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10 CENTER FOR ENVIRONMENTAL HEALTH

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 25 2006

GORDON PARK-LI, Clerk  
BY: CRISTINA E. BAUTISTA  
CASE MANAGEMENT CONFERENCE SET

DEC 22 2006 - 9:00 AM

DEPARTMENT 212

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO

13 CENTER FOR ENVIRONMENTAL HEALTH, )  
14 a non-profit corporation, )

15 Plaintiff, )

16 v. )

17 BODYBUILDING.COM, 1FAST400, and )  
18 Defendant DOES 1 through 200, inclusive, )

19 Defendants. )  
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Case No. **CGC-06-454489**

**COMPLAINT FOR INJUNCTIVE  
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6 *et seq.*;  
(Other)

1 Plaintiff Center for Environmental Health, in the public interest, based on  
2 information and belief and investigation of counsel, except for information based on personal  
3 knowledge, hereby makes the following allegations:

#### 4 INTRODUCTION

5 1. This complaint seeks to remedy defendants' continuing failure to warn  
6 individuals in California that they are being exposed to anabolic steroids, chemicals known to the  
7 State of California to cause birth defects and other reproductive harm. Such exposures have  
8 occurred, and continue to occur, through the manufacture, distribution, sale and use of  
9 defendants' dietary supplements that contain anabolic steroids and are designed to produce,  
10 and/or are marketed as having, anabolic effects such as promoting muscle growth (the  
11 "Products"). Consumers are exposed to anabolic steroids when they ingest the Products.

12 2. Under California's Proposition 65, Health and Safety Code §25249.5 *et*  
13 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California  
14 to chemicals known to the State to cause birth defects or other reproductive harm without  
15 providing clear and reasonable warnings to individuals prior to their exposure. Defendants  
16 introduce the Products directly into the California marketplace, exposing consumers of the  
17 Products to anabolic steroids.

18 3. Despite the fact that defendants expose consumers to anabolic steroids,  
19 defendants provide no warnings whatsoever about the reproductive hazards associated with  
20 exposure to anabolic steroids. Defendants' conduct thus violates the warning provision of  
21 Proposition 65. Health & Safety Code §25249.6.

#### 22 PARTIES

23 4. Plaintiff Center For Environmental Health ("CEH") is a non-profit  
24 corporation dedicated to protecting the public from environmental health hazards and toxic  
25 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of  
26 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and  
27 brings this enforcement action in the public interest pursuant to Health & Safety Code  
28 §25249.7(d). CEH is a nationally recognized environmental advocacy group that has prosecuted



1 intentionally avails itself of the California market through the sale, marketing or use of the  
2 Products in California and/or by having such other contacts with California so as to render the  
3 exercise of jurisdiction over it by the California courts consistent with traditional notions of fair  
4 play and substantial justice.

5 12. Venue is proper in the San Francisco Superior Court because one or more  
6 of the violations arise in the County of San Francisco.

7 **BACKGROUND FACTS**

8 13. The People of the State of California have declared by initiative under  
9 Proposition 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth  
10 defects, or other reproductive harm.” Proposition 65, §1(b).

11 14. To effectuate this goal, Proposition 65 requires that individuals be  
12 provided with a “clear and reasonable warning” before being exposed to chemicals listed by the  
13 State of California as known to cause cancer, birth defects and other reproductive harm unless  
14 the business responsible for the exposure can prove that it fits within a statutory exemption.  
15 Health & Safety Code §25249.6 states, in pertinent part:

16 No person in the course of doing business shall knowingly and  
17 intentionally expose any individual to a chemical known to the  
18 state to cause cancer or reproductive toxicity without first giving  
19 clear and reasonable warning to such individual. . .

20 15. The State of California has officially listed anabolic steroids as chemicals  
21 known to cause reproductive toxicity. Anabolic steroids were placed in the Governor's list of  
22 chemicals known to the State of California to cause reproductive toxicity on April 1, 1990. They  
23 are identified under two subcategories: “female reproductive toxicity” and “male reproductive  
24 toxicity,” which refers to the harm caused to the female or male reproductive system. 22  
25 California Code of Regulations (“CCR”) §12000(c). On February 27, 1990, one year after they  
26 were listed as chemicals known to cause reproductive toxicity, anabolic steroids became subject  
27 to the clear and reasonable warning requirement regarding reproductive toxicants under  
28 Proposition 65. 22 CCR §12000(c); Health & Safety Code §25249.10(b).

16. Anabolic steroids were added to the Proposition 65 list pursuant to Health

1 and Safety Code §25249.8, which provides, in part, that a chemical shall be added to the list “if  
2 an agency of the state or federal government has formally required it to be labeled or identified as  
3 causing cancer or reproductive toxicity.”

4 17. The Products contain anabolic steroids. Anabolic steroids are commonly  
5 defined as “human or veterinary products of anabolic steroidal hormones and synthetic  
6 testosterone-like drugs.” *Ellenhorn's Medical Toxicology: Diagnosis and Treatment of Human*  
7 *Poisoning.*

8 18. In males, anabolic steroids have been demonstrated to cause adverse  
9 effects that include alteration in the prostate, the testes, and the seminal vesicles. In females,  
10 anabolic steroids have been demonstrated to cause adverse effects that include reduced ovulation  
11 and premature delivery.

12 19. Defendants' Products contain sufficient quantities of anabolic steroids  
13 such that consumers who ingest the Products are exposed to anabolic steroids through the  
14 average use of the Products.

15 20. Any person acting in the public interest has standing to enforce violations  
16 of Proposition 65 provided that such person has supplied the requisite public enforcers with a  
17 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the  
18 action within such time. Health & Safety Code §25249.7(d).

19 21. More than sixty days prior to naming each Defendant in this lawsuit, CEH  
20 provided a 60-Day “Notice of Violation of Proposition 65” to the California Attorney General,  
21 the District Attorneys of every county in California, the City Attorneys of every California city  
22 with a population greater than 750,000 and to each of the named Defendants. In compliance with  
23 Health & Safety Code §25249.7(d) and 22 CCR §12903(b), each of the Notices included the  
24 following information: (1) the name and address of the violators; (2) the statute violated; (3) the  
25 time period during which violations occurred; (4) specific descriptions of the violations,  
26 including (a) the routes of exposure to anabolic steroids from the Products and (b) the specific  
27 type of Product at issue, with a specific non-exclusive example of a Product that is sold and used  
28 in violation of Proposition 65 for each named Defendant; and (5) the name of the specific

1 Proposition 65-listed chemical (anabolic steroids) that is the subject of the violation described in  
2 each of the Notices.

3           22. CEH also sent a Certificate of Merit for the Notice to the California  
4 Attorney General, the District Attorneys of every county in California, the City Attorneys of  
5 every California city with a population greater than 750,000 and to the named Defendant. In  
6 compliance with Health & Safety Code §25249.7(d) and 11 CCR §3101, the Certificate certified  
7 that CEH's counsel: (1) has consulted with one or more persons with relevant and appropriate  
8 experience or expertise who reviewed facts, studies or other data regarding the exposures to  
9 Anabolic steroids alleged in the Notice; and (2) based on the information obtained through such  
10 consultations, believes that there is a reasonable and meritorious case for a citizen enforcement  
11 action based on the facts alleged in the attached Notice. In compliance with Health & Safety  
12 Code §25249.7(d) and 11 CCR §3102, the Certificate served on the Attorney General included  
13 factual information – provided on a confidential basis – sufficient to establish the basis for the  
14 Certificate, including the identity of the person(s) consulted by CEH's counsel and the facts,  
15 studies or other data reviewed by such persons.

16           23. None of the public prosecutors with the authority to prosecute violations  
17 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against the  
18 Proposition 65 Defendants under Health & Safety Code §25249.5 *et seq.* based on the claims  
19 asserted in the Notice.

20           24. Defendants both know and intend that individuals will ingest the Products,  
21 thus exposing them to anabolic steroids. In fact, the Products are designed to produce, and/or are  
22 marketed as having, anabolic effects such as promoting muscle growth.

23           25. Defendants have been informed of the anabolic steroids in their Products  
24 by the 60-day notice of violation served on them by CEH.

25           26. Nevertheless, Defendants continue to expose consumers to anabolic  
26 steroids without prior clear and reasonable warnings regarding the reproductive hazards of  
27 anabolic steroids.

28           27. CEH has engaged in good-faith efforts to resolve the claims alleged herein



1 penalties against each of the Defendants in the amount of \$2,500 per day for each violation of  
2 Proposition 65 according to proof;

3           2.       That the Court, pursuant to Health & Safety Code §25249.7(a),  
4 preliminarily and permanently enjoin Defendants from offering the Products for sale in  
5 California without providing clear and reasonable warnings, as CEH shall specify in further  
6 application to the Court;

7           3.       That the Court, pursuant to Health & Safety Code §25249.7(a), order  
8 Defendants to take action to stop ongoing unwarned exposures to anabolic steroids resulting  
9 from use of Products sold by Defendants, as CEH shall specify in further application to the  
10 Court;

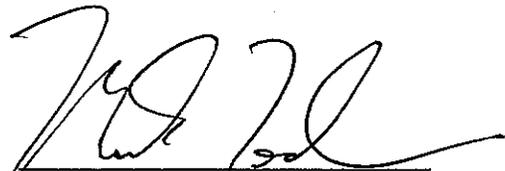
11           4.       That the Court, pursuant to Code of Civil Procedure §1021.5 and any other  
12 applicable theory, grant Plaintiff its reasonable attorneys' fees and costs of suit; and

13           5.       That the Court utilize its inherent equitable power to grant such other and  
14 further relief as may be just and proper.

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16 Dated: July 24, 2006

Respectfully submitted,

17 LEXINGTON LAW GROUP, LLP

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21 Mark N. Todzo, Esq.  
22 Attorneys for Plaintiff  
23 CENTER FOR ENVIRONMENTAL  
24 HEALTH  
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