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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

MICHELLE KARAJELIAN, TRACI
ELLIS, MINDY CHARUSARN on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

AFFINITY LIFESTYLES.COM, INC.,
d/b/a REAL WATER
3773 Howard Hughes Pkwy
Suite 500S
Las Vegas, Nevada, 89169

Serve Registered Agent:

InCorp Service, Inc.
3773 Howard Hughes Pkwy
Suite 500S
Las Vegas, Nevada, 89169

Defendant.

Case No.

CLASS ACTION COMPLAINT

Demand for Jury Trial

Plaintiffs Michelle Karajelian, Traci Ellis, Mindy Charusarn (“Plaintiffs”), acting on behalf of themselves and all others similarly situated (“Class Members” or the “Class”), bring this action for damages and/or equitable relief against Affinity Lifestyles.com, Inc., d/b/a Real Water (“Defendant”). Plaintiffs’ allegations are based upon personal knowledge as to themselves and their own actions, and upon information and belief as to all other matters.

NATURE OF THE CASE

1
2 1. This is a civil class action brought by Plaintiffs on behalf of consumers who
3 purchased Defendant's "Real Water" brand alkaline water (the "Product") for personal use.

4 2. Defendant formulates, manufactures, advertises, and sells the Product to consumers
5 throughout the United States.

6 3. Unbeknown to Plaintiffs and members of the Classes (defined below) at the time
7 of their purchase, and contrary to the express and implied representations made by Defendant in
8 respect to the Product, the Product is defective, is deceptively advertised, and causes undesired
9 side effects to consumers, including, but not limited to, liver failure, hospitalization, fever,
10 vomiting, nausea, loss of appetite, and fatigue, which, if known to Plaintiffs and members of the
11 Classes, would have caused Plaintiffs and members of the Classes not to purchase or use the
12 Product.¹

13
14 4. As a result, Plaintiffs and Class Members have been, and continue to be harmed,
15 by having purchased the Product under false pretenses, and paying for the Product while receiving
16 something worthless in return.

17
18 5. Plaintiffs and the Classes thus bring claims for negligence, violation of consumer
19 protection statutes, and unjust enrichment seeking equitable relief and/or money damages, and
20 reasonable attorneys' fees.

21 **PARTIES**

22 6. Plaintiff Michelle Karajelian, is a citizen of California, residing in Fountain Valley,
23 Orange County. Plaintiff Karajelian purchased and used the Product in California. As a result of
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27 ¹<https://www.fda.gov/food/outbreaks-foodborne-illness/investigation-acute-non-viral-hepatitis-illnesses-real-water-brand-alkaline-water-march-2021> (last visited March 19, 2021).
28

1 using the Product Plaintiff Karajelian suffered nausea.

2 7. Plaintiff Traci Ellis is a citizen of California, residing in Fresno, Fresno County.
3 Plaintiff Ellis purchased and used the Product in California. As a result of using the Product
4 Plaintiff Ellis suffered nausea and blood in her urine.

5 8. Plaintiff Mindy Charusarn is a citizen of California, residing in Mission Hills, Santa
6 Barbara County. Plaintiff Charusarn purchased and used the Product in California.

7 9. Defendant Affinitylifestyles.com, Inc. is incorporated in Nevada with its principal
8 place of business at 3773 Howard Hughes Pkwy, STE 500S, Las Vegas, Nevada, 89169.
9

10 **JURISDICTION AND VENUE**

11 10. This Court has jurisdiction over this action under the Class Action Fairness Act
12 (“CAFA”), 28 U.S.C. § 1332(d). There are at least 100 members in the proposed class, the
13 aggregated claims of the individual class members exceed the sum or value of \$5,000,000.00
14 exclusive of interest and costs, and some of the members of the proposed class are citizens of states
15 different from each of the Defendant.
16

17 11. The Defendant has sufficient minimum contacts with Nevada to be subject to this
18 Court’s personal jurisdiction. Defendant intentionally avails itself of the markets within Nevada
19 through the promotion, sale, marketing, and distribution of the Products and numerous other
20 products, which renders this Court’s exercise of jurisdiction necessary and proper.

21 12. In accordance with 28 U.S.C. § 1391, venue is proper in this District because a
22 substantial part of the conduct giving rise to Plaintiffs’ claims occurred in this District, Defendant
23 transacts business in this District, and Defendant is headquartered in this District.
24

25 **FACTUAL ALLEGATIONS**

26 13. Defendant bottles water and sells it across the Southwest United States-including
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1 Nevada, Utah, Arizona, New Mexico, and the Los Angeles area. Defendant sells the Product in
 2 major retail chains and many other stores, including at Sprouts, Whole Foods, and Costco.²

3 14. The Product comes in a variety of sizes and is available in ready to drink bottles.
 4 Customers can choose between 500mL, 750mL, 1 liter, and 1.5-liter bottles. A 1-gallon bottle
 5 option is in the works. Aside from the ready to drink option, Real Water also comes in a 5 gallon
 6 bottle for home deliveries.

7 15. Defendant touts itself as “a premium drinking water with 9.0 pH” that “can help
 8 your body to restore balance and reach your full potential.”³

9 16. Defendant touts that its water provides key benefits including that it supposedly
 10 deactivates pepsin, an enzyme that causes acid reflux, benefits people who have high blood
 11 pressure, diabetes, and high cholesterol, and enables blood to flow more efficiently and increasing
 12 oxygen delivery throughout the body.⁴

13 17. Defendant claims to add electrons to the water via a process known as “electrical
 14 restricting”.⁵

15 18. Defendant represents that the Product technologically improves on, and is superior
 16 to, normal drinking water. In a YouTube video on Defendant’s website, it makes numerous claims
 17 about the innovative technology within the Product. It states that normal tap water creates “free
 18 radicals” that cause damage throughout the body and cause damage and serious health conditions:⁶
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 22

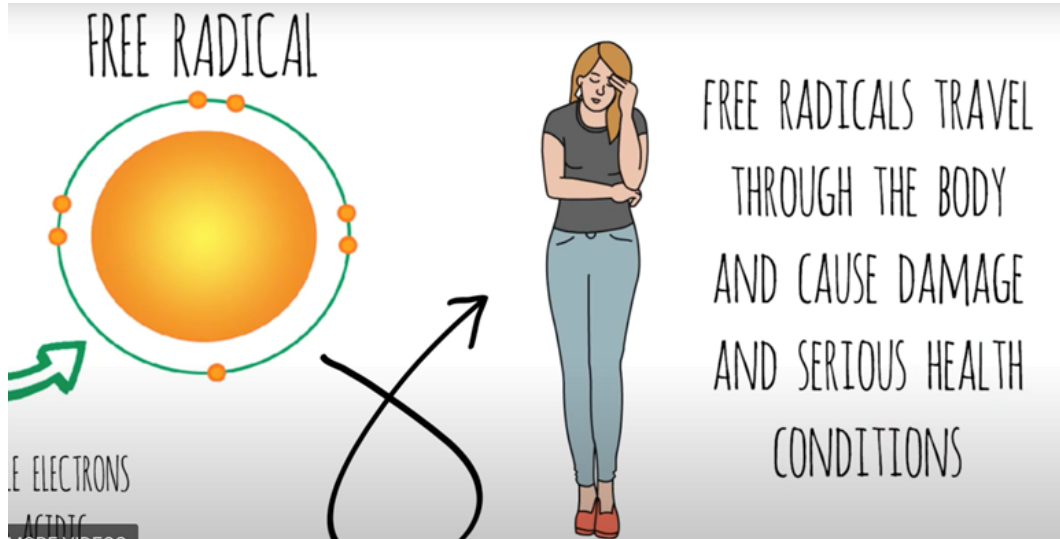
23 ² https://www.washingtonpost.com/health/warning-issued-not-to-drink-vegas-based-real-water-product/2021/03/17/b7fbd294-876b-11eb-be4a-24b89f616f2c_story.html (last visited March 18,
 24 2021).

25 ³ <https://drinkrealwater.com/about-us/> (last visited March 18, 2021).

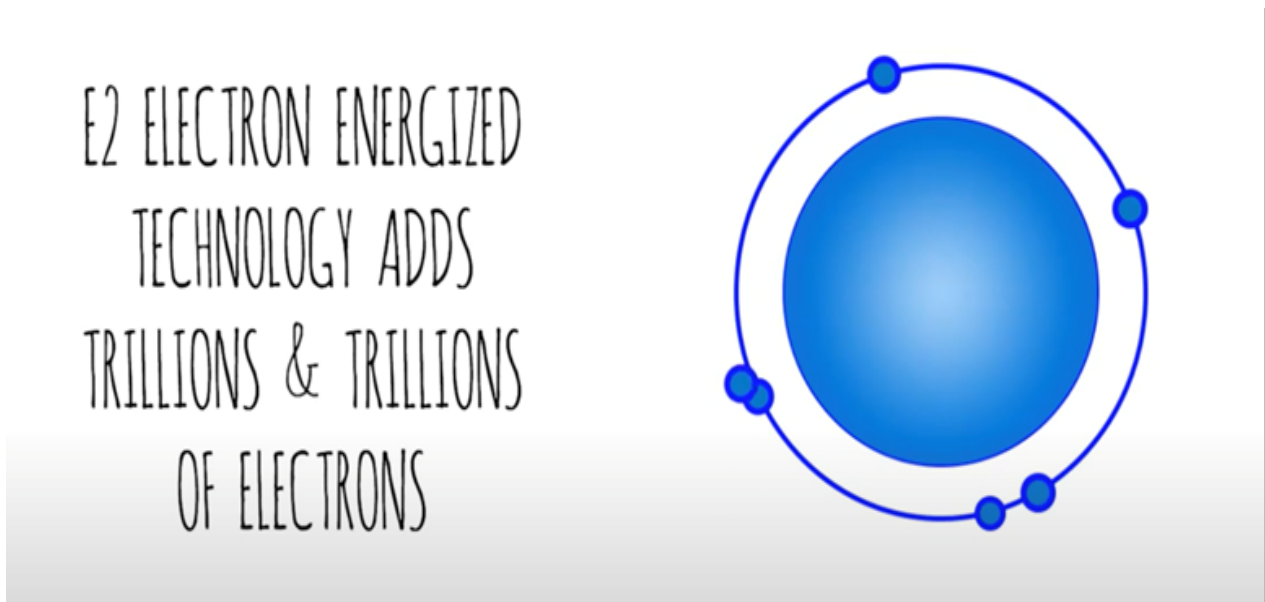
26 ⁴ <https://made.vegas/real-alkalized-water-las-vegas/> (last visited March 18, 2021).

27 ⁵ *Id.* (last visited March 18, 2021).

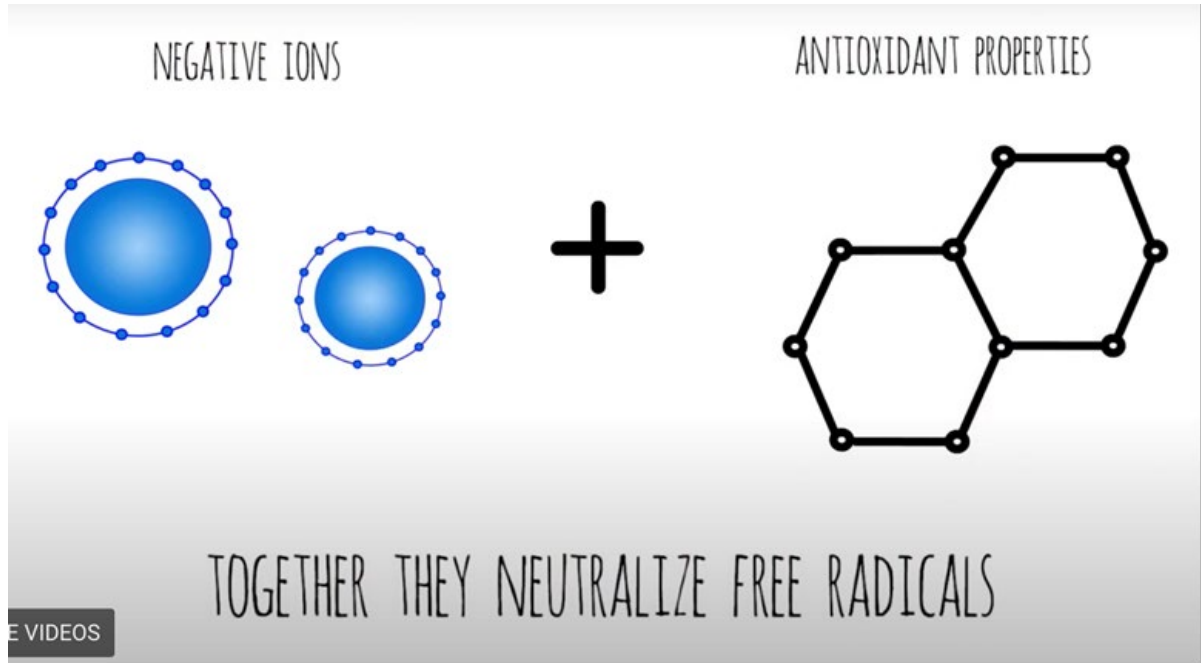
28 ⁶ <https://youtu.be/aVBN8v4e5cg> (last visited March 18, 2021).



19. Defendant claims that the Product prevents these “free radicals” from building up in the body and using valuable electrolytes because of the electrons that are created within the body as a result of ingesting the Product.⁷



⁷ *Id.*



20. Defendant directs the aforementioned representations and promises about the health benefits of the Product to consumers, like Plaintiffs and Class Members, and Defendant intended that Plaintiff and Class Members read and rely on these health representations in purchasing the Product.

21. In addition, each bottle of the Product represents that Real Water goes “beyond alkalinity” and contains water “infused with negative ions.” These representations conveyed to Plaintiffs and all other reasonable consumers the notion that the product is healthy or, at the least, that it is suitable for human consumption. Each of the Plaintiffs read and relied on such representations, which appear on all bottles of the Products.

22. Nowhere in Defendant’s advertisements, marketing or labeling of the Products does it disclose that the Product causes liver failure, hospitalization, fever, vomiting, nausea, loss of appetite, and/or fatigue

23. Plaintiffs would not have purchased the product, or would have paid much less for it, if they knew that they were undertaking a risk to their health by consuming it.



⁸ <https://drinkrealwater.com/product/real-water-16-9oz-bottles-case-of-24/> (last visited March 21, 2021).

⁹ <https://www.pinterest.com/pin/141511613265057702/> (last visited March 21, 2021).

1 24. As reported in the Washington Post, Defendant has touted the Product as the
2 healthiest drinking water available, which provides specific advertised benefits, as alleged above.¹⁰

3 25. However, Defendant's Real Water is not the healthiest drinking water available. In
4 fact, it is far from it.

5 26. Contrary to the aforementioned representations and promises made in respect to the
6 Product by Defendant, the Product was defective and caused undesired side effects to consumers,
7 including, but not limited to, fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain,
8 dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure,
9 hospitalization, and loss of appetite.

10 27. Defendant's Product does not help one reach their full potential. In fact,
11 Defendant's product has caused liver damage to children due to non-viral hepatitis.¹¹

12 28. In November 2020, a 2-year-old was transported to the hospital for liver
13 malfunction. There, it became apparent at the hospital that multiple children have had similar
14 ailments. The only common link between the group was drinking the Defendant's Product.¹²

15 29. ALT, which stands for alanine transaminase, is an enzyme found mostly in the liver.
16 When liver cells are damaged, they release ALT into the bloodstream. An ALT test measures the
17 amount of ALT in the blood. High levels of ALT in the blood can indicate a liver problem. The
18 normal value for ALT in blood ranges from 29 to 33 units per liter (IU/L) for males and 19 to 25
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23 ¹⁰ https://www.washingtonpost.com/health/warning-issued-not-to-drink-vegas-based-real-water-product/2021/03/17/b7fbd294-876b-11eb-be4a-24b89f616f2c_story.html (last visited March 19, 2021).

24 ¹¹ <https://www.8newsnow.com/news/local-news/fda-issues-warning-about-las-vegas-water-company-after-numerous-people-suffer-liver-damage-local-family-sues/> (last visited March 19, 2021).

25 ¹² <https://www.8newsnow.com/news/local-news/fda-issues-warning-about-las-vegas-water-company-after-numerous-people-suffer-liver-damage-local-family-sues/> (last visited March 19, 2021).

1 IU/L for females. However, the 2-year-old's ALT was measured at over 5,000, and, as a result
 2 thereof, he was informed that he was a candidate for an immediate liver transplant.¹³

3 30. Despite these episodes, Defendant continued selling the Product.

4 31. In March 2021, an FDA investigation started in connection with the Southern
 5 Nevada Health District that sought to determine the cause of the injuries suffered by the children
 6 as a result of drinking the Product.

7
 8 On March 13, the FDA was alerted to five cases of acute non-viral
 9 hepatitis (resulting in acute liver failure) in infants and children
 10 that occurred in November 2020 with an unknown cause reported
 11 to the Southern Nevada Health District. All five patients had been
 12 hospitalized but have since recovered. All patients were reported to
 13 have consumed "Real Water" brand alkaline water. These patients
 14 came from four different households. Five additional people, two
 15 adults and three children, from two of the four households were
 16 reported to have experienced other symptoms as well. Less severe
 17 symptoms included fever, vomiting, nausea, loss of appetite, and
 18 fatigue. **The consumption of "Real Water" brand alkaline
 19 water is the only common link identified among all of these
 20 cases to date.**¹⁴

21 (emphasis supplied).

22 32. The FDA investigation confirmed the children suffered from non-viral hepatitis that
 23 resulted in acute liver failure and the only common link among all the cases was the consumption
 24 of Defendant's Product.

25 33. As a result of the FDA's preliminary investigation, it recommended "[c]onsumers,
 26 restaurants, and retailers should not drink, cook with, sell, or serve "Real Water" alkaline water,
 27 until more information is known about the cause of the illnesses. Symptoms of all types of
 28 hepatitis, including non-viral hepatitis, are similar and can include fever, fatigue, loss of appetite,

26 ¹³ *Id.*

27 ¹⁴ <https://www.fda.gov/food/outbreaks-foodborne-illness/investigation-acute-non-viral-hepatitis-illnesses-real-water-brand-alkaline-water-march-2021> (last visited March 19, 2021).

1 nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain,
 2 yellow eyes, and jaundice. Those experiencing these symptoms should contact their doctor.”¹⁵

3 34. On March 17, 2021, nearly 5 months from the first episode suffered as a result of
 4 drinking the Product, the President of the company who manufactures the Product ordered for all
 5 retailers, restaurants, and any other business to stop selling the Product “throughout the United
 6 States until the issue is resolved.”¹⁶

7 35. On its homepage, Defendant on March 16, 2021, told consumers to return their
 8 unused bottles to retailers, without offering a full (or any) refund of their purchase price, or
 9 otherwise hinting at a process by which consumers can receive compensation for purchasing a
 10 product deemed too dangerous to leave in the stream of commerce. The website stated the
 11 following:
 12

- 13 • Real Water was notified on March 16, 2021, of a potential problem with our water
 14 dating back to November 2020. We are saddened to hear of the potential health
 15 issue of the product from our Real Water Las Vegas Home Delivery operation.
- 16 • We, at Real Water, take the safety of our products and concern for our customer’s
 17 health seriously. Real Water takes great strides in every way to make sure our
 18 product is safe for consumption. Our goal is to diligently work with the FDA to
 19 achieve a swift resolution.
- 20 • While the potential problem arose in Las Vegas, we are taking proactive steps to
 21 stop selling and distributing Real Water products throughout the United States until
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 25 ¹⁵ *Id.*

26 ¹⁶ https://www.washingtonpost.com/health/warning-issued-not-to-drink-vegas-based-real-water-product/2021/03/17/b7fbd294-876b-11eb-be4a-24b89f616f2c_story.html (last visited March 19,
 27 2021).
 28

1 the issue is resolved.

- 2 • Real Water is asking that all retailers pull the product from the shelf, effective
3 immediately, and hold it in the back rooms or return it to the distributors.
- 4 • Any customer who has purchased Real Water from a retailer is asked to return the
5 product. For more information, we urge you to call 702-310-5437 or email us at
6 customerservice@drinkrealwater.com
7

8 36. Defendant failed to disclose to consumers on the label and packaging of the Product
9 and/or in the Product's marketing materials that health injuries could result from simply drinking
10 the Product, despite having knowledge for months (since November 2020) of the harmful effects
11 of the Product.

12 37. On information and belief, the Product's defective nature arose out of Defendant's
13 failure to, among other things, perform sufficient product testing, and quality control to ensure the
14 Product was safe for consumer use, as expressly and/or impliedly advertised by Defendant.
15

16 38. Because Defendant decided to cut corners in the formulating, manufacturing and/or
17 testing of the Product, consumers, including Plaintiffs, have suffered injuries, and paid for a
18 product they would not have bought, or would have paid materially less, if they knew the truth that
19 was omitted by Defendant.

20 39. Although Defendant publicly acknowledged the Product was defective and
21 dangerous, Plaintiffs and Class Members still remained uncompensated for purchasing a worthless
22 product. Nor has Defendant addressed any personal injuries caused by the Product.
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24 40. Because of Defendant's omissions, false promises and deceptive and misleading
25 advertising practices, consumers were deceptively induced to purchase the Product. The only
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conceivable purpose for falsely and deceptively making these claims about the Product, and failing to disclose the serious hazard it posed, is to stimulate sales and enhance Defendant's profits.

41. As a result, consumers, including Plaintiffs, purchased and paid valuable consideration for a Product that is worthless. Indeed, Defendant surely understands that no reasonable consumer would purchase the Product if it were accurately labeled and/or marketed as presenting health risks.

42. Plaintiffs are in the same Class as all other consumers who purchased Defendant's Product during the relevant time period. Plaintiffs and the Class Members were in fact misled by Defendant's omissions and/or misrepresentations in respect to the Product. Plaintiffs and Class Members would have purchased other bottled water, if any at all, if they had not been deceived by the misleading and deceptive marketing and/or labeling of the Product by Defendant.

CLASS ACTION ALLEGATIONS

Class Definitions

43. Plaintiffs bring this action individually and as representatives of all those similarly situated, pursuant to Federal Rule of Civil Procedure 23, on behalf of the below-defined Class:

Nationwide Class: All persons in the United States who, during the maximum period permitted by the law, purchased the Product for personal, family, or household use.

44. Plaintiffs Michelle Karajelian, Traci Ellis, Matthew Daniel, Mindy Charusarn bring this action on behalf of themselves and the members of the following Subclass:

California Subclass: All persons in California who, during the maximum period permitted by the law, purchased the Product for personal, family, or household use.

45. Specifically excluded from these definitions are (1) any and all persons who purchased the Products directly from Defendant; (2) Defendant, any entity in which Defendant has a controlling interest, and its legal representatives, officers, directors, employees, assigns and

1 successors; (3) the Judge to whom this case is assigned and any member of the Judge's staff or
2 immediate family; and (4) Class Counsel.

3 46. As used herein, "Class Members" shall mean and refer to the members of the
4 Nationwide Class and all Subclasses, including Plaintiffs.

5 47. Plaintiffs seek only damages and/or equitable relief on behalf of themselves and the
6 Class Members. Plaintiffs disclaim any intent or right to seek any recovery in this action for
7 personal injuries, wrongful death, or emotional distress suffered by Plaintiffs and/or the Class
8 Members.
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10 48. Numerosity: Although the exact number of Class Members is uncertain at this time
11 and can only be ascertained through discovery, the number is great enough such that joinder is
12 impracticable and likely in the thousands. The disposition of the claims of these Class Members
13 in a single action will provide substantial benefits to all parties and to the Court.

14 49. Typicality: The claims of the representative Plaintiffs are typical in that Plaintiffs,
15 like all Class Members, purchased the Products that were manufactured and distributed by
16 Defendant. Plaintiffs, like all Class Members, have been damaged by Defendant's misconduct in
17 that, *inter alia*, they have incurred or will continue to incur damage as a result of overpaying for a
18 product that contained a significantly lesser amount of hemp extract than advertised. Furthermore,
19 the factual basis of Defendant's misconduct is common to all Class Members because Defendant
20 engaged in a uniform, systematic course of conduct, and/or a uniform failure to act and/or convey
21 complete and truthful information, and defendants' wrongdoing has injured all Class Members.
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23 50. Commonality: Plaintiffs have numerous questions of law and fact common to
24 themselves and Class Members that predominate over any individualized questions. These
25 common legal and factual issues include:
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- a. Whether the Product is defective such that they cause health problems including fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure, hospitalization, and/or loss of appetite after consumption;
- b. Whether and when Defendant had exclusive knowledge that the Product is defective but failed to disclose the defect to the public;
- c. Whether the Product disclosed the side effects of the Product as described herein;
- d. Whether Defendant's conduct violated the applicable state consumer claims alleged herein;
- e. Whether Defendant's acts and omissions make it liable to Plaintiff and Class Members for negligence and strict products liability;
- f. Whether Defendant engaged in unfair, deceptive, unlawful and/or wrongful acts or practices in trade or commerce by objectively misleading Plaintiffs and putative Class and Subclass members;
- g. Whether Defendant's conduct, as alleged herein, was likely to mislead a reasonable consumer;
- h. Whether Defendant's statements, concealments and omissions regarding the Products were material, in that a reasonable consumer could consider them important in purchasing the Products;
- i. Whether, as a result of Defendant's omissions and/or misrepresentations of material facts, Plaintiffs and members of the Class and Subclass have suffered an ascertainable loss of monies and/or property and/or value; and
- j. Whether Plaintiffs and Class members are entitled to monetary damages, injunctive relief, and/or other remedies and, if so, the nature of any such relief.

51. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of Class Members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, including consumer and product defect class actions, and Plaintiffs intend to prosecute this action vigorously.

52. Predominance and Superiority: Plaintiffs and Class Members have all suffered and will continue to suffer harm and damages as a result of Defendant's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, Class Members would likely find the cost of litigating

1 their claims prohibitively high and would therefore have no effective remedy at law. Because of
 2 the relatively small size of Class Members' individual claims, it is likely that few Class Members
 3 could afford to seek legal redress for Defendant's misconduct. Absent a class action, Class
 4 Members will continue to incur damages, and Defendant's misconduct will continue without
 5 remedy. Class treatment of common questions of law and fact would also be a superior method to
 6 multiple individual actions or piecemeal litigation in that class treatment will conserve the
 7 resources of the courts and the litigants and will promote consistency and efficiency of
 8 adjudication.

9 53. Defendant has acted or refused to act on grounds generally applicable to the Class,
 10 thereby making appropriate final injunctive relief or corresponding declaratory relief with respect
 11 to the Class appropriate.

12 **COUNT 1**
 13 **UNJUST ENRICHMENT**

14 54. Plaintiffs bring this count on behalf of themselves and the Nationwide Class and
 15 repeat and re-allege all previous paragraphs as if fully included herein.

16 55. Plaintiffs conferred benefits on Defendant by purchasing the Products at a premium
 17 price.

18 56. Defendant has knowledge of such benefits.

19 57. Defendant has been unjustly enriched in retaining the revenues derived from
 20 Plaintiffs' and Class Members' purchases of the Products, because the Defendant will obtain the
 21 benefits conferred by Plaintiffs and the Class Members without adequately compensating Plaintiffs
 22 and the Class Members therefore. Defendant failed to adequately compensate the Plaintiffs for the
 23 benefits conferred by providing the Products without those products having the characteristics and
 24 benefits promised.
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60. Because Defendant's retention of the non-gratuitous benefits conferred on it by Plaintiffs and members of the Class is unjust and inequitable, and because equity and good conscience requires restitution, Defendant must pay restitution to Plaintiffs and members of the Class for its unjust enrichment, as ordered by the Court.

61. Plaintiffs bring this count on behalf of themselves and the Nationwide Class and repeat and re-allege all previous paragraphs as if fully included herein.

62. At all times referenced herein, Defendant was responsible for designing, formulating, testing, manufacturing, inspecting, distributing, marketing, supplying and/or selling the Products to Plaintiffs and the Class.

1 63. At all times material hereto, the use of the Products in a manner that was intended
2 and/or reasonably foreseeable by Defendant involved substantial risk of fever, fatigue, loss of
3 appetite, nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements,
4 joint pain, yellow eyes, jaundice, liver failure, hospitalization, and/or loss of appetite after
5 consumption.

6 64. At all times the risk of substantial health risks were known or knowable by
7 Defendant, in light of the generally recognized and prevailing knowledge available at the time of
8 manufacture and formulation, as described herein.

9 65. Defendant, as the developer, manufacturer, distributor and/or seller of the Products,
10 had a duty to warn Plaintiffs and the Class of all dangers associated with the intended use.

11 66. After receiving multiple complaints of fever, fatigue, loss of appetite, nausea,
12 vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain, yellow
13 eyes, jaundice, liver failure, hospitalization, and/or loss of appetite after consumption after using
14 the Products, a duty arose to provide a warning to consumers that use of the Products could result
15 in these side effects as a result of using the Products.

16 67. Defendant was negligent and breached its duty of care by negligently failing to
17 give adequate warnings to purchasers and users of the Products, including Plaintiffs and the
18 Class, about the risks, potential dangers and defective condition of the Products.

19 68. Defendant knew, or by the exercise of reasonable care, should have known of
20 the inherent design and/or manufacturing defects and resulting dangers associated with using the
21 Products as described herein, and knew that Plaintiffs and Class members could not reasonably be
22 aware of those risks. Defendant failed to exercise reasonable care in providing the Class with
23 adequate warnings.

69. As a direct and proximate result of Defendant's failure to adequately warn consumers that use of the Products could cause fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure, hospitalization, and/or loss of appetite after consumption, Plaintiffs and the Class have suffered damages as set forth herein.

COUNT 3
NEGLIGENCE – FAILURE TO TEST

70. Plaintiffs bring this count on behalf of themselves and the Nationwide Class and repeat and re-allege all previous paragraphs as if fully included herein.

71. Defendant did not perform adequate testing on the Products, which were defectively designed, formulated, tested, manufactured, inspected, distributed, marketed, supplied and/or sold to Plaintiffs and the Class.

72. Adequate testing would have revealed the serious deficiencies in the Products in that it would have revealed the fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure, hospitalization, and/or loss of appetite occasioned by use of the Products.

73. Defendant had, and continues to have, a duty to exercise reasonable care to properly design—including the duty to test—the Products before introducing them into the stream of commerce.

74. Defendant breached these duties by failing to exercise ordinary care in the design and testing of the Products, which it introduced into the stream of commerce, because Defendant knew or should have known the Products could cause fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain, dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure, hospitalization, and/or loss of appetite after consumption.

75. Defendant knew or reasonably should have known that Class members such as Plaintiffs would suffer economic damages or injury and/or be at an increased risk of suffering damage and injury, as a result of its failure to exercise ordinary care in the design of the Products by failing to conduct appropriate testing.

76. By reason of the foregoing, Plaintiffs and the Class experienced and/or are at risk of experiencing financial damage and injury.

77. As a direct and proximate result of Defendant's failure to test the Products designed, formulated, manufactured, inspected, distributed, marketed, warranted, advertised, supplied and/or sold by the Defendant, Plaintiffs and the Class have suffered damages as described above.

COUNT 4
VIOLATIONS OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT
Cal. Civ. Code §§ 1750 *et seq.*

78. The Plaintiffs, individually and on behalf of the California Subclass, incorporate by reference all previous paragraphs of this Complaint as if fully stated herein.

79. This claim is for equitable relief only and does not assert money damages. Plaintiffs reserve the right to amend the complaint in the future to plead money damages.

80. The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.* ("CLRA"), is a comprehensive statutory scheme that is to be liberally construed to protect consumers against unfair and deceptive business practices in connection with the conduct of businesses providing goods, property or services to consumers primarily for personal, family, or household use.

81. Defendant is a "person" as defined by Cal. Civ. Code §§ 1761(c) & 1770 and has sold Products which are "goods" as defined by Cal. Civ. Code §§ 1761(a) & 1770.

1 82. Plaintiffs and California Subclass members are “consumers” as defined by Cal. Civ.
2 Code §§ 1761(d) & 1770 and have engaged in a “transaction” as defined by Cal. Civ. Code §§
3 1761(e) & 1770.

4 83. Defendant’s unlawful conduct resulted in the sales of products and services to
5 Plaintiffs and the California Subclass Members in violation of Cal. Civ. Code § 1770, including:

- 6 a. Representing that goods or services have characteristics that they do not have;
7
8 b. Representing that goods or services are of a particular standard, quality, or
9 grade when they were not;
10 c. Advertising goods or services with intent not to sell them as advertised; and
11 d. Representing that the subject of a transaction has been supplied in accordance
12 with a previous representation when it has not.

13 84. Defendant’s representations and omissions were material because they were likely
14 to deceive reasonable consumers.

15 85. Had Defendant disclosed to Plaintiffs and California Subclass Members that they
16 misrepresented Defendant’s Products, omitted material information regarding the risk involved
17 with use of the Products and true abilities of those Defendant’s Products, and were otherwise
18 engaged in common business practices that ultimately hurt consumers, Defendant would have been
19 unable to continue selling defective Products. Instead, Defendant represented that its Products
20 were healthy and gave various health benefits, without disclosing their potential risks and dangers
21 of consumption. Plaintiffs and the California Subclass Members acted reasonably in relying on
22 Defendant’s misrepresentations and omissions, the truth of which they could not have discovered
23 with reasonable diligence.
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86. As a direct and proximate result of Defendant's violations of Cal. Civ. Code § 1770, Plaintiffs and California Subclass Members have suffered and will continue to suffer injury, ascertainable losses of money or property, and monetary and non-monetary damages, including from not receiving the benefit of their bargain in purchasing the Defendant's Products, and increased time and expense in treating the damage caused by the use of Defendant's Products.

87. Plaintiffs sent notice of their intention to seek damages via a letter dated March 21, 2021, in compliance with Cal. Civ. Code § 1782(a). Any further notice would be futile because Defendant has yet to offer relief to the California Subclass, despite being on notice of its unfair, and deceptive conduct.

88. Plaintiffs, individually and on behalf of the other California Subclass Members, seek all equitable relief, including a refund and restitution and an order enjoining the acts and practices described above, attorneys' fees, and costs under the CLRA.

COUNT 5
VIOLATIONS OF THE CALIFORNIA UNFAIR COMPETITION LAW
Cal. Bus. & Prof. Code §§ 17200 *et seq.*

89. Plaintiffs, individually and on behalf of the California Subclass, incorporate by reference all previous paragraphs of this Complaint as if fully stated herein.

90. Defendant is a "person" as defined by Cal. Bus. & Prof. Code § 17201.

91. Defendant violated Cal. Bus. & Prof. Code §§ 17200 *et seq.* ("UCL") by engaging in unlawful, unfair, and deceptive business acts and practices.

92. Defendant's "unfair" acts and practices include:

- a. Knowingly designing, developing, manufacturing, advertising, and selling Defendant's Products with false health claims and significant defects that result in health and safety risks when used so that consumers did not

1 receive the benefit of their bargain;

2 b. Marketing and selling Defendant's Products that relied upon false health
3 claims, while at the same time exposing consumers to health and safety
4 risks solely to increase profits;

5 c. Making affirmative public representations about alleged benefits of
6 Defendant's Products while, at the same time, not ensuring consumer health
7 and safety with respect to use of the Products; and

8 d. Concealing material information from consumers regarding the true nature
9 of the defects in Defendant's Products in order to impact consumer
10 purchasing behavior.
11

12 93. Defendant engaged in "unlawful" business practices by violating multiple laws,
13 including the CLRA, Cal. Civ. Code §§ 1780 *et seq.*, and California common law.

14 94. Defendant's deceptive acts and practices include:

15 a. Knowingly designing, developing, manufacturing, advertising, and selling
16 Defendant's Products with false health claims and significant defects that
17 result in health and safety risks when used so that consumers did not
18 receive the benefit of their bargain;

19 b. Marketing and selling Defendant's Products that relied upon false health
20 claims, while at the same time exposing consumers to health and safety
21 risks solely to increase profits;

22 c. Making affirmative public representations about the alleged benefits of
23 Defendant's Products while, at the same time, not ensuring consumer health
24 and safety with respect to use of the Products; and
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1 d. Concealing material information from consumers regarding the true nature
2 of the defects in Defendant's Products in order to impact consumer
3 purchasing behavior.

4 95. Defendant violated UCL § 17200's prohibition against engaging in unlawful acts
5 and practices by engaging in false and misleading advertising and by omitting material facts from
6 purchasers of Defendant's Products. As alleged more fully herein, Defendant's marketing and sale
7 of Defendant's Products, and more specifically their failure to inform customers of the health and
8 safety risks inherent in Defendant's Products, violated Cal. Civ. Code §§ 1750 *et seq.*, common
9 law, and other statutory violations as alleged herein. Plaintiffs reserve the right to allege other
10 violations of the law, which constitute other unlawful business acts and practices. As alleged
11 herein, Defendant continues to misrepresent the Products' abilities and continues to deny that the
12 Products pose health and safety risks, Defendant has not provided any remedial efforts including
13 changing the label of the Products that discloses their possible risks, and Defendant's conduct is
14 ongoing and continues to this date.
15

16 96. Defendant violated UCL § 17200's prohibition against unfair conduct by failing to
17 inform its customers about Defendant's Products' abilities and their potential health and safety
18 risks; engaging in a pattern or practice of concealing those facts and continuing to sell those
19 Defendant's Products despite its knowledge that they are misrepresented and carry health and
20 safety risks (including the risk of fever, fatigue, loss of appetite, nausea, vomiting, abdominal pain,
21 dark urine, clay or gray-colored bowel movements, joint pain, yellow eyes, jaundice, liver failure,
22 hospitalization, and/or loss of appetite after consumption) - thereby depriving customers of the
23 value of Defendant's Products as represented. This conduct is substantially injurious to consumers,
24 offends public policy, is immoral, unethical, oppressive, and unscrupulous as the gravity of the
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1 conduct outweighs any alleged benefit. Specifically, the health and safety risks were outweighed
2 by Defendant's profit motive. Defendant engaged in this conduct at the expense of its customers'
3 rights when other, lawful alternatives were available (such as providing customers with full
4 information about Defendant's Products, including the known risks and potential side effects of
5 use, prior to purchase).

6 97. Defendant engaged in this conduct to gain an unfair commercial advantage over its
7 competitors, seeking to avoid public knowledge of the abilities of Defendant's Products and their
8 defects to avoid damage to their sales or reputation. Defendant withheld critical and material
9 information from Plaintiffs and California Subclass Members, competitors, and the marketplace,
10 all to Defendant's unfair competitive advantage.

12 98. Defendant's business practices, as alleged herein, constitute fraudulent conduct
13 because they were likely to deceive, and did deceive, California Subclass Members into purchasing
14 Defendant's Products when those Products were misrepresented and defective with health and
15 safety risks and otherwise did not perform as advertised.

17 99. Defendant's representations and omissions were material because they were likely
18 to deceive reasonable consumers.

19 100. As a direct and proximate result of Defendant's unfair, unlawful, and fraudulent
20 acts and practices, Plaintiffs and California Subclass Members were injured and lost money or
21 property, including from not receiving the benefit of their bargain in purchasing Defendant's
22 Products, and increased time and expense in dealing with treating damages from the use of
23 Defendant's Products.
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101. Defendant recklessly disregarded Plaintiffs and California Subclass members' rights. Defendant's knowledge of the Defendant's Products' false claims and health and safety risks put it on notice that the Defendant's Products were not as it advertised.

102. Plaintiffs and California Subclass Members seek injunctive and declaratory relief, any other appropriate equitable relief, and an award of reasonable attorneys' fees and costs under California Code of Civil Procedure § 1021.5.

COUNT 6
VIOLATIONS OF THE CALIFORNIA FALSE ADVERTISING LAW
Cal. Bus. & Prof. Code §§ 17500 *et seq.*

103. Plaintiffs, individually and on behalf of the California Subclass, incorporate by reference all previous paragraphs of this Complaint as if fully stated herein.

104. Defendant's acts and practices, as described herein, have deceived and/or are likely to continue to deceive Subclass Members and the public. As described, Defendant misrepresented Defendant's Products, concealed Defendant's Products' defects, concealed the health and safety risk with use of Defendant's Products, and also concealed and misrepresented the true nature of Defendant's Products.

105. By their actions, Defendant disseminated uniform advertising regarding the Defendant's Products throughout the country, including in California. The advertising was, by its very nature, unfair, deceptive, untrue, and misleading within the meaning of Cal. Bus. & Prof. Code §§ 17500 *et seq.* Such advertisements were intended to and likely did deceive the consuming public for the reasons detailed herein.

106. The above-described false, misleading, and deceptive advertising Defendant disseminated continues to have a likelihood to deceive in that Defendant failed to disclose the true nature of Defendant's Products. Defendant failed to instigate a public information campaign to

1 alert consumers of the defects and, instead, continued to misrepresent the true nature of
2 Defendant's Products, continuing to deceive consumers.

3 107. Defendant continued to misrepresent to consumers that Defendant's Products were
4 capable of certain benefits without disclosing health and safety risks. Had Defendant disclosed
5 those issues, rather than falsely advertising Defendant's Products' abilities, consumers would have
6 not purchased Defendant's Products, and would not pay an inflated price for Defendant's Products.

7
8 108. In making and disseminating the statements alleged herein, Defendant knew, or
9 should have known, its representations, advertisements, and statements were untrue and
10 misleading in violation of California law. Plaintiffs and other California Subclass Members based
11 their purchasing decisions on Defendant's omitted material facts. The revenues to Defendant,
12 attributable to Products sold in those false and misleading advertisements, amount to hundreds of
13 millions of dollars. Plaintiffs and California Subclass Members were injured in fact and lost money
14 and property as a result.

15
16 109. The misrepresentations and non-disclosures by Defendant of the material facts
17 described and detailed herein constitute false and misleading advertising and, therefore, constitute
18 violations of Cal. Bus. & Prof Code §§ 17500 *et seq.*

19 110. As a result of Defendant's wrongful conduct, Plaintiffs and the California Subclass
20 Members lost money. Plaintiffs and the California Subclass Members are therefore entitled to
21 restitution as appropriate for this cause of action.

22
23 111. Plaintiffs and California Subclass Members seek all monetary and non-monetary
24 relief allowed by law, including restitution of all profits stemming from Defendant's unfair,
25 unlawful, and fraudulent business practices; injunctive and declaratory relief; reasonable
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attorneys' fees and costs under California Code of Civil Procedure § 1021.5; and other appropriate equitable relief.

COUNT 7

VIOLATION OF NEVADA DECEPTIVE TRADE PRACTICES ACT

(Nev. Rev. Stat. §41.600, §598.0915 and §598.0923, *et seq.*)

112. Plaintiffs, individually and on behalf of the Nationwide class, incorporate by reference all previous paragraphs of this Complaint as if fully stated herein.

113. The Defendant's actions and/or inactions with respect to the sale, promotion, and management of the Product represent a violation of Nevada's Deceptive Trade Practices Act ("DTPA").

114. Defendant knowingly made false representations and/or material omissions regarding the characteristics, quality, and benefits of the Product while actively promoting and selling Product to Plaintiffs and Nationwide Class Members throughout Nevada and the United States.

115. Defendant perpetuated violations of Nevada's DTPA by knowingly and purposely concealing information about the Product making false health claims and significant defects that result in health and safety risks.

116. Defendant's deceptive acts and practices included the dissemination of material information through television, print, and internet that failed to disclose known health risks and significant defects with the Product.

117. Defendant engaged in deceptive trade practices in the course of its business as defined in Nev. Rev. Stat. §598.0915, including but not limited to subsections (2), (5), (7), and (15), in that Defendant:

- a. Knowingly made a false representation as to the source, sponsorship, approval or certification of the Product;
- b. Knowingly made a false representation as to the characteristics, uses, and benefits of the Product;
- c. Represented that the Product was of a particular standard, quality or grade; and
- d. Knowingly made other false representation in its transactions involving the Product with the Plaintiffs and the Nationwide Class.

118. Defendant further engaged in deceptive trade practices in the course of its business as defined in Nev. Rev. Stat. §598.0923, including but not limited to subsection (2) in that Defendant knowingly failed to disclose a material fact in connection with the sale of the Product.

119. The totality of Defendant's deceptive practices and acts are a direct and proximate cause of economic harm against the Plaintiffs and similarly situated Nationwide Class Members.

120. Pursuant to Nev. Rev. Stat. §41.600(3), Plaintiffs and other similarly situated Nationwide Class Members are entitled all damages sustained, any equitable relief that the Court deems appropriate, and all costs and reasonable attorney's fees as a result of Defendant's violations of Nevada's DTPA.

RELIEF DEMANDED

WHEREFORE, Plaintiffs, individually and on behalf of a class of all others similarly situated, seeks a judgment against Defendant, as follows:

- a. For an order certifying the Class under Rule 23 of the Federal Rules of Civil

Procedure and naming Plaintiffs as Class representatives and Plaintiffs' attorneys as Class Counsel;

- b. For an order declaring that Defendant's conduct violates the statutes and common law referenced herein;
- c. For an order finding in favor of Plaintiffs and the Class on all counts asserted herein;
- d. For compensatory, statutory, and punitive damages, as applicable, in amounts to be determined by the Court and/or jury;
- e. For prejudgment interest on all amounts awarded;
- f. For an order of restitution and all other forms of equitable monetary relief;
- g. For injunctive relief as pleaded or as the Court may deem proper; and
- h. For an order awarding Plaintiffs and the Class their reasonable attorneys' fees, expenses and costs incurred in bringing this lawsuit.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury on all claims so triable.

DATED: March 22, 2021

Respectfully Submitted,

/s/ David Hilton Wise

David Hilton Wise, Esq.

Nevada Bar No. 11014

John J. Drudi, Esq.*

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17 *Counsel for Plaintiffs*

18 **Applications for pro hac vice to follow*

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

Michelle Karajelian, Traci Ellis, and Mindy Charusarn

(b) County of Residence of First Listed Plaintiff Orange County, CA
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
David Hilton Wise, Esq., WISE LAW FIRM, PLC
421 Court Street, Reno, Nevada, 89501
(775) 329-1766 dwise@wiselaw.pro

DEFENDANTS

Affinity Lifestyles.com, Inc., d/b/a Real Water

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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

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

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

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input checked="" type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USCA Section 1332(d) - Diversity of Citizenship for Class Actions

Brief description of cause:
Class Action Lawsuit

VII. REQUESTED IN COMPLAINT:

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

March 22, 2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ David Hilton Wise (NV 11014)

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: