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Attorneys for Plaintiff

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

ROSA ALVAREZ, On Behalf of
Herself and All Others Similarly
Situated,

Plaintiff,

v.

NBTY, INC., a Delaware corporation,
and NATURE'S BOUNTY, INC., a
Delaware corporation,

Defendants.

Case No.: **'17CV567 BAS BGS**

CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF THE UNFAIR
COMPETITION LAW, Business and
Professions Code §17200 *et seq.*; and
2. VIOLATION OF THE
CONSUMERS LEGAL REMEDIES
ACT, Civil Code §1750 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff Rosa Alvarez brings this action on behalf of herself and all others
2 similarly situated against Defendants NBTY, Inc. and Nature's Bounty, Inc.
3 (collectively, "Defendants") and states:

4 **NATURE OF ACTION**

5 1. Defendants manufacture, market, sell, and distribute biotin supplements
6 under the Nature's Bounty brand. The products are: Biotin 5000 mcg, SUPER
7 POTENCY Biotin 5000 mcg, QUICK DISSOLVE Biotin 5000 mcg, Biotin 10,000
8 mcg rapid release softgels, and Biotin 10,000 mcg HEALTH & BEAUTY rapid
9 release liquid softgels (collectively, "Biotin Products").¹ On the front of the Biotin
10 Products, Defendants represent that their Biotin Products "Support[] Healthy Hair,
11 Skin, and Nails." These representations are collectively referred to as the "health
12 benefit representations." Defendants' health benefit representations are false,
13 misleading and reasonably likely to deceive the public.

14 2. The sole active ingredient in Defendants' Biotin Products is biotin.
15 Biotin is a colorless, water soluble B vitamin found in many foods, including several
16 fruits and vegetables, liver, salmon, cereals, and other foods. Biotin serves as a
17 biochemical co-factor (a helper of sorts) for certain enzymatic reactions and is
18 involved in the metabolism of fats, carbohydrates, and amino acids.

19 3. The human body only requires a finite amount of biotin on a daily basis
20 for it to perform its enzymatic functions as there are a finite number of enzymes that
21 use biotin. Once there is sufficient biotin in the body, saturation occurs and the body
22 just does not use this surplus biotin. The Institute of Medicine has set an adequate
23 intake (AI) for biotin at 30 micrograms (mcg) per day for people 19 years and older
24 and even less for younger people. Dietary Reference Intakes for Thiamin,
25 Riboflavin, Niacin, Vitamin B6, Folate, Vitamin B12, Pantothenic Acid, Biotin, and
26

27 ¹ Plaintiff reserves the right to add additional products upon completion of discovery.
28

1 Choline (“IOM Dietary Reference Intakes”), INSTITUTE OF MEDICINE, at pp. 374, 382,
2 *available at* [http://www.nap.edu/catalog/6015/dietary-reference-intakes-for-](http://www.nap.edu/catalog/6015/dietary-reference-intakes-for-thiamin-riboflavin-niacin-vitamin-b6-folate-vitamin-b12-pantothenic-acid-biotin-and-choline)
3 [thiamin-riboflavin-niacin-vitamin-b6-folate-vitamin-b12-pantothenic-acid-biotin-](http://www.nap.edu/catalog/6015/dietary-reference-intakes-for-thiamin-riboflavin-niacin-vitamin-b6-folate-vitamin-b12-pantothenic-acid-biotin-and-choline)
4 [and-choline](http://www.nap.edu/catalog/6015/dietary-reference-intakes-for-thiamin-riboflavin-niacin-vitamin-b6-folate-vitamin-b12-pantothenic-acid-biotin-and-choline). More than sufficient biotin is derived from the daily diets of the general
5 U.S. population as healthy persons ingest anywhere from 30mcg-60mcg of biotin
6 from their daily diets.

7 4. While persons (1) with exceedingly rare conditions that cause biotin
8 deficiencies, or (2) who chronically ingest inordinant amounts of raw egg whites, can
9 require biotin supplementation, other than these few rare exceptions, healthy people
10 already have more than adequate, if not excessive, amounts of biotin derived from
11 their diet. In fact, average biotin intake among North American adults is anywhere
12 from 35-70 mcg per day. Yet, the 5000 mcg products are 150 times more than the
13 AI and the 10,000 mcg products are 300 times more than the AI. Thus, even though
14 the IOM has yet to set a DRI (daily recommended intake) for biotin, these mega-dose
15 amounts are far beyond any conceivable range that would ever be beneficial.

16 5. Biotin is as a co-factor for five carboxylase enzymes. A co-factor is a
17 molecule that interacts with an enzyme to facilitate that enzyme’s ability to carry out
18 its biochemical functions. Biotin attaches itself to these enzymes, thereby helping
19 each of them perform their respective functions. The body only needs a finite amount
20 of biotin on a daily basis to perform these functions. Thus, biotin is not a “more is
21 better” substance, nor is more biotin needed from supplementation to complete these
22 daily enzymatic functions. In short, once one consumes a sufficient amount of biotin,
23 which is easily met by the general population in their everyday diets, the remainder
24 becomes functionally superfluous and does not convey any additional health benefits.

25 6. Therefore, with the exception of the two exceedingly rare conditions
26 discussed above, for the general population the biotin supplements sold by
27 Defendants are unneeded, superfluous and will not provide any benefits, let alone
28

1 support healthy hair, skin and nails. That is because the general population already
2 consumes sufficient, if not excessive, amounts of biotin from their daily diets.

3 7. The only apparent scientific support for biotin supplements affecting
4 hair, skin or nails is from studies of people with what is called “frank” deficiency –
5 e.g., those with rare biotin deficiency conditions. Such persons, as a result of their
6 conditions, experience a variety of symptoms including hair loss along with skin and
7 nail problems. Some studies have shown that in persons with these very rare
8 conditions, biotin supplementation can improve hair/skin/nail health. But these are
9 persons who already have serious and rare conditions and, most important, the results
10 of these few studies cannot be extrapolated to healthy persons in the general
11 population, as persons in the general population are not biotin deficient and, as noted
12 above, already consume sufficient biotin in their daily diets. Defendants also cannot
13 represent that their Biotin Products help treat or cure the symptoms of these diseases,
14 as FDA law precludes manufacturers of dietary supplements from representing that
15 their dietary supplements treat or cure diseases.

16 8. In this regard, the 2000 Institute of Medicine Report from the National
17 Academy of Sciences on *Dietary Reference Intakes for Thiamin, Riboflavin, Niacin,*
18 *Vitamin B6, Folate, Vitamin B12, Pantothenic Acid, Biotin, and Choline* states that,
19 “No definitive studies demonstrate evidence of biotin deficiency in normal
20 individuals in any group resulting from inadequate intakes.” IOM Dietary Reference
21 Intakes at 381. Thus, the IOM concluded in 2000, and this conclusion remains true
22 today, that while there was a limited amount of information regarding biotin intakes
23 this information indicates that “[T]here is little cause for concern about the adequacy
24 of biotin intake for healthy people...” *Id.* at 385-86. Since there is little concern for
25 the adequacy of biotin intake for healthy people (e.g., people who do not have one of
26 the rare biotin deficiencies described above) and since the need for biotin is finite,
27 Defendants’ Biotin Products are superfluous, unneeded and certainly do not support

1 the health of hair, skin and nails as represented. Furthermore, to the extent that
2 Defendants contend that their Biotin Products provide energy support, this too is
3 false, for the same reasons – Defendants’ Biotin Products are superfluous and not
4 used. In short, Defendants’ Biotin Products are worthless and provide no health
5 benefits.

6 9. As a result of the foregoing, the mega-dose Biotin Products to be taken
7 in daily doses ranging from 5000 mcg to 10,000 mcg as sold by Defendants are
8 superfluous and unneeded and they will not and do not provide any benefits at all,
9 let alone support healthy hair, skin and nails.

10 10. Thus, Defendants’ health benefit representations are false, misleading
11 and reasonably likely to deceive consumers. As a result, consumers – including
12 Plaintiff and members of the proposed Classes – have purchased Biotin Products that
13 do not perform as advertised.

14 11. Plaintiff brings this action on behalf of herself and other similarly
15 situated consumers who purchased the Biotin Products to halt the dissemination of
16 this false, misleading, and deceptive advertising message, correct the false and
17 misleading perception it has created in the minds of consumers, and obtain redress
18 for those who have purchased the Biotin Products. Based on violations of California
19 unfair competition laws (detailed below), Plaintiff seeks injunctive and restitutionary
20 relief for consumers who purchased the Biotin Products.

21 **JURISDICTION AND VENUE**

22 12. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2).
23 The matter in controversy, exclusive of interest and costs, exceeds the sum or value
24 of \$5,000,000 and is a class action in which there are in excess of 100 class members
25 and some members of the Class are citizens of a state different from Defendants.

26 13. This Court has personal jurisdiction over Defendants because
27 Defendants are authorized to conduct and do business in California, including this

1 District. Defendants marketed, promoted, distributed, and sold the Biotin Products
2 in California, and Defendants have sufficient minimum contacts with this State
3 and/or sufficiently availed themselves of the markets in this State through their
4 promotion, sales, distribution, and marketing within this State, including this District,
5 to render the exercise of jurisdiction by this Court permissible.

6 14. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(a) and (b)
7 because a substantial part of the events giving rise to Plaintiff's claims occurred while
8 she resided in this judicial district. Venue is also proper under 18 U.S.C. §1965(a)
9 because Defendants transact substantial business in this District.

10 **PARTIES**

11 15. During the relevant time period, Plaintiff Rosa Alvarez resided in San
12 Diego, California. From approximately 2014 through the early part of 2015, Plaintiff
13 Alvarez was exposed to, saw and relied upon Defendants' health benefit
14 representations by reading the Nature's Bounty Biotin 10,000 mcg HEALTH &
15 BEAUTY rapid release liquid softgels label at several stores in San Diego, California
16 including CVS, Walgreens and Bed, Bath and Beyond. On numerous occasions
17 during this period, and as recently as early 2015, Plaintiff Alvarez purchased the
18 10,000 mcg HEALTH & BEAUTY rapid release liquid softgels product, all in
19 reliance on Defendants' health benefit representations. She paid approximately \$20
20 for the Products. Plaintiff Alvarez stopped purchasing Biotin Products after August
21 2015 when she learned that it did not and could not provide the represented health
22 benefits. Had Plaintiff Alvarez known the truth about Defendants'
23 misrepresentations, she would not have purchased Biotin. As a result, Plaintiff
24 Alvarez suffered injury in fact and lost money at the time of purchase.

25 16. Defendant NBTY, Inc. ("NBTY") is a corporation organized and
26 existing under the laws of the State of Delaware. NBTY's headquarters is at 2100
27 Smithtown Ave., Ronkonkoma, New York 11779. NBTY manufactures, advertises,
28

1 markets, distributes, and/or sells the Biotin Products to tens of thousands of
2 consumers in California and throughout the United States.

3 17. Defendant Nature's Bounty, Inc. ("Nature's Bounty") is a corporation
4 organized and existing under the laws of the state of Delaware. Nature's Bounty is
5 a subsidiary of NBTY. Nature's Bounty is headquartered at 110 Orville Drive,
6 Bohemia, New York 11716. Nature's Bounty manufactures, advertises, markets,
7 distributes, and/or sells the Biotin Products to tens of thousands of consumers in
8 California and throughout the United States.

9 **FACTUAL ALLEGATIONS**

10 ***The Biotin Products***

11 18. Defendants manufacture, distribute, market, and sell over-the-counter
12 biotin products under their Nature's Bounty brand. This lawsuit concerns five of
13 those products — Biotin 5000 mcg, SUPER POTENCY Biotin 5000 mcg, QUICK
14 DISSOLVE Biotin 5000 mcg, Biotin 10,000 mcg rapid release softgels, and Biotin
15 10,000 mcg HEALTH & BEAUTY rapid release liquid softgels (collectively, "Biotin
16 Products"). The Biotin Products are marketed as supplements with the purpose of
17 providing certain health benefits. The Biotin Products are sold in virtually every
18 major food, drug, and mass retail outlet in the country including, but not limited to:
19 CVS, Kroger, Target, Walgreens, and Wal-Mart. A single container of the Biotin
20 Products retails for approximately \$10.00–\$25.00.

21 ***The Uniform Health Benefits Message***

22 19. Throughout the relevant time period, Defendants have consistently
23 conveyed the health benefits message to consumers throughout California and the
24 United States.

25 ***Consumer Exposure to the Health Benefits Message***

26 20. Each and every consumer who purchases the Biotin Products is exposed
27 to the deceptive health benefit representations, which appear prominently and
28

1 conspicuously on the front of each Biotin Product. The front panel of the Biotin
2 Product Plaintiff purchased is shown below:



20 (Exemplar of front of the Biotin Product Plaintiff Alvarez purchased: Biotin 10,000
21 mcg HEALTH & BEAUTY rapid release liquid softgels)

The label fronts of the other Biotin Products at issue appear below:



(Front of the Defendants' other Biotin Products: Biotin 5000 mcg, SUPER POTENCY Biotin 5000 mcg, QUICK DISSOLVE Biotin 5000 mcg, and Biotin 10,000 mcg rapid release softgels)

Copies of representative labels are attached hereto as Exhibit A.

The Impact of Defendants' Wrongful Conduct

21. Plaintiff and Class members have been and will continue to be deceived or misled by Defendants' deceptive health benefit representations. Plaintiff and the Class members have been damaged in their purchases of the Biotin Products and have been deceived into purchasing the Biotin Products that they believed, based on Defendants' representations, would provide them health benefits, when, in fact, they do not.

CLASS DEFINITION AND ALLEGATIONS

22. Plaintiff brings this action on behalf of herself and all other similarly situated consumers pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of

1 Civil Procedure and seeks certification of the following Class:

2 **Multi-State Class Action**

3 All consumers who, within the applicable statute of limitations
4 period until the date notice is disseminated, purchased Biotin Products
5 in California, Illinois, Massachusetts, Michigan, Minnesota, Missouri,
New Jersey, New York, and Washington.

6 Excluded from this Class are Defendants and their officers,
7 directors, employees and those who purchased Biotin Products
8 for the purpose of resale.

9 23. In the alternative, Plaintiff seeks certification of the following Class:

10 **California-Only Class Action**

11 All California consumers who within the applicable statute
12 of limitations period until the date notice is disseminated,
purchased Biotin Products.

13 Excluded from this Class are Defendants and their officers,
14 directors and employees, and those who purchased Biotin
Products for the purpose of resale.

15 24. **Numerosity.** The members of the Classes are so numerous that joinder
16 of all members of the Classes is impracticable. Plaintiff is informed and believes that
17 the proposed Classes contain thousands of purchasers of Biotin Products who have
18 been damaged by Defendants' conduct as alleged herein. The precise number of
19 Class members is unknown to Plaintiff.

20 25. **Existence and Predominance of Common Questions of Law and**
21 **Fact.** This action involves common questions of law and fact, which predominate
22 over any questions affecting individual Class members. These common legal and
23 factual questions include, but are not limited to, the following:

24 (a) whether Defendants' health benefit representations discussed above are
25 misleading, or objectively reasonably likely to deceive;

26 (b) whether Defendants' alleged conduct is unlawful;

27 (c) whether the alleged conduct constitutes violations of the laws asserted;

1 (d) whether Defendants engaged in false or misleading advertising; and

2 (e) whether Plaintiff and Class members are entitled to appropriate
3 remedies, including restitution, corrective advertising and injunctive relief.

4 26. **Typicality.** Plaintiff's claims are typical of the claims of the members
5 of the Classes because, *inter alia*, all Class members were injured through the
6 uniform misconduct described above and were subject to Defendants' deceptive
7 health benefit representations on the front of each and every Biotin Product container.
8 Plaintiff is also advancing the same claims and legal theories on behalf of herself and
9 all members of the Classes.

10 27. **Adequacy of Representation.** Plaintiff will fairly and adequately
11 protect the interests of the members of the Classes. Plaintiff has retained counsel
12 experienced in complex consumer class action litigation, and Plaintiff intends to
13 prosecute this action vigorously. Plaintiff has no adverse or antagonistic interests to
14 those of the Classes.

15 28. **Superiority.** A class action is superior to all other available means for
16 the fair and efficient adjudication of this controversy. The damages or other financial
17 detriment suffered by individual Class members is relatively small compared to the
18 burden and expense that would be entailed by individual litigation of their claims
19 against Defendants. It would thus be virtually impossible for members of the Classes,
20 on an individual basis, to obtain effective redress for the wrongs done to them.
21 Furthermore, even if Class members could afford such individualized litigation, the
22 court system could not. Individualized litigation would create the danger of
23 inconsistent or contradictory judgments arising from the same set of facts.
24 Individualized litigation would also increase the delay and expense to all parties and
25 the court system from the issues raised by this action. By contrast, the class action
26 device provides the benefits of adjudication of these issues in a single proceeding,
27 economies of scale, and comprehensive supervision by a single court, and presents

1 no unusual management difficulties under the circumstances here.

2 29. Plaintiff seeks preliminary and permanent injunctive and equitable relief
3 on behalf of the entire Classes, on grounds generally applicable to the entire Classes,
4 to enjoin and prevent Defendants from engaging in the acts described, and requiring
5 Defendants to provide full restitution to Plaintiff and Class members.

6 30. Unless a Class is certified, Defendants will retain monies received as a
7 result of their conduct that were taken from Plaintiff and Class members.

8 31. Unless an injunction is issued, Defendants will continue to commit the
9 violations alleged, and the members of the Classes and the general public will
10 continue to be deceived.

11 **COUNT I**

12 **Violation of Business & Professions Code §17200, *et seq.***

13 **Fraudulent Business Acts and Practices**

14 **(On Behalf of the Multi-State or California-Only Class)**

15 32. Plaintiff repeats and re-alleges the allegations contained in the
16 paragraphs above, as if fully set forth herein.

17 33. Plaintiff brings this claim individually and on behalf of the Classes.

18 34. As alleged herein, Plaintiff has suffered injury in fact and lost money or
19 property as a result of Defendants' conduct because she purchased Defendants'
20 Biotin Products in reliance on Defendants' claim that the Biotin Products would
21 provide her with health benefits, but did not receive Biotin Products that provide
22 those benefits.

23 35. Plaintiff suffered that injury at the time of her purchase, when she
24 bought products that do not deliver the benefits Defendants promise.

25 36. The Unfair Competition Law, Business & Professions Code §17200, *et*
26 *seq.* ("UCL") prohibits any "fraudulent" business act or practice and any false or
27 misleading advertising.

1 37. In the course of conducting business, Defendants committed “fraudulent
2 business act[s] or practices” and false, deceptive or misleading advertising by, *inter*
3 *alia*, making the health benefit representations (which also constitutes advertising
4 within the meaning of §17200) regarding the Biotin Products on the Biotin Products’
5 labeling, as set forth more fully herein.

6 38. Defendants’ actions, claims and misleading statements, as more fully set
7 forth above, are false, misleading and/or likely to deceive the consuming public
8 within the meaning of Business & Professions Code §17200, *et seq.*

9 39. Plaintiff and other members of the Classes have in fact been deceived
10 as a result of their reliance on Defendants’ material health benefit representations.
11 Plaintiff and the other Class members have suffered injury in fact and lost money as
12 a result of their purchase(s) of Defendants’ Biotin Products that do not provide health
13 benefits.

14 40. Unless restrained and enjoined, Defendants will continue to engage in
15 the above-described conduct. Accordingly, injunctive relief is appropriate.

16 41. Plaintiff, on behalf of herself, all others similarly situated, and the
17 general public, seeks restitution of all money obtained from Plaintiff and the
18 members of the Classes collected as a result of unfair competition, an injunction
19 prohibiting Defendants from continuing such practices, corrective advertising and all
20 other relief this Court deems appropriate, consistent with Business & Professions
21 Code §17203.

22
23 **COUNT II**
24 **Violations of the Consumers Legal Remedies Act – Civil Code §1750 *et seq.***
 (On Behalf of the California-Only Class)

25 42. Plaintiff repeats and re-alleges the allegations contained in the
26 paragraphs above, as if fully set forth herein.

27 43. Plaintiff brings this claim individually and on behalf of the California-
28

1 Only Class.

2 44. This cause of action is brought pursuant to the Consumers Legal
3 Remedies Act, California Civil Code §1750, *et seq.* (the “Act”).

4 45. Plaintiff is a consumer as defined by California Civil Code §1761(d).
5 The Biotin Products are “goods” within the meaning of the Act.

6 46. Defendants violated and continue to violate the Act by engaging in the
7 following practices proscribed by California Civil Code §1770(a) in transactions with
8 Plaintiff and the California-Only Class which were intended to result in, and did
9 result in, the sale of the Biotin Products:

10 (5) Representing that [the Biotin Products have] . . . characteristics, . . .
11 uses [and] benefits . . . which [they do] not have

12 * * *

13 47. Pursuant to California Civil Code §1782(d), Plaintiff and the California-
14 Only Class seek a Court order enjoining the above-described wrongful acts and
15 practices of Defendants and for restitution and disgorgement.

16 48. Pursuant to §1782 of the Act, Plaintiff notified Defendants in writing by
17 certified mail of the particular violations of §1770 of the Act and demanded that
18 Defendants rectify the problems associated with the actions detailed above and give
19 notice to all affected consumers of Defendants’ intent to so act. A copy of the letter
20 is attached hereto as Exhibit B.

21 49. If Defendants fail to rectify or agree to rectify the problems associated
22 with the actions detailed above and give notice to all affected consumers within 30
23 days of the date of written notice pursuant to §1782 of the Act, Plaintiff will amend
24 this Complaint to add claims for actual, punitive and statutory damages, as
25 appropriate.

26 50. Defendants’ conduct is fraudulent, wanton and malicious.

27 51. Pursuant to §1780(d) of the Act, attached hereto as Exhibit C is the

1 affidavit showing that this action has been commenced in the proper forum.

2 **PRAYER FOR RELIEF**

3 Wherefore, Plaintiff prays for a judgment:

4 A. Certifying the Classes as requested herein;

5 B. Awarding restitution and disgorgement of Defendants' revenues to
6 Plaintiff and the proposed Class members;

7 C. Awarding injunctive relief as permitted by law or equity, including:
8 enjoining Defendants from continuing the unlawful practices as set forth herein;

9 D. Ordering Defendants to engage in a corrective advertising campaign;

10 E. Awarding attorneys' fees and costs; and

11 F. Providing such further relief as may be just and proper.

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a trial of her claims by jury to the extent authorized
14 by law.

15 Dated: March 22, 2017

16 BONNETT, FAIRBOURN, FRIEDMAN
17 & BALINT, P.C.

18 /s/Patricia N. Syverson

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice list.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed the 22nd day of March 2017.

/s/Patricia N. Syverson

Patricia N. Syverson

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

ROSA ALVAREZ, On Behalf of Herself and All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Bonnett Fairbourn Friedman & Balint PC
2325 E Camelback Rd., #300, Phoenix AZ 85016
602-274-1100**DEFENDANTS**

NBTY, INC., a Delaware corporation, and NATURE'S BOUNTY, INC., a Delaware corporation

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)

'17CV567 BAS BGS**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

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

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

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input 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 checked="" 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)

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 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 checked="" 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"/> 840 Trademark 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"/> 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 <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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC § 1332

Brief description of cause:

Recover damages sustained as a result of Defendants' sale of Biotin Products

VII. REQUESTED IN COMPLAINT:☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

03/22/2017

SIGNATURE OF ATTORNEY OF RECORD

s/Patricia N Syverson

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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

EXHIBIT A





DIRECTIONS: For adults, take one (1) softgel daily, preferably with a meal.

Supplement Facts

Serving Size 1 Softgel

Amount Per Serving	%Daily Value	
Biotin (as d-Biotin)	5,000 mcg	1,667%

Other Ingredients: Soybean Oil, Gelatin, Vegetable Glycerin, Yellow Beeswax, Titanium Dioxide Color.

No Artificial Flavor, No Artificial Sweetener, No Preservatives, No Sugar, No Starch, No Milk, No Lactose, No Gluten, No Wheat, No Yeast, No Fish. Sodium Free.

WARNING: If you are pregnant, nursing, taking any medications or have any medical condition, consult your doctor before use. Discontinue use and consult your doctor if any adverse reactions occur. Keep out of reach of children. Store at room temperature. Do not use if seal under cap is broken or missing.



Made In The USA with select ingredients from around the world


Carefully Distributed by **NATURE'S BOUNTY, INC.**
Bohemia, NY 11716 U.S.A. ©2016 Nature's Bounty, Inc.

OVER 40 YEARS OF TRUSTED QUALITY

At Nature's Bounty, we are committed to your health. For over 40 years we have been making trusted products, backed by science, and made with only the purest ingredients...guaranteed. So you can get the most out of life every day.

- ☒ Energy Support*
- ☒ Guaranteed Quality
- ☒ Laboratory Tested

B Vitamins support energy by converting food into energy.*

 Nutrition Questions or Comments?
Call 1-800-433-2990
Mon. - Sat. 9 AM - 7 PM ET

Join our Loyalty Program at
NaturesBountyRewards.com

Prod. No. 83430 B29618 03C

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

VALUE SIZE ♦ VALUE SIZE ♦ VALUE SIZE

NATURE'S  BOUNTY®

SUPER POTENCY

1 PER
DAY
SOFTGEL

Biotin

5000mcg

Supports:

- ♦ Energy*
- ♦ Healthy Hair, Skin & Nails*



RAPID RELEASE
LIQUID SOFTGEL



150 softgels

VITAMIN SUPPLEMENT

VALUE SIZE ♦ **VALUE SIZE** ♦

DIRECTIONS: For adults, take one (1) softgel daily, preferably with a meal.

Supplement Facts

Serving Size 1 Softgel

Amount Per Serving		%Daily Value
Biotin	5,000 mcg	1,667%
(as d-Biotin)		

Other Ingredients: Soybean Oil, Gelatin, Vegetable Glycerin, Yellow Beeswax, Titanium Dioxide Color.

WARNING: Please consult your doctor before use. Stop use and consult your doctor if any adverse reactions occur. Keep out of reach of children. Store at room temperature. Do not use if seal under cap is broken or missing.


No Artificial Flavor or Sweetener, No Preservatives, No Sugar, No Starch, No Milk, No Lactose, No Gluten, No Wheat, No Yeast, No Fish. Sodium Free.

Carefully Manufactured by **NATURE'S BOUNTY, INC.**
Bohemia, NY 11716 U.S.A. © 2015 Nature's Bounty, Inc.

444334-01 EXP 09/18

◆ VALUE SIZE ◆ VALUE SIZE ◆ VALUE

Biotin, a B vitamin provides energy support by converting food into energy.*
Biotin also helps to support healthy hair, skin and nails.*

 **Nutrition Questions or Comments?**
Call 1-800-433-2990
Mon. - Sat. 9 AM - 7 PM ET

For educational health tips and savings
join our e-newsletter, visit
www.NaturesBounty.com

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



Prod. No. 29619 B29618 04C



NATURE'S BOUNTY

QUICK DISSOLVE

Biotin

5000mcg

**Supports Healthy
Hair, Skin & Nails***

60 Quick Dissolve Tablets

**VITAMIN
SUPPLEMENT**

DIRECTIONS: For adults, take one (1) quick dissolve tablet daily, preferably with a meal. Place tablet under tongue for 30 seconds before swallowing.

Supplement Facts

Serving Size 1 Quick Dissolve Tablet

Amount Per Serving		%Daily Value
Biotin (as d-Biotin)	5,000 mcg	1,667%

Other Ingredients: Mannitol, Crospovidone, Vegetable Stearic Acid, Natural Strawberry Flavor. **Contains <2% of:** Sucralose, Vegetable Magnesium Stearate.

WARNING: If you are pregnant, nursing, taking any medications or have any medical condition, consult your doctor before use. Discontinue use and consult your doctor if any adverse reactions occur. Keep out of reach of children. Store at room temperature. Do not use if seal under cap is broken or missing.

★ **Made In The USA** with select ingredients from around the world

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

Carefully Manufactured by **NATURE'S BOUNTY, INC.**
Bohemia, NY 11716 U.S.A. ©2015 Nature's Bounty, Inc.

OVER 40 YEARS OF TRUSTED QUALITY

At Nature's Bounty, we are committed to your health. For over 40 years we have been making trusted products, backed by science, and made with only the purest ingredients...guaranteed. So you can get the most out of life every day.

- ✓ Energy Support*
- ✓ Natural Strawberry Flavor
- ✓ Guaranteed Quality
- ✓ Laboratory Tested

B Vitamins support energy by converting food into energy.*

No Artificial Color, No Artificial Flavor, No Preservatives,
No Sugar, No Milk, No Lactose, No Soy, No Gluten, No
Yeast, No Fish. Sodium Free. Suitable for Vegetarians.

Nutrition Questions or Comments?
Call 1-800-433-2990
Mon. - Sat. 9 AM - 7 PM ET

Join our Loyalty Program at
NaturesBountyRewards.com

Prod. No. 58913 B53490 01B





DIRECTIONS: For adults, take one (1) softgel daily, preferably with a meal.

Supplement Facts

Serving Size 1 Softgel

Amount Per Serving		%Daily Value
Biotin (as d-Biotin)	10,000 mcg	3,333%

Other Ingredients: Soybean Oil, Gelatin, Vegetable Glycerin, Yellow Beeswax, Titanium Dioxide Color.

No Artificial Flavor, No Artificial Sweetener, No Preservatives, No Sugar, No Starch, No Milk, No Lactose, No Gluten, No Wheat, No Yeast, No Fish. Sodium Free.

WARNING: If you are pregnant, nursing, taking any medications or have any medical condition, consult your doctor before use. Discontinue use and consult your doctor if any adverse reactions occur. Keep out of reach of children. Store at room temperature. Do not use if seal under cap is broken or missing.

★ **Made In The USA** with select ingredients from around the world


Carefully Distributed by **NATURE'S BOUNTY, INC.**
Bohemia, NY 11716 U.S.A. ©2016 Nature's Bounty, Inc.

OVER 40 YEARS OF TRUSTED QUALITY

At Nature's Bounty, we are committed to your health. For over 40 years we have been making trusted products, backed by science, and made with only the purest ingredients...guaranteed. So you can get the most out of life every day.

- ☒ Energy Support*
- ☒ Guaranteed Quality
- ☒ Laboratory Tested

B Vitamins support energy by converting food into energy.*

 Nutrition Questions or Comments?
Call 1-800-433-2990
Mon. - Sat. 9 AM - 7 PM ET

Join our **Loyalty Program** at
NaturesBountyRewards.com

Prod. No. 81697 B51463 02C

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

0 74312 51697 9



OPTIMAL SOLUTIONS®

BIOTIN

10,000 mcg

HEALTH & BEAUTY

Supports Healthy Hair,
Skin & Nails*

Energy Support*

90 rapid release
liquid softgels

DIETARY SUPPLEMENT

Prod. No. 58865

Supplement Facts

Serving Size 1 Softgel

Amount Per Serving		%Daily Value
Biotin	10,000 mcg	3,333%
(as d-Biotin)		

Other Ingredients: Soybean Oil, Gelatin, Vegetable Glycerin, Yellow Beeswax, Titanium Dioxide Color.



Supports Healthy Hair, Skin and Nails* Energy Support*



Nature's Bounty® Optimal Solutions® Biotin 10,000 mcg can become part of any beauty regimen to help you feel beautiful. Biotin helps to support hair, skin and nail health so you can look and feel your best.*

Biotin, a B-Vitamin, aids in converting food into energy to help you take on the day!* Being healthy can make you feel radiant and beautiful both inside and out.

DIRECTIONS: For adults, take one (1) softgel daily, preferably with a meal.

No Artificial Flavor or Sweetener, **No** Preservatives, **No** Sugar, **No** Starch, **No** Milk, **No** Lactose, **No** Gluten, **No** Wheat, **No** Yeast, **No** Fish. Sodium Free.

WARNING: Please consult your doctor before use. Stop use and consult your doctor if any adverse reactions occur. Keep out of reach of children. Store at room temperature. Do not use if seal under cap is broken or missing.



Laboratory tested to meet strict quality control standards for potency, purity and disintegration. 100% Quality Guaranteed.



Nutrition Questions or Comments?

Call 1-800-433-2990

Mon. - Sat. 9 AM - 7 PM ET

**For educational health tips and savings
join our e-newsletter, visit
www.NaturesBounty.com**

Carefully Manufactured by
NATURE'S BOUNTY, INC.
Bohemia, NY 11716 U.S.A.
©2015 Nature's Bounty, Inc.

Made In The

USA

with select ingredients
from around the world

EXHIBIT B

WILLIAM G. FAIRBOURN
VAN BUNCH
ELAINE A. RYAN
KIMBERLY C. PAGE
WILLIAM F. KING
ANDREW M. EVANS
KENDALL K. WILSON

ANDREW S. FRIEDMAN
ROBERT J. SPURLOCK
ANDREW Q. EVERROAD
CHRISTINA L. BANNON
TONNA K. FARRAR²
TY D. FRANKEL
LAURA A. VAN BUREN

FRANCIS J. BALINT, JR.
C. KEVIN DYKSTRA
PATRICIA N. SYVERSON
MANFRED P. MUECKE¹
T. BRENT JORDAN³
ERIC D. ZARD
CARRIE A. LALIBERTE

JERRY C. BONNETT, Of Counsel
MICHAEL N. WIDENER, Of Counsel

¹ Admitted Only in California
² Admitted Only in California, Kansas, Missouri
and Oregon (located in Oregon)
³ Admitted Only in Pennsylvania

March 22, 2017

VIA CERTIFIED MAIL
(RECEIPT NO 70141200000158138911)

NBTY Inc.
General Counsel
2100 Smithtown Avenue
Ronkonkoma, NY 11779

VIA CERTIFIED MAIL
(RECEIPT NO 70141200000158138904)

Nature's Bounty, Inc.
General Counsel
110 Orville Drive
Bohemia, New York 11716

Re: *Alvarez v. NBTY, Inc.*

Dear Sir or Madam:

Our law firm together with Siprut PC represent Rosa Alvarez and all other consumers similarly situated in an action against NBTY, Inc. and Nature's Bounty, Inc. (collectively, "NBTY" or "Defendants"), arising out of, *inter alia*, misrepresentations by Defendants to consumers that your Nature's Bounty Biotin products¹ "Support[] Healthy Hair, Skin, and Nails" (the "health benefit representations").

Ms. Alvarez and others similarly situated purchased Biotin Products unaware that Defendants' health benefit representations are false, misleading, and reasonably likely to deceive the public. The health benefit representations are false and misleading because for the general population, Defendants' Biotin Products are unneeded, superfluous and will not provide any benefits, let alone support healthy hair, skin and nails. This is because the general population already consumes sufficient, if not excessive, amounts of biotin from their daily diets. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is enclosed and incorporated by this reference.

Defendants' health benefit representations are false and misleading and constitute unfair methods of competition and unlawful practices, undertaken by Defendants with the intent to induce the consuming public to purchase the Biotin Products. The health benefit representations do not assist consumers; they simply mislead them.

¹ The products include: (1) Biotin 5000 mcg; (2) SUPER POTENCY Biotin 5000 mcg; (3) QUICK DISSOLVE Biotin 5000 mcg; (4) Biotin 10,000 mcg rapid release softgels; and (5) Biotin 10,000 mcg HEALTH & BEAUTY rapid release liquid softgels (collectively "Biotin Products").

March 22, 2017
Page 2

Defendants' health benefit representations violate California Civil Code §1770(a) under, *inter alia*, the following subdivision:

- (5) Representing that [the Biotin Products have] . . . characteristics, . . . uses [or] benefits. . . which [they do] not have.

* * *

California Civil Code §1770(a)(5).

Defendants' health benefit representations also constitute violations of California Business and Professions Code §17200, *et seq.*

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code §1782, we hereby demand on behalf of our client and all others similarly situated that NBTY immediately correct and rectify this violation of California Civil Code §1770 by ceasing the misleading marketing campaign and ceasing dissemination of false and misleading information as described in the enclosed Complaint. In addition, NBTY should offer to refund the purchase price to all consumer purchasers of the Biotin Products plus reimbursement for interest, costs, and fees.

Plaintiff will, after 30 days from the date of this letter, file a further amended Complaint as permitted by California Civil Code §1782, to include claims for actual and punitive damages (as may be appropriate) if a full and adequate response to this letter is not received. These damage claims also would include claims under the Consumers Legal Remedies Act. Thus, to avoid further litigation, it is in the interest of all parties concerned that NBTY address these violations immediately.

NBTY must undertake all of the following actions to satisfy the requirements of California Civil Code §1782(c):

1. Identify or make a reasonable attempt to identify purchasers of the Biotin Products;
2. Notify all such purchasers so identified that upon their request, NBTY will offer an appropriate remedy for its wrongful conduct, which can include a full refund of the purchase price paid for the Biotin Products, plus interest, costs and fees;
3. Undertake (or promise to undertake within a reasonable time if it cannot be done immediately) the actions described above for all Biotin Product purchasers who so request; and
4. Cease from representing to consumers that the Biotin Products provide the hair,

March 22, 2017

Page 3

skin, and nail benefits, when there is no reasonable basis for so claiming, as more fully described in the enclosed Complaint.

We await your response.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Patricia N. Syverson". The signature is fluid and cursive, with a large initial "P" and "S".

Patricia N. Syverson
For the Firm

PNS:td

Enclosures

EXHIBIT C

BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.
PATRICIA N. SYVERSON (CA SBN 203111)
MANFRED P. MUECKE (CA SBN 222893)
600 W. Broadway, Suite 900
San Diego, CA 92101
psyverson@bffb.com
mmuecke@bffb.com
Telephone: (619) 798-4593

BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.
ELAINE A. RYAN (*To be Admitted Pro Hac Vice*)
CARRIE A. LALIBERTE (*To be Admitted Pro Hac Vice*)
2325 E. Camelback Rd. Suite 300
Phoenix, AZ 85016
eryan@bffb.com
claliberte@bffb.com
Telephone: (602) 274-1100

SIPRUT PC
STEWART M. WELTMAN (*To be Admitted Pro Hac Vice*)
MICHAEL CHANG (*To be Admitted Pro Hac Vice*)
17 North State Street
Chicago, Illinois 60602
sweltman@siprut.com
mchang@siprut.com
Telephone: (312) 236-0000

Attorneys for Plaintiffs and the proposed classes

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ROSA ALVAREZ, On Behalf of
Herself and All Others Similarly
Situating,

Plaintiff,

v.

NBTY, INC., a Delaware corporation,
and NATURE'S BOUNTY, INC., a
Delaware corporation,

Defendants.

Case No.: '17CV567 BAS BGS

CLASS ACTION

**DECLARATION OF PATRICIA N.
SYVERSON PURSUANT TO
CALIFORNIA CIVIL CODE
§1780(d)**

1 I, Patricia N. Syverson, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of
3 the State of California. I am a shareholder of the law firm of Bonnett, Fairbourn,
4 Friedman & Balint, P.C., the counsel of record for plaintiff in the above-entitled
5 action.

6 2. Defendants NBTY, Inc. and Nature's Bounty, Inc. have done and are
7 doing business in the Southern District of California. Such business includes the
8 distributing, marketing, labeling, packaging and sale of Biotin 5000 mcg, SUPER
9 POTENCY Biotin 5000 mcg, QUICK DISSOLVE Biotin 5000 mcg, Biotin
10 10,000 mcg rapid release softgels, and Biotin 10,000 mcg HEALTH & BEAUTY
11 rapid release liquid softgels. Furthermore, Plaintiff Alvarez purchased Biotin
12 10,000 mcg HEALTH & BEAUTY rapid release liquid softgels in San Diego,
13 California.

14 3. I declare under penalty of perjury under the laws of the State of
15 California that the foregoing is true and correct.

16 Executed this 22nd day of March, 2017, at San Diego, California.

17 BONNETT, FAIRBOURN, FRIEDMAN
18 & BALINT, P.C.

19 /s/Patricia N. Syverson

20 Patricia N. Syverson (203111)
21 Manfred P. Muecke (222893)
22 600 W. Broadway, Suite 900
San Diego, CA 92101
psyverson@bffb.com
mmuecke@bffb.com
Telephone: (619) 798-4593

23 BONNETT, FAIRBOURN, FRIEDMAN
24 & BALINT, P.C.

25 Elaine A. Ryan (*To be Admitted Pro Hac Vice*)
26 Carrie A. Laliberte (*To be Admitted Pro Hac*
Vice)

27 2325 E. Camelback Rd., Suite 300
28 Phoenix, AZ 85016
eryan@bffb.com
Telephone: (602) 274-1100

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SIPRUT PC
Stewart M. Weltman (*To be Admitted Pro Hac
Vice*)
Michael Chang (*To be Admitted Pro Hac Vice*)
17 North State Street
Chicago, Illinois 60602
sweltman@siprut.com
mchang@siprut.com
Telephone: (312) 236-0000

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic mail notice list

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 22, 2017.

/s/Patricia N. Syverson

Patricia N. Syverson (203111)
BONNETT FAIRBOURN FRIEDMAN
& BALINT, P.C.
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