California, through various distributors and retail outlets. Kenogen is  
13 a person in the course of doing business within the meaning of Civil Code §§ 1761(c) and  
14 1780(a), and is a person within the meaning of B&P Code §§ 17201 and 17506.

15 48. Defendant NATURE’S BOUNTY, INC. (“Nature’s Bounty”), is a NEW YORK  
16 corporation with its principal place of business and/or headquarters located at 90 Orville Square,  
17 Bohemia, NY 11716-2521. Nature’s Bounty manufactures, distributes, and/or sells its  
18 Products across the United States, including in California, through various distributors and retail  
19 outlets. Nature’s Bounty is a person in the course of doing business within the meaning of Civil  
20 Code §§ 1761(c) and 1780(a), and is a person within the meaning of B&P Code §§ 17201 and  
21 17506.

22 49. Defendant NBTY, INC. (“NBTY”), is a DELAWARE corporation with its  
23 principal place of business and/or headquarters located at 90 Orville Square, Bohemia, NY  
24 11716-2521. NBTY manufactures, distributes, and/or sells its Products across the United  
25 States, including in California, through various distributors and retail outlets. NBTY is a person  
26 in the course of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is  
27 a person within the meaning of B&P Code §§ 17201 and 17506.

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1           50. Defendant NUTRI-COLOGY, INC. (“Nutri-Cology”), is a CALIFORNIA  
2 corporation with its principal place of business and/or headquarters located at 30806 Santana  
3 Street, Hayward, CA 94544. Nutri-Cology manufactures, distributes, and/or sells its Products  
4 across the United States, including in California, through various distributors and retail outlets.  
5 Nutri-Cology is a person in the course of doing business within the meaning of Civil Code  
6 §§ 1761(c) and 1780(a), and is a person within the meaning of B&P Code §§ 17201 and 17506.

7           51. Defendant OPTIMUM SOLUTIONS, LLC (“Optimum Solutions”), is a  
8 LOUISIANA limited liability company with its principal place of business and/or headquarters  
9 located at 210 Elmwood Drive, Lafayette, LA 70503-5119. Optimum Solutions manufactures,  
10 distributes, and/or sells its Products across the United States, including in California, through  
11 various distributors and retail outlets. Optimum Solutions is a person in the course of doing  
12 business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a person within the  
13 meaning of B&P Code §§ 17201 and 17506.

14           52. Defendant RADIANT LIFE SYSTEMS, LLC (“Radiant Life”), is a NEW  
15 MEXICO limited liability company with its principal place of business and/or headquarters  
16 located at P.O. Box 20310, 13612 Deer Trail NE, Albuquerque, NM 87154. Radiant Life  
17 manufactures, distributes, and/or sells its Products across the United States, including in  
18 California, through various distributors and retail outlets. Radiant Life is a person in the course  
19 of doing business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a person  
20 within the meaning of B&P Code §§ 17201 and 17506.

21           53. Defendant WOMEN’S MEDICINE, INC., A DIVISION OF THE NATURAL  
22 HORMONE INSTITUTE OF AMERICA (“Women’s Medicine”), is a FLORIDA corporation  
23 with its principal place of business and/or headquarters located at 1891 Beach Boulevard,  
24 Suite 200, Jacksonville, FL 32250. Women’s Medicine manufactures, distributes, and/or sells  
25 its Products across the United States, including in California, through various distributors and  
26 retail outlets. Women’s Medicine is a person in the course of doing business within the meaning  
27 of Civil Code §§ 1761(c) and 1780(a), and is a person within the meaning of B&P Code  
28 §§ 17201 and 17506.

1           54. Defendant ANGEL FOOD DISTRIBUTORS, INC. (“Angel Food”) is a  
2 GEORGIA corporation with its principal place of business and/or headquarters located at  
3 2440 Cobb Parkway, Suite B, Smyrna, GA 30080-3012. Angel Food manufactures,  
4 distributes, and/or sells its Products across the United States, including in California, through  
5 various distributors and retail outlets. Angel Food is a person in the course of doing business  
6 within the meaning of Civil Code §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a  
7 person within the meaning of B&P Code §§ 17201 and 17506.

8           55. Defendant BEFORE & AFTER COSMETICS, LLC (“Before & After”), is an  
9 unknown limited liability company with its principal place of business and/or headquarters  
10 located at 233 W. Parkway, Suite 2, Pompton Plains, NJ 07444. Before & After manufactures,  
11 distributes, and/or sells its Products across the United States, including in California, through  
12 various distributors and retail outlets. Before & After is a person in the course of doing business  
13 within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a person within the meaning of  
14 B&P Code §§ 17201 and 17506.

15           56. Defendant GENERAL NUTRITION CORPORATION (“GNC”) is a  
16 PENNSYLVANIA corporation with its principal place of business and/or headquarters located  
17 at 300 Sixth Avenue, Pittsburgh, PA 15222. GNC manufactures, distributes, and/or sells its  
18 Products across the United States, including in California, through various distributors and retail  
19 outlets. GNC is a person in the course of doing business within the meaning of Civil Code  
20 §§ 1761(c) and 1780(a), H&S Code § 25249.11, and is a person within the meaning of  
21 B&P Code §§ 17201 and 17506.

22           57. Defendant HEALTH ALTERNATIVE WEST, INC. (“Health Alternative”) is a  
23 DELAWARE corporation with its principal place of business and/or headquarters located at 161  
24 Belleforest Circle, Suite 103, Nashville, TN 37221. Health Alternative manufactures,  
25 distributes, and/or sells its Products across the United States, including in California, through  
26 various distributors and retail outlets. Health Alternative is a person in the course of doing  
27 business within the meaning of Civil Code §§ 1761(c) and 1780(a), and is a person within the  
28 meaning of B&P Code §§ 17201 and 17506.





1 names. DEFENDANT DOES 1 through 500 are each a person in the course of doing business  
2 within the meaning of Civil Code §§ 1761(c) and 1780(a), and a person within the meaning of  
3 B&P Code § 17201. DEFENDANT DOES 1 through 500 manufacture and/or distribute their  
4 respective Products for sale and/or use in California.

## 5 **STATUTORY AND REGULATORY BACKGROUND**

### 6 **FEDERAL FOOD DRUG AND COSMETIC ACT**

7 64. The federal Food Drug and Cosmetic Act (“FDCA”) regulates the sale of drugs in  
8 the United States pursuant to Title 21 of the United States Code (“USC”) at section 321(g).  
9 Administering the FDCA, the US/FDA has acted to regulate the Products as “new drugs”  
10 pursuant to 21 USC § 201(g) through administrative enactments now codified at Title 21 Code  
11 of Federal Regulation (“21 CFR”), Part 310.530, Over-The-Counter (“OTC”) Topically Applied  
12 Hormone Drug Products. Therefore the sale of these Products without compliance with these  
13 federal regulatory requirements constitutes the sale of misbranded drugs.

### 14 **CALIFORNIA’S SHERMAN FOOD DRUG AND COSMETIC ACT**

15 65. Selling a misbranded drug to a consumer in California is a violation of the  
16 Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

### 17 **CALIFORNIA CONSUMER LEGAL REMEDIES ACT**

18 66. On or about October 5, 2005, Ms. Buckland served pursuant to the California  
19 Consumer Legal Remedies Act (“CLRA” – Civil Code § 1750 *et seq.*), specifically Civil Code  
20 § 1782, each Defendant with a notice letter via certified mail, return receipt requested, stating  
21 *inter alia* as follows:

22 These Products have been sold to literally millions of California  
23 consumers without any of the noticed companies providing a clear  
24 and reasonable warning prior to their purchase by a consumer that  
25 the Progesterone, Medroxyprogesterone acetate, Testosterone and  
26 its esters, Methyltestosterone, Testosterone cypionate, and/or  
27 Testosterone enanthate in these Products are chemicals known to be  
28 carcinogens and/or reproductive toxins by the State of California.  
Nor has any of the noticed companies disclosed the potential  
adverse health effect risks posed by exposure to these chemicals in  
these Products because Progesterone, Medroxyprogesterone acetate,  
Testosterone and its esters, Methyltestosterone, Testosterone  
cypionate, and/or Testosterone enanthate in these Products are  
chemicals regulated as drugs by the U.S. Food and Drug  
Administration under the federal Food, Drug and Cosmetic Act.



1 misleading or which has a capacity, likelihood or tendency to deceive or confuse the public;  
2 thus, it is necessary only to show that members of the public are likely to be deceived.

3 71. Each Defendant's violation of the FDCA and 21 CFR, Part 310.530, OTC  
4 Topically Applied Hormone Drug Products and/or the Sherman Food, Drug and Cosmetic Act,  
5 H&S Code § 111330 *et seq.* in the sale of their respective Products constitutes an act of unfair  
6 competition that may be enjoined by the Court pursuant to B&P Code § 17535.

7 72. Each Defendant's failure to provide warnings as to the potential adverse health  
8 impact of using these misbranded drug Products also constitutes an act of unfair competition as  
9 well as false advertising that may be enjoined by the Court pursuant to B&P Code §§ 17203 and  
10 17535.

11 **CIVIL CODE §§ 1709 AND 1710**

12 73. Under California law, the elements of a claim of fraud by concealment are  
13 "(1) suppression of a material fact; (2) by one who is bound to disclose it, or who gives  
14 information of other facts which are likely to mislead for want of communication of that fact;  
15 (3) with intent to deceive a person unaware of the concealed fact and who would not have acted  
16 had he known of the fact."

17 74. All Defendants (1) suppress the material fact that there each Product is regulated  
18 under the FDCA and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug Products  
19 and the Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.* in the sale of their  
20 respective Products; (2) suppress the material fact that each Defendant has a legal duty to  
21 disclose this FDCA and Sherman Food, Drug and Cosmetic Act regulation to purchasers of its  
22 product; and (3) therefore knowingly and intentionally exposes the purchasers of their respective  
23 Products to a misbranded drug without a clear and reasonable warning as to its potential adverse  
24 health effects. These facts meet the pleading requirements of allegations under Civil Code  
25 §§ 1709 and 1710.

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1 **PROPOSITION 65**

2 75. The People of the State of California declared, in adopting Proposition 65 in 1986  
3 as an initiative statute, their right “[t]o be informed about exposures to chemicals that cause  
4 cancer, birth defects and other reproductive harm.” Proposition 65, § 1(b)(uncodified).

5 76. To effectuate this goal, Proposition 65 requires that individuals be provided with a  
6 clear and reasonable warning before being exposed to chemicals listed by the State of California  
7 as causing cancer or birth defects and other reproductive harm, unless the person (including  
8 businesses) responsible for the exposure can prove that such exposure is otherwise lawful, as  
9 follows:

10 No person in the course of doing business shall knowingly and  
11 intentionally expose any individual to a chemical known to the state  
12 to cause cancer or reproductive toxicity without first giving clear  
and reasonable warning to such individual....H&S Code § 25249.6

13 77. On January 1, 1988, the State of California officially listed Progesterone as a  
14 chemical known to cause cancer. Progesterone became subject to the Proposition 65 “clear and  
15 reasonable” carcinogen warning requirement one year later, beginning on January 1, 1989.  
16 22 California Code of Regulations (“CCR”) § 12000; H&S Code § 25249.5 *et seq.*<sup>1</sup>

17 78. On January 1, 1990, the State of California officially listed Medroxyprogesterone  
18 acetate as a chemical known to cause cancer. Medroxyprogesterone acetate became subject to  
19 the Proposition 65 “clear and reasonable” carcinogen warning requirement one year later,  
20 beginning on January 1, 1991. 22 CCR § 12000; H&S Code § 25249.5 *et seq.*

21 79. On April 1, 1988, the State of California officially listed Testosterone and its  
22 esters as chemicals known to cause cancer. Testosterone and its esters became subject to the  
23 Proposition 65 “clear and reasonable” carcinogen warning requirement one year later, beginning  
24 on April 1, 1989. 22 CCR § 12000; H&S Code § 25249.5 *et seq.*

25 80. On April 1, 1990, the State of California officially listed Medroxyprogesterone  
26 acetate as a chemical known to cause reproductive toxicity. Medroxyprogesterone acetate  
27 became subject to the Proposition 65 “clear and reasonable” reproductive toxicity warning  
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<sup>1</sup> All statutory references herein are to California Codes unless otherwise indicated.

1 requirement one year later, beginning on April 1, 1991. 22 CCR § 12000; H&S Code  
2 § 25249.5 *et seq.*

3 81. On April 1, 1990, the State of California officially listed Methyltestosterone as a  
4 chemical known to cause reproductive toxicity. Methyltestosterone became subject to the  
5 Proposition 65 “clear and reasonable” reproductive toxicity warning requirement one year later,  
6 beginning on April 1, 1991. 22 CCR § 12000; H&S Code § 25249.5 *et seq.*

7 82. On October 1, 1991, the State of California officially listed Testosterone  
8 cypionate as a chemical known to cause reproductive toxicity. Testosterone cypionate became  
9 subject to the Proposition 65 “clear and reasonable” reproductive toxicity warning requirement  
10 one year later, beginning on October 1, 1992. 22 CCR § 12000; H&S Code § 25249.5 *et seq.*

11 83. On April 1, 1990, the State of California officially listed Testosterone enanthate as  
12 a chemical known to cause reproductive toxicity. Testosterone enanthate became subject to the  
13 Proposition 65 “clear and reasonable” reproductive toxicity warning requirement one year later,  
14 beginning on April 1, 1991. 22 CCR § 12000; H&S Code § 25249.5 *et seq.*

15 84. Any person, including CWLC, has standing to enforce violations of  
16 Proposition 65, provided that such person has supplied the requisite public enforcers with a  
17 Sixty-Day Notice of Violation and such public enforcers are not diligently prosecuting the action  
18 within their respective jurisdictions within such time. H&S Code § 25249.7(d). On or about  
19 July 28, 2005, the CWLC served a 60-Day “Notice of Violation of Proposition 65” (the  
20 “Notice”) on the California Attorney General, the District Attorneys of every county in  
21 California, the City Attorneys of every California city with a population greater than 750,000,  
22 and on the Defendants, alleging that Defendants was in violation of the Safe Drinking Water and  
23 Toxic Enforcement Act of 1986, Health and Safety Code §§ 25249.5 *et seq.* (“Proposition 65”)  
24 for failing to warn purchasers of the Defendant’ Products sold in California that use of these  
25 Products expose users to one or more of the Regulated Chemicals. No public prosecutor has  
26 commenced an action regarding the matters raised in the Notice. The CWLC’s Notice was sent  
27 at least sixty-days prior to the filing of this Complaint. The CWLC also complied fully and  
28 completely with H&S Code § 25249.7 as amended, in that the CWLC provided the required

1 certificates of merit for its Notice sent since January 1, 2002, to each of the alleged violators and  
2 to the California Attorney General.

### 3 **REMEDIES SOUGHT**

4 85. Ms. Buckland seeks from each Buckland Defendant restitution and other remedies  
5 as provided by B&P Code §§ 17203 and 17535, as well as actual damages according to proof  
6 and punitive damages as well as her attorneys' fees and costs as provided by Civil Code §§  
7 1709, 1710, 1780.

8 86. Ms. Buckland seeks injunctive relief to compel each Buckland Defendant to cease  
9 violating the CLRA, UCL, Civil Code §§ 1709 and 1710 and to provide California purchasers  
10 and users of the Products with clear and reasonable warnings regarding the presence and known  
11 health hazards of exposure to each of the Regulated Chemicals contained in each of their  
12 respective Products, and to refrain from making health-related claims on the labels, advertising  
13 or marketing of their respective Products.

14 87. CWLC seeks enforcement of Proposition 65, which provides for injunctive relief  
15 and civil penalties up to \$2,500 per day for each violation of Proposition 65. CWLC seeks  
16 injunctive relief to compel each CWLC Defendant to cease violating Proposition 65 and to  
17 provide California purchasers and users of the Products with clear and reasonable warnings  
18 regarding the presence and known health hazards of exposure to each of the Regulated  
19 Chemicals contained in each of its Products. CWLC also seeks civil penalties against each  
20 CWLC Defendant for its violations of Proposition 65, as provided for by H&S Code  
21 § 25249.7(b).

### 22 **JURISDICTION AND VENUE**

23 88. The Court has jurisdiction over this action pursuant to Civil Code §§ 1709, 1710  
24 and 1780; B&P Code §§ 17203, 17204 and 17535; and H&S Code § 25249.7(a), which  
25 individually and collectively allow enforcement in any court of competent jurisdiction. The  
26 California Superior Court has jurisdiction over this action pursuant to California Constitution  
27 Article VI, Section 10, which grants the Superior Court "original jurisdiction in all cases except  
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1 those given by statute to other trial courts.” The statutes under which this action is brought do  
2 not grant jurisdiction to any other trial court.

3 89. This Court has jurisdiction over each Defendant because, based on information  
4 and belief, each Defendant is a corporation or business entity that has sufficient minimum  
5 contacts in California, is a citizen of California, or otherwise intentionally avails itself of the  
6 California market either through the distribution or sale of its Products in the State of California  
7 or by having a manufacturing, distribution or other facility located in California so as to render  
8 the exercise of jurisdiction over it by the California courts consistent with traditional notions of  
9 fair play and substantial justice.

10 90. Venue is proper in the Los Angeles Superior Court because numerous violations  
11 alleged above have occurred and are occurring in the County of Los Angeles.

12 **FIRST CAUSE OF ACTION**

13 **(Unlawful Acts of Knowingly and Intentionally Exposing Individuals to a Regulated**  
14 **Chemical(s) as a Carcinogen in Violation of H&S Code § 25249.6 et seq.,**  
15 **By All CWLC Defendants)**

16 91. CWLC realleges and incorporates by reference as if specifically set forth herein  
17 Paragraphs 1 through 90 inclusive.

18 92. From December 7, 2004, and continuing to the present, each Defendant has sold  
19 its Products in California in the year preceding the filing of this action. Each Defendant has  
20 failed, and continues to fail, to provide clear and reasonable warnings regarding the  
21 carcinogenicity of one or more of the Regulated Chemicals to consumers and/or users of its  
22 Products, as required by Proposition 65.

23 93. By committing the acts alleged above, each Defendant has, since or after  
24 December 7, 2004, violated Proposition 65, by knowingly and intentionally exposing individuals  
25 to one or more of the Regulated Chemicals without first giving them clear and reasonable  
26 warning regarding the carcinogenicity of one or more Regulated Chemicals. On information and  
27 belief, CWLC alleges that within the statutory period each Defendant has engaged in multiple  
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1 sales of its Products in California in violation of the statute. Each of those sales is subject to the  
2 statutorily authorized penalty of up to \$2500 per violation.

3 Wherefore, CWLC prays for judgment against each Defendant, as set forth hereafter.

4 **SECOND CAUSE OF ACTION**

5 **(Unlawful Acts of Knowingly and Intentionally Exposing Individuals to Regulated**  
6 **Chemical(s) as a Reproductive Toxin in Violation of H&S Code § 25249.6 *et seq.*,**  
7 **By All CWLC Defendants)**

8 94. Plaintiff realleges and incorporates by reference as if specifically set forth herein  
9 Paragraphs 1 through 93 inclusive.

10 95. From December 7, 2004, and continuing to the present, each Defendant has sold  
11 its Products in California in the year preceding the filing of this action. Each Defendant has  
12 failed, and continues to fail, to provide clear and reasonable warnings regarding the reproductive  
13 toxicity of one or more of the Regulated Chemicals to consumers and/or users of its Products, as  
14 required by Proposition 65.

15 96. By committing the acts alleged above, each Defendant has, since or after  
16 December 7, 2004, violated Proposition 65, by knowingly and intentionally exposing individuals  
17 to one or more of the Regulated Chemicals without first giving them clear and reasonable  
18 warning regarding the reproductive toxicity of one or more of the Regulated Chemicals. On  
19 information and belief, CWLC alleges that within the statutory period each Defendant has  
20 engaged in multiple sales of its Products in California in violation of the statute. Each of those  
21 sales is subject to the statutorily authorized penalty of up to \$2500 per violation.

22 97. Wherefore, CWLC prays for judgment against each Defendant, as set forth  
23 hereafter.

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1 **THIRD CAUSE OF ACTION**

2 **(Violations of B&P Code § 17200 *et seq.* Based on Unlawful Acts of Knowingly and**  
3 **Intentionally Exposing Individuals to One of More Regulated Chemicals in Violation of**  
4 **Civil Code §§ 1709 and 1710, Health & Safety Code § 111330, 21 USC § 201(g) and B&P**  
5 **Code § 17500, By All Buckland Defendants)**

6 98. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
7 herein Paragraphs 1 through 97 inclusive.

8 99. Each Defendant’s failure to disclose the presence of one or more of the Regulated  
9 Chemicals, or the health risks each Regulated Chemical poses, in their Products’ packaging,  
10 advertising and promotional materials, was and is deceptive, a fraud by concealment and  
11 negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

12 100. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
13 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
14 Products. This conduct includes knowingly and intentionally selling one or more of these  
15 Products without complying with federal food and drug law, which also constitutes a violation of  
16 the Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

17 101. By committing the acts alleged above, each Defendant has engaged in unlawful  
18 business practices within the meaning of B&P Code § 17200 *et seq.*

19 102. As a result, each Defendant has also committed violations of B&P Code  
20 § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute  
21 separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to  
22 B&P Code § 17200 *et seq.*

23 Wherefore Ms. Buckland prays judgment against each Defendant, as set forth hereafter.

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**FOURTH CAUSE OF ACTION**

**(Violations of B&P Code § 17200 *et seq.* Based on Unfair Acts of Knowingly and Intentionally Exposing Individuals to One of More Regulated Chemicals in Violation of Civil Code §§ 1709 and 1710, Health & Safety Code § 111330, 21 USC § 201(g) and B&P Code § 17500, By All Buckland Defendants)**

103. Ms. Buckland realleges and incorporates by reference as if specifically set forth herein Paragraphs 1 through 102 inclusive.

104. Each Defendant’s failure to disclose the presence of one or more of the Regulated Chemicals, or the health risks each Regulated Chemical poses, in their Products’ packaging, advertising and promotional materials, was and is deceptive, a fraud by concealment and negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

105. ince, or after, December 7, 2001, each Defendant has engaged in conduct that violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug Products. This conduct includes knowingly and intentionally selling one or more of these Products without complying with federal food and drug law, which also constitutes a violation of the Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

106. By committing the acts alleged above, each Defendant has engaged in unfair business practices within the meaning of B&P Code § 17200 *et seq.*

107. As a result, each Defendant has also committed violations of B&P Code § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to B&P Code § 17200 *et seq.*

108. Wherefore Ms. Buckland prays judgment against each Defendant, as set forth hereafter.

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1 **FIFTH CAUSE OF ACTION**

2 **(Violations of B&P Code § 17200 *et seq.* Based on Fraudulent Acts of Knowingly and**  
3 **Intentionally Exposing Individuals to One of More Regulated Chemicals in Violation of**  
4 **Civil Code §§ 1709 and 1710, Health & Safety Code § 111330, 21 USC § 201(g) and**  
5 **B&P Code § 17500, By All Buckland Defendants)**

6 109. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
7 herein Paragraphs 1 through 108 inclusive.

8 110. Each Defendant's failure to disclose the presence of one or more of the Regulated  
9 Chemicals, or the health risks each Regulated Chemical poses, in their Products' packaging,  
10 advertising and promotional materials, was and is deceptive, a fraud by concealment and  
11 negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

12 111. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
13 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
14 Products. This conduct includes knowingly and intentionally selling one or more of these  
15 Products without complying with federal food and drug law, which also constitutes a violation of  
16 the Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

17 112. By committing the acts alleged above, each Defendant has engaged in fraudulent  
18 business practices within the meaning of B&P Code § 17200 *et seq.*

19 113. As a result, each Defendant has also committed violations of B&P Code  
20 § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute  
21 separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to  
22 B&P Code § 17200 *et seq.*

23 114. Wherefore Ms. Buckland prays judgment against each Defendant, as set forth  
24 hereafter.

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1 **SIXTH CAUSE OF ACTION**

2 **(Violations of B&P Code § 17200 *et seq.* Based on Unlawful Acts of Selling Misbranded**  
3 **Drugs to Consumers, By All Buckland Defendants)**

4 115. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
5 herein Paragraphs 1 through 114 inclusive.

6 116. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
7 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
8 Products. This conduct includes knowingly and intentionally selling a misbranded drug.

9 117. Selling a misbranded drug to a consumer in California is also a violation of the  
10 Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

11 118. By committing the acts alleged above, each Defendant has engaged in unlawful  
12 business practices within the meaning of B&P Code § 17200 *et seq.*

13 119. As a result, each Defendant has also committed violations of B&P Code  
14 § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute  
15 separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to  
16 B&P Code § 17200 *et seq.*

17 Wherefore Ms. Buckland prays judgment against each Defendant, as set forth hereafter.

18 **SEVENTH CAUSE OF ACTION**

19 **(Violations of B&P Code § 17200 *et seq.* Based on Unfair Acts**  
20 **of Selling Misbranded Drugs to Consumers, By All Buckland Defendants)**

21 120. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
22 herein Paragraphs 1 through 119 inclusive.

23 121. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
24 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
25 Products. This conduct includes knowingly and intentionally selling a misbranded drug.

26 122. Selling a misbranded drug to a consumer in California is also a violation of the  
27 Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

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1 123. By committing the acts alleged above, each Defendant has engaged in unfair  
2 business practices within the meaning of B&P Code § 17200 *et seq.*

3 124. As a result, each Defendant has also committed violations of B&P Code  
4 § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute  
5 separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to  
6 B&P Code § 17200 *et seq.*

7 Wherefore Ms. Buckland prays judgment against each Defendant, as set forth hereafter.

8 **EIGHTH CAUSE OF ACTION**

9 **(Violations of B&P Code § 17200 *et seq.* Based on Fraudulent Acts**  
10 **of Selling Misbranded Drugs to Consumers, By All Buckland Defendants)**

11 125. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
12 herein Paragraphs 1 through 124 inclusive.

13 126. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
14 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
15 Products. This conduct includes knowingly and intentionally selling a misbranded drug.

16 127. Selling a misbranded drug to a consumer in California is also a violation of the  
17 Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*

18 128. By committing the acts alleged above, each Defendant has engaged in fraudulent  
19 business practices within the meaning of B&P Code § 17200 *et seq.*

20 129. As a result, each Defendant has also committed violations of B&P Code  
21 § 17500 *et seq.* by knowingly disseminating false and misleading advertising, which constitute  
22 separate and cumulative acts of unlawful, unfair and/or fraudulent business practices pursuant to  
23 B&P Code § 17200 *et seq.*

24 Wherefore Ms. Buckland prays judgment against each Defendant, as set forth hereafter.

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1 **NINTH CAUSE OF ACTION**

2 **(Violations of B&P Code § 17500 *et seq.* Based on the Commission of**  
3 **Unlawful, Unfair and/or Fraudulent Business Practices**  
4 **By All Buckland Defendants)**

5 130. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
6 herein Paragraphs 1 through 129 inclusive.

7 131. Each Defendant's failure to disclose the presence of one or more of the Regulated  
8 Chemicals, or the health risks each Regulated Chemical poses, in their Products' packaging,  
9 advertising and promotional materials, was and is deceptive, a fraud by concealment and  
10 negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

11 132. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
12 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
13 Products. This conduct includes knowingly and intentionally selling one or more of these  
14 Products without complying with federal food and drug law and/or selling these Products as  
15 misbranded drugs, all of which also constitutes violation of the Sherman Food, Drug and  
16 Cosmetic Act, H&S Code § 111330 *et seq.*

17 133. By committing the acts alleged above, each Defendant has engaged in unlawful,  
18 unfair and/or fraudulent business practices within the meaning of B&P Code § 17200 *et seq.*

19 134. As a result, each Defendant has also committed violations of B&P Code  
20 § 17500 *et seq.*

21 135. Wherefore Ms. Buckland prays judgment against each Defendant, as set forth  
22 hereafter.

23 **TENTH CAUSE OF ACTION**

24 **(Violations of Civil Code §§ 1709 and 1710:**

25 **Fraud by Concealment and Negligent Misrepresentation, By All Buckland Defendants)**

26 136. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
27 herein Paragraphs 1 through 135 inclusive.

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1 137. Each Defendant's failure to disclose the presence of one or more of the Regulated  
2 Chemicals, or the health risks each Regulated Chemical poses, in their Products' packaging,  
3 advertising and promotional materials, was and is deceptive, a fraud by concealment and  
4 negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

5 138. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
6 violates 21 USC § 201(g) and 21 CFR, Part 310.530, OTC Topically Applied Hormone Drug  
7 Products. This conduct includes knowingly and intentionally selling one or more of these  
8 Products without complying with federal food and drug law, which constitutes a further  
9 violation of Civil Code §§ 1709 and 1710.

10 139. Since, or after, December 7, 2001, each Defendant has engaged in conduct that  
11 violates the Sherman Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.* This conduct  
12 includes knowingly and intentionally selling one or more of these Products without complying  
13 with California food and drug law, which constitutes a further violation of Civil Code §§ 1709  
14 and 1710.

15 140. Purchasers, including Ms. Buckland, of each Defendant's respective Product have  
16 been damaged by each Defendant's non-disclosure, as well as by each Defendant's effort to  
17 portray their respective Products as safe and healthful.

18 Wherefore, Ms. Buckland prays for judgment against each Defendant, as set forth  
19 hereafter.

20 **ELEVENTH CAUSE OF ACTION**

21 **(Violations of Civil Code § 1770(5) and/or (7):**

22 **Violation of the Consumer Legal Remedies Act, By All Buckland Defendants)**

23 141. Ms. Buckland realleges and incorporates by reference as if specifically set forth  
24 herein Paragraphs 1 through 140 inclusive.

25 142. Each Defendant's failure to disclose the presence of one or more of the Regulated  
26 Chemicals, or the health risks each Regulated Chemical poses, in their Products' packaging,  
27 advertising and promotional materials, was and is a violation of Civil Code § 1770 (5) and/or (7)  
28 because each Product is subject to regulation by the US/FDA and yet each Product is not in fact

1 in compliance with such US/FDA regulation pursuant to 21 USC § 201(g) and 21 CFR, Part  
2 310.530, OTC Topically Applied Hormone Drug Products

3 143. Each Defendant's failure to disclose the presence of one or more of the Regulated  
4 Chemicals, or the health risks each Regulated Chemical poses, in their Products' packaging,  
5 advertising and promotional materials, was and is a violation of Civil Code § 1770 (5) and/or (7)  
6 because each Product is subject to regulation by the State of California pursuant to the Sherman  
7 Food, Drug and Cosmetic Act, H&S Code § 111330 *et seq.*, and yet each Product is not in fact in  
8 compliance with regulation by the State of California.

9 144. Each Defendant's failure to disclose the presence of one or more of the Regulated  
10 Chemicals, or the other potential adverse health risks each Regulated Chemical poses, in their  
11 Products' packaging, advertising and promotional materials, was and is a violation of Civil Code  
12 § 1770 (5) and/or (7) because each Defendant's failure to disclose the presence of one or more of  
13 the Regulated Chemicals, or the adverse health risks each Regulated Chemical poses, in their  
14 Products' packaging, advertising and promotional materials, was and is deceptive, a fraud by  
15 concealment and negligent misrepresentation in violation of Civil Code §§ 1709 and 1710.

16 145. Purchasers, including Ms. Buckland, of each Defendant's respective Product have  
17 been damaged by each Defendant's conduct and non-disclosure, as well as by each Defendant's  
18 effort to portray their respective Products as safe and healthful.

19 Wherefore, Ms. Buckland prays for judgment against each Defendant, as set forth  
20 hereafter.

21 **THE NEED FOR INJUNCTIVE RELIEF**

22 146. Ms. Buckland and CWLC each individually reallege and incorporate by reference  
23 as if specifically set forth herein Paragraphs 1 through 145 inclusive.

24 147. By committing the acts alleged herein, each Defendant has caused irreparable  
25 harm for which there is no plain, speedy or adequate remedy at law. In the absence of equitable  
26 relief, the general public will continue to be involuntarily exposed to one or more of the  
27 Regulated Chemicals in these Products, creating substantial risk of irreparable physical injury,  
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1 without a clear and reasonable warning, creating a clear and present danger to public health and  
2 welfare.

3 **PRAYERS FOR RELIEF**

4 Plaintiff CWLC prays for judgment against each Defendant as follows in paragraphs 1  
5 and 2 , and 18 through 21, of these Prayers for Relief:

6 **On The First and Second Causes of Action (Proposition 65):**

7 1. That the Court, pursuant to H&S Code § 25249.7(a), preliminarily and  
8 permanently enjoin each CWLC Defendant from offering its respective Products for sale without  
9 disclosing the presence of one or more of the Regulated Chemicals in its respective Products in a  
10 manner that complies with the Proposition 65 statutory disclosure requirements, as CWLC shall  
11 specify in further application to the Court;

12 **On The First and Second Causes of Action (Proposition 65):**

13 2. That the Court, pursuant to H&S Code § 25249.7(b), assess civil penalties against  
14 each CWLC Defendant in an amount to be determined by the court for each violation of  
15 Proposition 65 alleged herein since December 7, 2004.

16 Plaintiff Ms. Buckland prays for judgment against each Defendant in paragraphs 3  
17 through 21 of these Prayers for Relief as follows:

18 **On The Third through Eighth Causes of Action (Unfair Competition Law):**

19 3. That the Court, pursuant to B&P Code § 17203, preliminarily and permanently  
20 enjoin each Buckland Defendant from offering its respective Products for sale without disclosing  
21 the presence of each Regulated Chemical in its respective Products in a manner that complies  
22 with these statutory requirements, as Ms. Buckland shall specify in further application to the  
23 Court;

24 **On The Ninth Cause of Action (False Advertising Law):**

25 4. That the Court, pursuant to B&P Code § 17535, preliminarily and permanently  
26 enjoin each Buckland Defendant from offering its respective Products for sale without disclosing  
27 the presence of each Regulated Chemical in its respective Products in a manner that complies  
28

1 with these statutory requirements, as Ms. Buckland shall specify in further application to the  
2 Court;

3 **On the Eleventh Cause of Action (Consumer Legal Remedies Act):**

4 5. That the Court, pursuant to Civil Code § 1780(2), preliminarily and permanently  
5 enjoin each Buckland Defendant from offering its respective Products for sale without disclosing  
6 the presence of each Regulated Chemical in its respective Products in a manner that complies  
7 with all statutory requirements, as Ms. Buckland shall specify in further application to the Court;

8 6. That the Court, pursuant to Civil Code § 1780(5), order each Buckland Defendant  
9 to refrain from making any health-related claim on the label, advertising or marketing of each of  
10 its Products unless the Defendant complies with 21 USC § 201(g) and 21 CFR, Part 310.530,  
11 OTC Topically Applied Hormone Drug Products, as Ms. Buckland shall specify in further  
12 application to the Court;

13 7. That the Court, pursuant to Civil Code § 1780(5), order each Buckland Defendant  
14 to refrain from making any health-related claim on the label, advertising or marketing of each of  
15 its Products unless the Defendant complies with the Sherman Food, Drug and Cosmetic Act,  
16 H&S Code § 111330 *et seq.*, as Ms. Buckland shall specify in further application to the Court;

17 8. That the Court, pursuant to Civil Code § 1780(5), order each Buckland Defendant  
18 to label, advertise and market each of its Products in a manner that complies with the Consumer  
19 Legal Remedies Act, as Ms. Buckland shall specify in further application to the Court.

20 **On The Third through Eighth Causes of Action (Unfair Competition Law):**

21 9. That the Court order each Buckland Defendant to notify each and every customer  
22 of such Buckland Defendant who purchased its respective Products since December 7, 2001, and  
23 thereby give such customers an opportunity to obtain restitution from each Defendant;

24 10. That the Court order each Buckland Defendant to pay restitution and be subject to  
25 such other relief as may be necessary to restore to any end user and/or purchaser of its respective  
26 Products any money or property, real or personal, which may have been acquired by means of  
27 the acts alleged herein that occurred since December 7, 2001;

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1           **On The Ninth Cause of Action (False Advertising Law):**

2           11.     That the Court order each Buckland Defendant to notify each and every customer  
3 of such Buckland Defendant who purchased its respective Products since December 7, 2001, and  
4 thereby give such customers an opportunity to obtain restitution from each Defendant;

5           12.     That the Court order each Buckland Defendant to pay restitution and be subject to  
6 such other relief as may be necessary to restore to any end user and/or purchaser of its respective  
7 Products any money or property, real or personal, which may have been acquired by means of  
8 the acts alleged herein that occurred since December 7, 2001;

9           **On The Tenth Cause of Action (Civil Code §§ 1709 and 1710):**

10          13.     That each Buckland Defendant be held liable for damages based upon the amounts  
11 paid for their Products, in an amount to be determined at trial.

12          14.     That each Buckland Defendant be held liable for punitive damages based upon the  
13 amounts paid for their Products, in an amount to be determined at trial.

14          **On The Eleventh Cause of Action (Consumer Legal Remedies Act):**

15          15.     That, pursuant to Civil Code § 1780(1), each Buckland Defendant be held liable  
16 for actual damages based upon the amounts paid for their Products, in an amount to be  
17 determined at trial.

18          16.     That, pursuant to Civil Code § 1780(3), the Court order each Buckland Defendant  
19 to notify each and every customer of such Buckland Defendant who purchased its respective  
20 Products since December 7, 2002, and thereby give such customers an opportunity to obtain  
21 restitution from each Buckland Defendant, and that the Court order each Buckland Defendant to  
22 pay restitution and be subject to such other relief as may be necessary to restore to any end user  
23 and/or purchaser of its respective Products any money or property, real or personal, which may  
24 have been acquired by means of the acts alleged herein that occurred since December 7, 2002;

25          17.     That, pursuant to Civil Code § 1780(4), each Buckland Defendant be held liable  
26 for punitive damages based upon the amounts paid for their Products, in an amount to be  
27 determined at trial.

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1 **On All Causes of Action:**

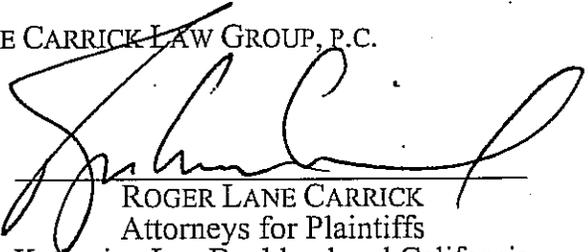
2 Plaintiffs Buckland and CWLC respectively pray for judgment against each Defendant as  
3 follows:

- 4 18. For costs of this action;  
5 19. For attorney's fees and costs;  
6 20. For interest according to law;  
7 21. For such other and further relief as this Court may deem just and proper.

8  
9 Date: January 24, 2006

Respectfully submitted,

10 THE CARRICK LAW GROUP, P.C.

11  
12 By 

13 ROGER LANE CARRICK  
14 Attorneys for Plaintiffs  
Katherine Lee Buckland and California  
15 Women's Law Center  
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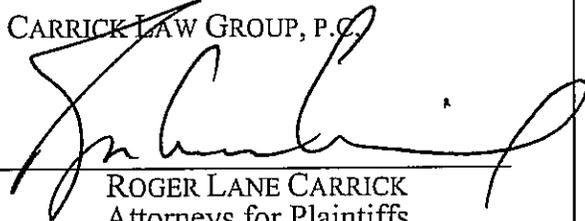
**DEMANDS FOR JURY TRIAL**

Plaintiff California Women's Law Center, a non-profit California corporation, hereby demands a trial by jury on the first and second causes of action, while Plaintiff Katherine Lee Buckland hereby demands a trial by jury on the tenth and eleventh causes of action.

Date: January 24, 2006

Respectfully submitted,

THE CARRICK LAW GROUP, P.C.

By 

ROGER LANE CARRICK  
Attorneys for Plaintiffs  
Katherine Lee Buckland and California  
Women's Law Center