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IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

DAVID LUCAS BURGE, ALASTAIR DICK,	)	
LYNDA FORGETTE, PAMELA KRAUSE, FRED	)	
ANTHONY REYES, and DAVID PORTER	)	<b>NO. CV 09-1159-PHX-JAT</b>
WILSON, on behalf of themselves, and a class of	)	
persons similarly situated,	)	
	)	
Plaintiffs,	)	<b>COMPLAINT</b>
	)	
vs.	)	<b>(Tort, Non-Motor Vehicle)</b>
	)	
FREELIFE INTERNATIONAL, INC., a Connecticut	)	
corporation,	)	
	)	
Defendant.	)	

Plaintiffs David Lucas Burge, Alastair Dick, Lynda Forquette, Pamela Krause, Fred Anthony Reyes, and David Porter Wilson ("Plaintiffs"), individually and on behalf of others similarly situated, bring this action against Defendant FreeLife International, Inc. ("FreeLife"), to remedy its acts of misrepresentation and deception in the marketing and sale of certain products.

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## VENUE AND JURISDICTION

1. Venue is proper in this Court pursuant to Arizona Revised Statutes § 12-401(7), in that this action arises from the sale and/or advertisement of merchandise by a corporation with its principal place of business located in Maricopa County, Arizona. Such sales and/or advertisements were made to persons such as Plaintiffs residing in the United States, Canada, and Australia.

2. This Court has subject matter jurisdiction over this Class and the representative action pursuant to Rule 23 of the Arizona Rules of Court.

## PARTIES AND FREELIFE AGENTS

3. Individual and representative Plaintiff David Lucas Burge is a resident of San Francisco, California, and Kauai, Hawaii.

4. Individual and representative Plaintiff Alastair Dick is a resident of Windsor Gardens, South Australia, Australia.

5. Individual and representative Plaintiff Lynda Forgette is a resident of Oshawa, Ontario, Canada.

6. Individual and representative Plaintiff Pamela Krause is a resident of Almond, Wisconsin.

7. Individual and representative Plaintiff Fred Anthony Reyes is a resident of Kauai, Hawaii.

8. Individual and representative Plaintiff David Porter Wilson is a resident of Toronto, Canada.

9. Each of the Plaintiffs purchased and consumed products sold by FreeLife, including Himalayan Goji Juice, and/or GoChi Juice, and/or TAIslim.

10. Defendant FreeLife is a Connecticut corporation with its principal place of business located in Maricopa County, Arizona, and conducting operations as a direct sales company marketing and distributing alleged health products through

1 marketing executives located throughout the world.

2 11. Peter James Reilly ("Reilly") has been employed by FreeLife and served  
3 as Chief Operating Officer and Chief Legal Officer of FreeLife since February 2006,  
4 responsible for day-to-day management of the Company. Upon information and  
5 belief, Reilly is a resident of Maricopa County, Arizona.

6 12. Richard Alan Handel ("Handel") served as a contract manufacturer for  
7 FreeLife from 1995 until June 2007, providing research and development, product  
8 development, and marketing services and was employed by FreeLife as Chief Product  
9 Officer providing similar services from June 2007, to present date.

10 13. Earl Mindell ("Mindell") worked with the founders of FreeLife in 1995  
11 and allegedly was involved in the formulation of FreeLife's Himalayan Goji Juice, and  
12 the spectral signature process for standardization of the volume and potency of Lycium  
13 barbarum polysaccharides ("LBPs") in each bottle of HGJ. Upon information and  
14 belief, Mindell was an officer, employee and/or business partner of FreeLife from in or  
15 about 1995 until 2007, and the principal marketing representative for the Company.

16  
17 14. FreeLife has its principal place of business in Arizona, has sufficient  
18 minimum contacts with the State of Arizona, and/or otherwise has intentionally  
19 availed itself of the markets in Arizona through the promotion, marketing, and sale of  
20 FreeLife products in Arizona, so as to render the exercise of jurisdiction by this Court  
21 permissible under traditional notions of fair play and substantial justice.

22 15. Plaintiffs aver that at all times mentioned herein, the acts of Reilly,  
23 Handel, and Mindell were taken on behalf of FreeLife, within the scope of their  
24 authority as representatives and agents of FreeLife, and to promote the business  
25 interests of FreeLife. Each of their acts were directed, approved, and/or ratified by  
26 FreeLife.

**STATEMENT OF FACTUAL BACKGROUND  
FOR ALL CAUSES OF ACTION**

**I.**

**FREELIFE'S PRODUCTS AND MISREPRESENTATIONS**

16. This action arises from FreeLife's manufacture, marketing, and sale of three separate Products: Himalayan Goji Juice ("HGJ"), since in or about 2003, GoChi Juice ("GoChi") since in or about January 2008, and TAIslim since in or about January 2009, (hereinafter referred to as "the Products").

17. Upon information and belief, FreeLife was formed in or about 1994 to engage in the business of developing and selling nutritional products such as vitamins and herbal remedies.

18. FreeLife hired Vita Quest International to provide research and development for its Products and established a joint venture relationship with Mindell for the development of Goji berry Products. Handel was an employee of Vita Quest International who was assigned to work with FreeLife in research and development of its Products.

19. Between 1995 and 2003, Handel and Mindell worked together in developing Goji berry Products for FreeLife. In or about 2003, HGJ was introduced in the market and thereafter sold to the public through a distributor network and marketing plan also developed by Handel and Mindell.

20. FreeLife was established as a direct sales company that distributed its Products through marketing distributors with whom FreeLife contracted. These distributors would purchase FreeLife Products for their own consumption and for resale to other consumers. In addition, FreeLife encouraged the distributors to find other persons to become FreeLife distributors for sale and consumption of the HGJ product.

21. This direct sales marketing plan created a pyramid effect with proliferating sales for FreeLife and astounding income for many distributors, all of whom were paid on a commission basis with substantial incentives for signing up new distributors. Upon information and belief, a large number of distributors were earning well in excess of \$500,000 per year distributing HGJ.

22. FreeLife advertised its Products through websites, goji events, mass e-mails and brochures, endorsements, business cards, telephone conferences with distributors, seminars, conventions, and direct communications with distributors.

23. FreeLife's distributors advertised and promoted FreeLife Products through distributor websites, goji events, e-mails and brochures, endorsements, business cards, and direct communications with potential customers and other distributors. Any distributor websites and any marketing materials used by distributors were required to be reviewed and approved by FreeLife's compliance department.

24. At all relevant times, FreeLife has marketed and sold its Products in the United States, Canada, Australia, Asia, and Europe.

25. From 2003 until 2008, FreeLife promoted Mindell as "Dr. Earl Mindell, R.Ph., Ph.D., . . . an internationally recognized expert on nutrition, drugs, vitamins, and herbal remedies" and the world's foremost authority on the goji berry. During this period, Mindell likewise made these same representations about himself in connection with promotion, marketing, and sale of HGJ.

26. In fact, Mindell received his Ph.D. from Pacific Western University, an unaccredited institution offering "public paid for bogus degrees," according to the Washington Post. (*See*, Christopher Lee, *Public Paid for Bogus Degrees*, Wash. Post, May 12, 2004, at A21.)

27. After FreeLife began marketing and selling HGJ, FreeLife published its 7 step process for production of HGJ. Pursuant to the 7 step process, FreeLife

expressly or impliedly represented that it harvested vine-ripened berries from the Himalayas, that the berries were juiced to a puree by cold pressing, that the puree was combined with natural ingredients through a proprietary chill blending process to preserve the balance and content of active polysaccharides, that the juice was cold-filled into bottles, and that the product was subjected to a battery of tests, including spectral signature, polysaccharide analysis, and full microbiological testing.

28. In connection with publication of its 7 step process, FreeLife made the following representations to actual and potential distributors and actual and potential consumers:

- A. The goji berry is one of the world's most powerful anti-aging foods;
- B. Polysaccharides are unique to goji, which is the only plant that contains unique goji bioactive LBPs;
- C. There are many varieties of goji, but only one that had been discovered by the early Himalayan healers and praised from ancient times in legends;
- D. Mindell exhaustively analyzed dozens of varieties of goji berries and discovered the one used by the early Himalayan healers and praised in the legends;
- E. A spectrometer can detect subtle differences between goji berries at the molecular level and can produce a graph which provides a unique fingerprint for any berries being tested;
- F. FreeLife is the only Company in the world that developed a spectral signature to identify, isolate, and harvest only those special goji berries with the exact nutrient profile of the legendary goji from the Himalayans. FreeLife's spectral signature appears on every bottle to demonstrate that the consumer has purchased the highest-quality, most nutrient dense goji berries with the highest absorption in humans and that the consumer always receives the same high

1 potency and LBPs every time;

2 G. Each bottle of HGJ contains the identical polysaccharides of 2.2 pounds  
3 of fresh goji berries;

4 H. FreeLife's cold processing method extracts the juice without destroying  
5 any of the delicate, but extremely powerful polysaccharides;

6 I. FreeLife does not heat process or pasteurize its Goji Juice because that  
7 would destroy all of the vital LBPs and nutrients of the Goji berry;

8 J. FreeLife's HGJ contains raw Himalayan goji berries and live bioactive  
9 polysaccharides;

10 K. HGJ does not contain artificially created chemical preservatives, but  
11 rather, contains whole natural preservatives of Peruvian balsam and mountain  
12 ash trees;

13 L. Himalayan goji berries are superior to all other goji berries because they  
14 contain a group of four unique and active polysaccharides which provide wide-  
15 ranging health benefits by commanding many of the body's most important  
16 biochemical defense systems; and,

17 M. HGJ has wide-ranging health benefits that retard the aging process and  
18 command and control many of the body's most important biochemical defense  
19 systems to fight disease.

20 29. FreeLife representations relating to HGJ were promises and affirmations  
21 of fact used to sell HGJ, but were materially false and deceptive when made because:

22 A. There is no reliable scientific evidence which supports the goji berry as  
23 an anti-aging food or that it is one of the world's most powerful anti-aging  
24 foods;

25 B. Goji is not the only plant which contains polysaccharides, and there is no  
26 reliable scientific evidence that establishes that the goji berries contain

1 bioactive LBPs;

2 C. There is no reliable scientific evidence that the early Himalayan healers  
3 discovered only one variety of goji plant that is used for healing purposes;

4 D. There is no reliable scientific evidence or factual basis for the assertion  
5 that FreeLife discovered the one variety of goji berries used by the early  
6 Himalayan healers in legends;

7 E. A spectrometer is one of the weakest tools used to identify unique  
8 chemical fingerprints for substances, and was not used by FreeLife to detect  
9 subtle differences between goji berries at the molecular level;

10 F. FreeLife did not develop a spectral signature to identify, isolate, and  
11 harvest only special goji berries which contained the exact nutrient profile of  
12 the legendary Goji from the Himalayas;

13 G. FreeLife's spectral signature is a fake and does not identify any specific  
14 type of LBPs nor demonstrate the highest quality, most nutrient dense goji  
15 berries with the highest absorption in nature. Nor is there any reliable scientific  
16 evidence to support there assertions;

17 H. There is no reliable scientific evidence to support that each bottle of HGJ  
18 contains the identical amount of polysaccharides in 2.2 pounds of fresh goji  
19 berries;

20 I. FreeLife's 7 step process for production fails to disclose its heat  
21 processing and pasteurization of the Goji puree necessary to stabilize the  
22 chemical ingredients and inactivate enzymes;

23 J. FreeLife's HGJ does not contain raw goji berries and live bioactive  
24 polysaccharides;

25 K. HGJ contains artificially created chemical preservatives, not whole  
26 natural preservatives;



1 L. Three is no reliable scientific evidence that FreeLife's alleged  
2 Himalayan goji berries are superior to all competitors because they contain four  
3 unique and active polysaccharides; and

4 M. There is no reliable scientific evidence that FreeLife's goji berries  
5 provide wide-ranging health benefits by commanding many of the body's most  
6 important biochemical defense systems to fight disease.

7  
8 30. In or about 2003, Handel and Mindell collaborated on the writing of a  
9 book entitled *Goji: The Himalayan Health Secret* which was published under  
10 Mindell's name as author. The book set forth 34 reasons why consumers should drink  
11 HGJ on a daily basis.

12 31. In the book, Mindell and his collaborator, Handel, represented and  
13 claimed that HGJ's health benefits included curing, arresting or improving arthritis,  
14 heart disease, allergy disorders, cancer, diabetes, depressive disorders, digestive  
15 disorders, and other medical conditions (hereinafter referred to as the "HGJ curative  
16 health benefits"). Specifically, Mindell's book claimed that HGJ can fight cancer by  
17 repairing damaged DNA, halting genetic mutations that lead to cancer, improving  
18 recovery by increasing lymphocyte count, reducing side effects of chemotherapy and  
19 radiation, and enhancing production of cancer fighting IL-2.

20 32. Mindell's book was written, published, and used by FreeLife as a  
21 marketing tool to promote its direct marketing program and to convince the public that  
22 HGJ provided unique health benefits that prevented or cured disease and prolonged  
23 life for daily users of its Products. Handel and Mindell, acting on behalf of FreeLife,  
24 also collaborated on the production of a number of brochures including, but not limited  
25 to, "Goji and Cancer," "Goji and Depressive Disorders," and "34 Reasons to Drink  
26 Goji Juice Every Day," which were circulated to FreeLife distributors and other

1 customers as a sales tool (copies of the brochures are attached hereto as Exhibit A and  
2 incorporated herein).

3 33. FreeLife representations relating to the HGJ curative health benefits  
4 were promises and affirmations of fact used to sell HGJ and were materially false and  
5 deceptive and not supported by any reliable scientific evidence.

6 34. FreeLife sold HGJ at wholesale by the case (4 bottles to a case) for  
7 approximately \$130 or by the bottle at a cost of approximately \$35. FreeLife  
8 distributors resold each of the bottles at retail to consumers for prices ranging from  
9 \$35 to \$50 a bottle. As a result, a daily consumer of HGJ could easily spend \$250 per  
10 month or more on their HGJ purchases.

11 35. Upon information and belief, after publication of the Mindell book,  
12 FreeLife created a website at [www.gojibook.com](http://www.gojibook.com), which promoted the Mindell book,  
13 the 34 reasons for purchasing HGJ from FreeLife, and the health claims, and cures  
14 represented in the Mindell book.

15 36. Mindell and Handel, acting on behalf of FreeLife, developed and put into  
16 place a marketing strategy to further promote its HGJ product and convince the public  
17 of the unique health benefits from drinking HGJ on a daily basis. This strategy  
18 included the use of distributor meetings, distributor conference calls, and town  
19 meetings with prospective customers to promote its health claims and its “unique”  
20 process for producing HGJ.

21 37. In 2005 and 2006, Mindell acting on behalf of FreeLife, was the star  
22 attraction at these meetings and made the outlandish representations set forth in  
23 paragraphs 27, 28, and 31, to distributors, consumers, and guests. During these  
24 meetings, Mindell would introduce persons who would give testimonials claiming  
25 their medical problems had been cured after taking HGJ.  
26

1           38. At these “religious revival”-like meetings, Mindell repeatedly told his  
2 growing audiences that the incredible health benefits of HGJ were undeniable and that  
3 the plan was to close down all of the hospitals.

4           39. In 2006, Mindell, acting on behalf of FreeLife, began telling his  
5 expanding audience that a breast cancer study produced by scientists at Sloan-  
6 Kettering Memorial Hospital had established that goji berries had provided promising  
7 results in fighting cancer cells in humans. Shortly after that, certain FreeLife  
8 distributors were representing to customers that Sloan-Kettering Memorial Hospital  
9 had announced that it was providing Goji berries or Goji Juice to all of its cancer  
10 patients to fight cancer cells. Each of these statements were blatantly false when  
11 made.

12           40. In January 2007, the Canadian Broadcasting Company (“CBC”)  
13 televised a news broadcast of an interview with Mindell discussing the FreeLife  
14 misrepresentations and scam perpetrated on consumers. In the broadcast, Mindell  
15 once again touted the breast cancer study from Sloan-Kettering Memorial Hospital.  
16 However, the CBC broadcast included an interview with a scientist who denied that  
17 the test results showed any promise in the use of goji berries to treat humans for  
18 cancer.

19           41. The CBC broadcast completely exposed Mindell as a charlatan and  
20 FreeLife’s marketing program as a consumer fraud.

21           42. After the CBC broadcast, FreeLife modified certain of its website  
22 representations which had been under attack in the broadcast. For example, FreeLife  
23 modified its website to exclude specific representations that the goji berries in the HGJ  
24 were “raw” and also deleted references to Mindell’s 34 health reasons.  
25 Notwithstanding, FreeLife continued to encourage its distributors to make these  
26 representations to potential purchasers of HGJ.

43. In September 2007, Plaintiff David Lucas Burge published a website at [www.breathe.org](http://www.breathe.org) ("breathe website") which exposed many misrepresentations by FreeLife in its promotion and sale of HGJ. It exposed the following misrepresentations, *inter alia*:

A. FreeLife's goji berries are grown in China, not the Himalayas;

B. Polysaccharides are not unique to goji and there is no reliable scientific support for FreeLife's claim that HGJ contains the four active polysaccharides (LBP-I, LBP-II, LBP-III, and LBP-IV);

C. There is no evidence that each bottle of HGJ contains the identical polysaccharides of 2.2 pounds of fresh goji berries and such a claim is scientifically impossible;

D. HGJ contains artificially created chemical preservatives, rather than whole natural preservatives of Peruvian balsam and mountain ash as represented;

E. FreeLife's spectral signature is a fake and does not identify any specific type of LBPs. It is not a graph from any spectral signature analysis, but rather is merely an artist's drawing;

F. FreeLife's 7 step process for production of HGJ fails to disclose that it heat processes the goji Juice for sterilization purposes, which destroys certain of the LBPs and nutrients of the Goji berry;

G. FreeLife's HGJ does not contain raw goji berries with live bioactive polysaccharides; and,

H. There has been no reliable scientific testing or findings that goji berries and/or HGJ provide the health benefits and medical cures represented by FreeLife.

1           44. Shortly after the CBC broadcast and the appearance of the breathe  
2 website, FreeLife announced that Mindell was no longer associated with the Company.  
3 From that point forward, Reilly and Handel assumed responsibilities as public  
4 spokespersons for FreeLife and principal marketing representatives.

5           45. FreeLife modified again the FreeLife website to remove any association  
6 with Mindell and to avoid the controversy over its preservative claims and its claim of  
7 goji berry origin in the Himalayas. To accomplish this, FreeLife publicized a new  
8 product, GoChi, which eliminated the Himalayan connection and represented that the  
9 product was preservative free.

10          46. After these modifications to the FreeLife website, FreeLife continued to  
11 encourage its distributors to make many of the same misrepresentations openly made  
12 before the CBC broadcast, but now deleted from the FreeLife website and promotional  
13 materials.

14          47. Thereafter, FreeLife used a series of anonymous websites such as  
15 www.gojibook.com and www.gojitools.com to provide false and/or misleading  
16 information to its distributors about FreeLife's Goji Products which information was  
17 intended to be used by distributors to promote and sell FreeLife's goji Products. These  
18 websites were specifically used to continue its misrepresentations that HGJ was  
19 produced by a cold process to ensure that the juice contained raw berries and live  
20 bioactive polysaccharides. These websites also anonymously continued to make the  
21 false representations regarding health benefits and medical cures.

22          48. In promoting these anonymous websites, FreeLife represented to its  
23 distributors that these websites were independently posted by authoritative and  
24 impartial parties unrelated to FreeLife. FreeLife also encouraged its distributors to  
25 direct customers and potential customers to the sections of these websites which  
26 claimed the health benefits and curative powers of the goji berry. In fact, each of these

1 websites had been created by FreeLife or persons acting at the direction of the  
2 FreeLife.

3 49. Although FreeLife has denied that it sponsored or created these  
4 anonymous websites, the compliance department for FreeLife must review and  
5 approve all websites used by its distributors and Reilly has admitted in a deposition in  
6 another case that the FreeLife's compliance department reviewed and approved most  
7 of these websites.

8 50. On or about January 8, 2008, FreeLife announced the development of a  
9 new product, GoChi, which was offered for sale at wholesale prices of \$36.50 per  
10 bottle, \$134.95 for a case of 4 bottles, and \$674 for a 6 case value pack. The bottles  
11 were then sold at retail for prices up to \$52 per bottle.

12 51. In connection with the promotion and sale of GoChi, FreeLife's official  
13 website represented the following:

14 A. GoChi contains 30% more LBPs than present in HGJ;

15 B. GoChi is the next generation in HGJ and is scientifically demonstrated to  
16 deliver results in just 14 days;

17 C. GoChi only uses berries that conform to FreeLife's precise spectral  
18 signature balance and potency of LBPs;

19 D. A statistical testing study between day 1 and day 15 reveals significant  
20 health benefits, including increased energy, less fatigue, increased focus and  
21 mental acuity, improved athletic performance, reduced stress, increased feelings  
22 of calmness and contentment, feeling happier and healthier, better quality of  
23 sleep, easier ability to awaken in the morning, and promoting bowel regularity  
24 (hereinafter referred to as the "GoChi health benefits"); and,

25 E. FreeLife has an immune system study and an antioxidant study, which  
26 provides scientific evidence of the health benefits from GoChi, including but

not limited to, benefits to the immune system and the musculoskeletal system. The references to the immune system study and antioxidant study were similar to the representations openly made by FreeLife and Mindell prior to 2008, claiming the curative powers of the goji for treating cancer, arthritis, and other medical conditions.

52. FreeLife's representations relating to GoChi were promises and affirmations of fact used to sell GoChi, but were materially false and deceptive in the following respects:

A. GoChi does not contain 30% more LBPs than present in HGJ and there is no reliable scientific evidence to support that representation;

B. GoChi was not an improved or advanced product to HGJ, but was substantially identical except that GoChi did not contain any preservatives;

C. GoChi does not use berries picked to conform to a precise spectral signature balance and potency of LBPs and there is no scientific support for same;

D. There is no reliable scientific evidence to support the GoChi health benefits or the representation of health improvements after 15 days;

E. FreeLife failed to disclose that its statistical testing study was performed by FreeLife on its own employees and did not constitute an independent, randomized testing study scientifically reliable under the circumstances; and,

F. There was no reliable scientific evidence to support its claim that GoChi provided health benefits to the immune system and the musculoskeletal system.

53. FreeLife continued to encourage expressly and/or impliedly its distributors to use the same false and deceptive representations in the distributor websites previously used by FreeLife, including, but not limited to, the representations of cold-processing, no heat processing, raw berries with live bioactive

1 polysaccharides, the 34 health reasons, and the curative powers of goji juice in fighting  
2 cancer and other medical diseases and conditions.

3 54. As a result, in 2008 FreeLife distributor websites contained false  
4 representations that GoChi contained raw berries with live bioactive polysaccharides,  
5 was not heat processed, and provided curative powers to fight cancer and other  
6 diseases.

7 55. FreeLife ratified each of the representations in distributor websites by  
8 action of its compliance department in approving or not objecting to the  
9 representations in the distributor websites.

10 56. On or about January 10, 2009, FreeLife announced the development of  
11 TAIslim, a “triple patent pending weight loss product (drink) with Goji Juice that helps  
12 you lose weight, fight abdominal fat, enhance mental control appetite while feeling  
13 more energy.” This product was offered for sale at \$36.50 per single bottle or \$134.95  
14 per case (4 bottles).

15 57. In connection with the promotion and sale of TAIslim, FreeLife’s  
16 official website represented the following:

17 A. TAIslim is a simple weight loss drink that you take with a full glass of  
18 water for 2 – 3 meals each day;

19 B. The TAIslim formula “is backed by years of scientific research and  
20 study” ([www.TAI-Fit.com](http://www.TAI-Fit.com), *What is TAIslim?*);

21 C. TAIslim is the first weight loss product to target all 4 different causes of  
22 weight gain and fat storage determined by scientists;

23 D. TAIslim contains GoChi Juice which is clinically shown to reduce the  
24 body’s production of stress hormones which attribute to unwanted belly fat;

25 E. TAIslim contains nothing but natural ingredients with no synthetic  
26 additives;



1 F. TAIslim increases metabolism so that more calories can be burned;

2 G. TAIslim works to early on release the CCK hormone responsible for  
3 your brain sending the message that you are full, thereby controlling appetite  
4 and unhealthy cravings;

5 H. TAIslim is the only weight loss product that contains NuFlora. NuFlora  
6 works to clean the body of metabolic toxins and rid the body of bacteria that  
7 can cause weight gain;

8 I. There are 27 health reasons to continue to take at least one daily serving  
9 of TAIslim, including but not limited to, cleansing and detoxifying, absorbing  
10 fewer calories from the foods you eat, fighting insulin resistance, improving  
11 regularity and maintaining colon health, keeping a healthy heart, maintaining  
12 normal, healthy cholesterol and triglycerides, inhibiting dangerous lipid  
13 peroxidation, supporting normal blood pressure, building healthy muscles,  
14 improving your immune system defenses, and improving thyroid health. A  
15 copy of the *27 Reasons to Drink TAIslim*, published by FreeLife, is attached  
16 hereto as Exhibit B and incorporated herein; and,

17 J. TAIslim is a safe product.

18 58. FreeLife's representations regarding TAIslim are promises and  
19 affirmations of fact which are materially false and deceptive in the following respects:

20 A. There is insufficient reliable scientific or medical evidence that TAIslim  
21 is effective and safe as a weight loss supplement;

22 B. TAIslim's formula is not backed by years of scientific research and  
23 study;

24 C. There is insufficient reliable scientific or medical evidence that TAIslim  
25 is the first weight loss product to target all causes of weight gain and fat  
26 storage;

1 D. There is no reliable scientific or medical evidence which clinically  
2 shows that TAIslim reduces the body's production of stress hormones which  
3 attribute to belly fat;

4 E. TAIslim contains synthetic additives such as sucralose;

5 F. There is insufficient reliable scientific or medical evidence that TALslim  
6 increases metabolism so that more calories can be burned;

7 G. There is no reliable scientific evidence that TAIslim works to early on  
8 release the CCK hormone for controlling appetite and food craving;

9 H. There is no reliable scientific evidence to support its claim that NuFlora  
10 cleans the body of metabolic toxins and bacteria that can cause weight gain;

11 I. There is no reliable scientific evidence to support the 27 health reasons  
12 for continued use of TAIslim; and,

13 J. There is no reliable scientific evidence to support the safety of this  
14 product for prolonged use.

15 59. Defendant has elected to market its goji Products with wild claims that  
16 long-term use of them will stop or slow the aging process, cure diseases such as  
17 cancer, and provide a safe weight loss remedy along with a multitude of other  
18 exaggerated health benefits. Defendant has falsely promised that these health results  
19 are based on pure science and well documented health studies.

20 60. When a consumer is diagnosed with a serious disease, with little hope of  
21 recovery, or is frightened of aging and the changes in health brought by the aging  
22 process, or overweight, the consumer becomes particularly vulnerable to any claim  
23 that a product could lessen or eliminate such illness or condition. By targeting these  
24 consumers, Defendant has focused its marketing efforts upon a predominantly wide  
25 and susceptible group of consumers.

26 61. American history is filled with legends and stories of snake oil salesmen

1 selling tonics to consumers with promises that such miraculous potions would cure  
2 most common illnesses. Today, salesmen may no longer sell snake oil, but the modern  
3 consumer continues to search for and buy herbal products which claim to remedy  
4 health conditions.

5 62. FreeLife is a modern day snake oil salesman, churning out herbal goji  
6 Products for purchase by consumers, based upon outrageous claims of health benefits  
7 unsupported in science. Vulnerable consumers have been targeted and have spent  
8 thousands of dollars for consumption of these over-priced and deceptive Products.

9 63. FreeLife has assembled a distributor network by promoting its Products  
10 through false and deceptive representations regarding the Products and their health  
11 benefits and the income that can be earned by the distributors. The distributors in turn  
12 have carried the false and deceptive representations to targeted consumers and/or other  
13 potential distributors who have purchased the Products for their own consumption or  
14 for resale.

15 64. FreeLife has generated millions dollars of income over the last five  
16 years, based upon its deceptive marketing program and from the sale of a vastly  
17 overpriced product. In doing the acts alleged herein, Defendant has acted with  
18 oppression, fraud, and malice, and Plaintiffs and the Class members are entitled to  
19 punitive damages.

## 20 II.

### 21 **PLAINTIFFS' PURCHASES AND CONSUMPTION OF FREELIFE RODUCTS**

#### 22 **A. Plaintiff David Lucas Burge**

23 65. In October 2005, Steve Leaser, a FreeLife distributor, solicited and  
24 recruited Plaintiff David Lucas Burge ("Burge") to purchase and consume HGJ and to  
25 serve as a FreeLife distributor. Mr. Leaser, acting on behalf of FreeLife, as its sales  
26 agent, made each of the false and deceptive misrepresentations to Burge about HGJ set

1 forth in Paragraphs 27-28 of this Complaint. He also represented to Plaintiff Burge the  
2 34 health reasons for continued use of HGJ set forth in the Mindell book and the  
3 curative powers of HGJ.

4 66. Based upon these representations, Plaintiff Burge purchased and  
5 consumed approximately 2 bottles of HGJ.

6 67. Subsequently, Plaintiff Burge personally spoke with Defendant Mindell  
7 who confirmed the false and deceptive representations.

8 68. After consuming the product, Plaintiff Burge elected not to become a  
9 distributor or further user of the HGJ.

10 **B. Plaintiff Alastair Dick**

11 69. In or about April 2006, a FreeLife distributor solicited and recruited  
12 Plaintiff Alastair Dick ("Dick") to purchase and consume HGJ and to serve as a  
13 FreeLife distributor in Australia. The FreeLife distributor made each of the false and  
14 deceptive representations to Plaintiff Dick about HGJ set forth in Paragraphs 27-28 of  
15 this Complaint. It was also represented to Plaintiff Dick the 34 health reasons for  
16 continued use of HGJ as set forth in the Mindell book and the curative powers of HGJ.

17 70. In reliance upon these representations, Plaintiff Dick signed up as a  
18 FreeLife distributor and began consuming and selling HGJ. Plaintiff Dick sold and  
19 consumed HGJ from April 2006, through September 2007.

20 71. Plaintiff Dick consumed HGJ on the representation of FreeLife that it  
21 would improve his arthritis and eyesight, and would improve his natural health. After  
22 he determined that HGJ was providing him no health benefits and that FreeLife was  
23 soliciting sales based on false and deceptive information, he stopped selling and  
24 consuming HGJ.

25 . . .

26 . . .

1           **C.     Plaintiff Lynda Forgette**

2           72.     In or about January 2004, FreeLife's distributor, Jerry Shaw, advised  
3     Plaintiff Lynda Forgette ("Forgette") of the health benefits of HGJ and signed her up  
4     as a distributor of HGJ in Ontario, Canada. In soliciting Plaintiff Forgette, Mr. Shaw,  
5     as FreeLife's agent represented that Forgette's consumption of HGJ would relieve her  
6     back pain, reduce her high blood pressure, reduce risk of diabetes and heart disease, as  
7     well as provide her many other health benefits. In addition, Plaintiff Forgette was told  
8     that she could pay for the costs of her consumption and earn substantial additional  
9     income by becoming a FreeLife distributor.

10          73.     From January 2004, through February 2009, Plaintiff Forgette was a  
11     FreeLife distributor purchasing not less than 1 case of HGJ per month prior to January  
12     2008, or 1 case of GoChi per month, after its introduction in January 2008.

13          74.     Prior to the CBC broadcast exposing Mindell, Plaintiff Forgette actively  
14     promoted the sale of HGJ and consumed within her family unit (including her  
15     grandchildren) 4 to 5 cases per month. In fact, she and her family members consumed  
16     as much as 5 to 6 cases per month during 2004-2005.

17          75.     After the CBC broadcast, Plaintiff Forgette became uncomfortable  
18     promoting HGJ to consumers and she thereafter declined to personally promote and  
19     sell HGJ and other FreeLife Products to the consuming public.

20          76.     Without the income from active distributor sales, Plaintiff Forgette and  
21     her family members reduced their purchases of the HGJ, but continued to consume 1  
22     to 4 cases per month.

23          77.     In 2008, FreeLife announced its introduction of GoChi which it claimed  
24     had been produced after 4 years of testing and was superior as a product to HGJ in all  
25     respects.

26     . . .

1           78. At that time, Plaintiff Forgette stopped purchasing HGJ and started  
2 purchasing and consuming GoChi. She and certain of her family members continued  
3 to consume the product until in or about March 2009.

4           79. Upon information and belief, Plaintiff Forgette alleges that FreeLife has  
5 been diluting its GoChi product during the last 4 to 6 months without disclosure to its  
6 distributors or the public.

7           **D. Pamela Krause**

8           80. In January of 2006, Plaintiff Pamela Krause (“Krause”) joined FreeLife  
9 as a distributor after learning from a family member (who was a FreeLife distributor  
10 and authorized representative), of the many alleged health benefits of HGJ.  
11 Subsequently she learned from FreeLife representative Otis DeWitt, who made a  
12 number of presentations to promote and hype the product, that HGJ would help relieve  
13 her husband’s conditions of diabetes and erectile dysfunction, and Krause’s weight and  
14 sleeping problems.

15           81. In connection with her signing up as a distributor, FreeLife through its  
16 authorized representatives made each of the representations to Plaintiff Krause as  
17 alleged in Paragraphs 27-28 of the Complaint, as well as many of the health benefit  
18 representations contained in Mindell’s book, “The Himalayan Health Secret.” Plaintiff  
19 Krause relied upon the truth of these representations in conducting a FreeLife  
20 distributorship as well as in consuming HGJ.

21           82. After approximately 8 months of consuming HGJ, Plaintiff Krause and  
22 her husband saw no improvement in their health and she decided to end her  
23 distributorship and stop consuming HGJ.

24           83. In December 2008, FreeLife, through its authorized agent John  
25 Roesener, approached Plaintiff Krause and explained to her FreeLife’s new product  
26 TAIslim which he described as a miracle weight loss liquid supplement. In January

2009, after the product was publicly announced and marketed, he made the representations to her on behalf of FreeLife as alleged in Paragraph 53 of this Complaint and asked her to sign up as a distributor.

84. At that time Plaintiff Krause was provided with various brochures and promotional materials produced by FreeLife which she reviewed and relied upon in signing up as a TAIslim distributor.

85. In January 2009, Plaintiff Krause began consuming the product on a daily basis and selling the product to others for consumption and resale.

86. After a short period of use, Plaintiff Krause began experiencing shoulder pain. After stopping use of the product, the pain disappeared. She decided to start using TAIslim again, but the pain returned at an increased level. She stopped using the product again and then resumed taking it with the same results.

87. Plaintiff Krause also received complaints from multiple customers who had purchased the product within Krause's distributor group that they had experienced adverse effects.

88. Upon investigation, Plaintiff Krause discovered that TAIslim contained sucralose, a substance linked to adverse health effects, including abdominal pain, joint pain, achiness, back pain, dizziness, eye pain, fibromyalgia, and headaches. She also learned that, despite FreeLife's representations, there were no reliable long-term studies proving that the substance was safe.

89. After Plaintiff Krause became aware of a TAIslim customer who had ended up in a hospital emergency room after taking TAIslim, she determined that it was not safe to sell the product and she subsequently went inactive with her distributorship. She gave notice of her resignation to FreeLife in or about April 2009.

90. Plaintiff Krause notified a consumer's organization of her concerns about TAIslim and its misrepresentations regarding the safety of the product by e-mail

1 dated April 5, 2009, a copy of which is attached hereto as Exhibit C and incorporated  
2 herein.

3 91. Plaintiff Krause's April 5, 2009, e-mail was forwarded to FreeLife and  
4 Defendant Handel responded on behalf of FreeLife in April 2009, admitting use of  
5 sucralose in TAIslim, but denying that the product was in any way unsafe. A copy of  
6 his e-mail is included in Exhibit C and incorporated herein by reference.

7 **E. Plaintiff Fred Anthony Reyes**

8 92. In or about June 2007, FreeLife's distributor, Neil Chantara, solicited  
9 Plaintiff Fred Anthony Reyes ("Reyes") to purchase and consume HGJ and recruited  
10 him as a FreeLife distributor in Hawaii.

11 93. In the solicitation, Mr. Chantara, as FreeLife's sales agent, made each of  
12 the false and deceptive representations to Reyes set forth in Paragraphs 27-28 of the  
13 Complaint, as well as the health benefits of drinking HGJ daily as set forth in the  
14 Mindell book.

15 94. Plaintiff Reyes relied upon these representations and purchased 3 cases  
16 of HGJ. During 2007, he consumer over 12 bottles of HGJ.

17 95. Prior to making any distributor sales, Reyes learned that FreeLife and its  
18 sales agent had made multiple misrepresentations to him regarding the product.  
19 Reyes, thereafter, terminated his distributorship and stopped purchasing and/or  
20 consuming HGJ.

21 **F. Plaintiff David Porter Wilson**

22 96. In or about January 2004, a FreeLife distributor, solicited Plaintiff David  
23 Porter Wilson ("Wilson") to purchase HGJ and recruited him to be a FreeLife  
24 distributor. During the course of the solicitation and recruitment, the FreeLife sales  
25 agent made each of the false and deceptive representations set forth in Paragraphs 27-  
26 28 of this Complaint. It was also represented to Plaintiff Wilson the 34 health reasons



for continued use of HGJ set forth in the Mindell book and the curative powers of HGJ.

97. In reliance upon these representations, Plaintiff Wilson signed up as a FreeLife distributor and began purchasing, selling, and consuming HGJ.

98. From January 2004 until February 2008, Plaintiff Wilson personally consumed approximately 2 cases of HGJ per month and sold HGJ as a distributor.

99. After the CBC broadcast, Plaintiff Wilson was uncomfortable making any health representations to customers or potential customers and refused to talk about the “medical miracles.”

100. Plaintiff Wilson terminated his distributorship after disputes with his Upline Sponsor, Sandy Moreland, who wanted him out of the organization for refusing to talk to customers about the “medical miracles” of goji Products.

### CLASS ACTION ALLEGATIONS

101. Plaintiffs bring this action both on behalf of themselves, and as a class action on behalf of the following Class (“the Class”).

All individuals who, within the four years prior to the filing of this Complaint (“Class Period”), purchased HGJ, GoChi, and/or TAIslim (hereinafter referred to as the “Products”) from FreeLife International, Inc.

102. Although Plaintiffs do not know the exact number of the members of the Class, since such information is within the exclusive control of FreeLife, Plaintiffs believe that due to the nature of the commerce involved, the number of members of the Class are sufficiently numerous, most likely thousands of purchasers, that joinder of all Class members is impracticable. Indeed, Plaintiffs believe that FreeLife’s revenues from the sale of the Products exceed \$100,000,000 per year.

103. The claims of Plaintiffs are typical of the Class claims in that Plaintiffs purchased the Products in reliance upon the misrepresentations, omissions, and

concealments, and believed that:

- A. HGJ contained 2.2 pounds of fresh Himalayan goji berries;
- B. FreeLife's unique spectral analysis enabled it to identify and harvest a certain type of goji berry with the exact nutrient profile of the legendary goji from the Himalayas;
- C. FreeLife's spectral signature on each bottle of HGJ demonstrated that the goji berries used met the highest standards for density of polysaccharides, absorption in humans, and highest potency;
- D. FreeLife produced HGJ by a cold processing method with no heating so that the vital LPBs and nutrients of the goji would not be destroyed;
- E. HGJ contains raw Himalayan goji berries with live bioactive polysaccharides;
- F. HGJ contains only whole natural preservatives and no artificially created chemical preservatives;
- G. HGJ contains four unique and active polysaccharides which provide wide-ranging health benefits that retard the aging process and control many of the body's most important biochemical defense systems to fight disease;
- H. HGJ had the ability to cure, arrest, or improve certain diseases and medical conditions;
- I. GoChi contained 30% more LPBs than present in HGJ;
- J. GoChi goji berries also conformed to FreeLife's spectral signature analysis assuring that it met the highest standards for density of polysaccharides, absorption in humans, and highest potency;
- K. GoChi was produced using the same cold process as HGJ to assure that the vital polysaccharides of the goji were not destroyed;
- L. GoChi provided significant health benefits as represented;

1 M. FreeLife had authoritative scientific studies which confirmed the health  
2 benefits from long-term use;

3 N. TAIslim formula using goji juice was backed by years of scientific  
4 research and study;

5 O. TAIslim is a safe weight loss product using a unique formula; and,

6 P. TAIslim provides significant health benefits besides weight loss from  
7 long-term use.

8 104. In addition, the claims of Plaintiffs are typical of the Class in that  
9 FreeLife made the same representations, directly or indirectly, to all members of the  
10 Class, the representations were false or misleading as to all members of the Class, and  
11 FreeLife benefitted and was unjustly enriched from the sales in the same manner as to  
12 all members of the Class.

13 105. Numerous questions of law and fact are common to the Class, which  
14 predominate over any individual issues. Questions of law and fact which are common  
15 to the Class include, without limitation:

16 A. Whether FreeLife made representations to consumers about the quality,  
17 characteristics, and benefits of the goji berries used in its Products that rendered  
18 the Products effective in curing, arresting, or improving certain diseases and  
19 medical conditions, and retarding the aging process, and whether such  
20 representations were false and/or misleading;

21 B. Whether FreeLife made representations to consumers about the methods  
22 of production of its Products and the characteristics and benefits of the Products  
23 resulting therefrom and whether such representations were false and/or  
24 misleading;

25 C. Whether FreeLife made representations to consumers about the  
26 characteristics, uses, benefits, or qualities of its Products and whether such

1 representations were false and/or misleading;

2 D. Whether FreeLife made representations to consumers about its use of  
3 spectral signature analysis in identifying, isolating, and harvesting goji berries  
4 and its use of a unique spectral signature on each bottle of HGJ and GoChi and  
5 whether such representations were false and/or misleading;

6 E. Whether FreeLife targeted a predominantly susceptible group of  
7 consumers and thus whether the “reasonable consumer standard should apply”;

8 F. Whether FreeLife truthfully advertised its Products to its distributors;

9 G. Whether FreeLife and/or its compliance department reviewed, approved,  
10 and/or ratified the product representations of its distributors in websites and  
11 other forms of promotion, advertising, and solicitations;

12 H. Whether FreeLife created, approved, and/or ratified the anonymous  
13 websites used by distributors for promotion, advertising, and solicitation of  
14 FreeLife’s Products;

15 I. Whether FreeLife misled and/or confused consumers, committed unfair  
16 business practices, and/or false advertising by relying upon and referring  
17 consumers to Mindell’s book and certain alleged health studies;

18 J. Whether FreeLife knew or should have known that the Products did not  
19 have the characteristics, uses, benefits, or qualities for which it advertised and  
20 marketed the Products;

21 K. Whether FreeLife breached express or implied warranties;

22 L. Whether FreeLife was unjustly enriched by its conduct; and,

23 M. The nature and extent of damages and other remedies to the Class  
24 members caused by FreeLife’s conduct.

25 106. Plaintiffs will fairly and adequately represent the interests of the Class in  
26 that Plaintiffs are typical purchasers of the Products. Furthermore, Plaintiffs have

1 retained competent counsel experienced in class action litigation. Plaintiffs' counsel  
2 will fairly and adequately protect the interests of the Class.

3 107. This class action is superior to the alternatives, if any, for the fair and  
4 efficient adjudication of this controversy. The Class is readily definable. A class  
5 action will enable claims to be handled in an orderly and expeditiously manner. A  
6 class action will save time and expense and will ensure uniformity of decisions.

7 108. The relief sought per individual member of the Class is small given the  
8 burden and expense of individual prosecution of the potentially extensive litigation  
9 necessitated by the conduct of FreeLife. Furthermore, it would be virtually impossible  
10 for the Class members to seek redress on an individual basis. Even if the Class  
11 members themselves could afford such individual litigation, the court system could  
12 not.

13 109. Individual litigation of the legal and factual issues raised by the conduct  
14 of FreeLife would increase delay and expense to all parties and to the court system.  
15 The class action device presents far fewer management difficulties and provides the  
16 benefits of a single, uniform adjudication, economies of scale and comprehensive  
17 supervision by a single court. Given the similar nature of the Class members' claims  
18 and the law applicable thereto, the Court and the parties will easily be able to manage  
19 a class action.

20 110. Prosecution of separate actions by individual Class members would  
21 create the risk of inconsistent or varying adjudications, establishing incompatible  
22 standards of conduct for FreeLife.

23 111. Injunctive relief is appropriate to the Class as a whole because FreeLife  
24 has acted or refused to act on grounds generally applicable to the Class.

25 . . .

26 . . .

**COUNT ONE**

**UNJUST ENRICHMENT**

112. Plaintiffs incorporate by reference all of the preceding allegations of this Complaint.

113. FreeLife has benefited and been unjustly enriched by the above-alleged wrongful conduct. FreeLife has sold the Products HGJ, GoChi, and TAIslim to Plaintiffs and members of the Class, based upon misrepresentations as to the composition, production process, and health benefits from prolonged use of the Products and its employment of deceptive practices.

114. FreeLife was aware of the falsity of these representations and its employment of deceptive practices and intended to mislead and deceive individuals into the purchase and prolonged use of these Products.

115. FreeLife has knowledge of the benefits received from the sale of Products by false representation and deception, and has voluntarily accepted and retained these benefits.

116. The circumstances as described herein are such that it would be inequitable for FreeLife to retain these ill-gotten benefits without paying the value thereof to Plaintiffs and members of the Class.

117. Plaintiffs and members of the Class are entitled to the amount of FreeLife's ill-gotten gains, including interest, resulting from its unlawful, unjust, and inequitable conduct as described above.

**COUNT TWO**

**BREACH OF EXPRESS WARRANTY (A.R.S. § 47-2313)**

118. Plaintiffs incorporate by reference all of the preceding allegations of this Complaint.

119. This claim is asserted on behalf of Plaintiffs and a Class of all purchasers

of the Products who purchased them within four years of the filing of this Complaint.

120. The Products are merchandise and consumer goods advertised and sold to the public by FreeLife.

121. The Products were sold by FreeLife to Plaintiffs and members of the Class pursuant to affirmations of fact or promises relating to the goods and descriptions of the goods which became part of the basis of the bargain.

122. The affirmations of fact, promises, and descriptions of the goods failed to conform to the affirmation, promise, or description.

123. By reason thereof, FreeLife breached expressed warranties made to Plaintiffs and members of the Class.

124. As a proximate result thereof, Plaintiffs and the members of the Class have been damaged in an amount which is presently unascertainable, but which will be determined prior to trial.

### COUNT THREE

#### **BREACH OF IMPLIED WARRANTY** **(A.R.S. §§ 47-2314 AND 47-2315)**

125. Plaintiffs incorporate by reference all of the preceding allegations of this Complaint.

126. This claim is asserted on behalf of Plaintiffs and a Class of all purchasers of the Products who purchased them within four years of the filing of this Complaint.

127. The Products are merchandise and consumer goods advertised and sold to the public by FreeLife.

128. The Products were sold to Plaintiffs and members of the Class pursuant to the implied warranties of merchantability that they would pass without objection in the trade under the contract description, that they were fit for the particular purposes for which the goods were used, that they were adequately packaged and labeled, and

1 that they conformed to the promises or affirmations of fact made on the container or  
2 label.

3 129. The Products were not merchantable. The Products do not pass without  
4 objection in the trade. The Products are not fit for the health purposes represented.  
5 The Products are not adequately packaged and labeled. The Products do not conform  
6 to the affirmations of fact or promises made on the container and label.

7 130. The Products were sold by FreeLife with the implied warranty of fitness  
8 in that FreeLife had reason to know of the particular purposes for which the Products  
9 were required (*i.e.*, for anti-aging and the health benefits represented by FreeLife in  
10 connection with each Product), and Plaintiffs and members of the Class relied upon  
11 Defendant's skill and judgment to furnish suitable goods.

12 131. Plaintiffs believe and aver that the Products were not suitable for the  
13 purposes for which they were required, and/or there is no reliable evidence that the  
14 Products prevent or retard aging and/or provide the health benefits represented.

15 132. Plaintiffs and the members of the Class reasonably relied upon the  
16 expertise, skill, judgment, and knowledge of FreeLife and upon its implied warranties  
17 of merchantability, fitness for particular purpose, adequate packaging and labeling,  
18 and conformity to promise and affirmations of fact.

19 133. As a proximate result thereof, Plaintiffs and members of the Class of  
20 purchasers and users have been damaged by FreeLife in an amount presently  
21 unascertainable, but which will be determined from discovery prior to trial.

22 134. Plaintiffs and members of the Class are entitled to a refund of the  
23 purchase price of Products purchased and consumed, consequential and incidental  
24 damages, costs and expenses, including attorney's fees.

25 . . .

26 . . .



COUNT FOUR

**VIOLATION OF ARIZONA CONSUMER FRAUD ACT**  
**(A.R.S. § 44-1522)**

135. Plaintiffs incorporate by reference all of the preceding allegations contained in this Complaint.

136. This claim is asserted on behalf of Plaintiffs and a Class of all purchasers of the Products who purchased them within one year of the filing of this Complaint.

137. Plaintiffs and members of the Class are individuals who have purchased FreeLife Products pursuant to advertisement and solicitation by FreeLife and its authorized representatives.

138. FreeLife has engaged in unlawful practices under the Arizona Consumer Fraud Act § 44-1522 by employing deception, deceptive acts or practices, fraud, false pretenses, false promises, misrepresentations or concealment, suppression or omission of material facts with the intent that others rely upon such concealment, suppression, or omission in connection with the sale or advertisement of the FreeLife Products.

139. FreeLife's conduct was at all times willful in that it knew or should have known that its conduct was of a nature prohibited by § 44-1522.

140. As a proximate cause of FreeLife's acts of wrongdoing in violation of A.R.S. § 44-1522, Plaintiffs and members of the Class have been damaged in an amount which is presently unascertainable, but which will be determined from discovery prior to trial.

141. Plaintiffs and the members of the Class are entitled to the award of punitive damages for the willful, wanton, and malicious practices by FreeLife, in violation of the Arizona Consumer Fraud Act.

. . .

. . .

**COUNT FIVE**

**ACTION FOR INJUNCTIVE RELIEF**

142. Plaintiffs incorporate by reference all of the preceding allegations contained in this Complaint.

143. Unless restrained and enjoined by order of this Court, FreeLife will continue to engage in consumer fraud by the making of materially false and deceptive representations and affirmations of fact concerning the Products.

144. Unless restrained and enjoined by order of this Court, the public and the members of the Class will continue to suffer irreparable harm for which there is no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE Plaintiffs, on behalf of themselves and as representatives of all other persons similarly situated, pray for judgment against FreeLife as follows:

1. An order certifying the Class and any appropriate sub-class thereof, and appointing certain of the Plaintiffs and their counsel to represent the Class;
2. An award of general damages according to proof;
3. An award of special damages in an amount sufficient to deter and make an example of Defendant;
4. An award of restitution in an amount according to proof;
5. Disgorgement in an amount according to proof;
6. An award of consequential damages;
7. An award of incidental damages;
8. A temporary restraining order, a preliminary injunction, and a permanent injunction enjoining Defendant and its agents, servants, employees, and all persons acting under or in concert with them, to cease and desist from the following acts:

1 a. Selling, marketing or advertising the Products with any materially  
2 false and/or deceptive representations regarding the Products;

3 b. Selling, marketing or advertising the Products with any reference to  
4 health benefits unsupported by reliable scientific evidence;

5 9. For reasonable attorneys' fees;

6 10. For costs incurred herein;

7 11. For prejudgment interest; and

8 12. For all general, special, and equitable relief to which the Plaintiffs and  
9 the members of the Class are entitled to by law.

10  
11 DATED this 29<sup>th</sup> day of May, 2009.

12  
13 KELLER ROHRBACK, P.L.C.

14  
15  
16 By: /s/ Gary A. Gotto  
17 Gary A. Gotto  
18 Gary D. Greenwald  
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21 Attorneys for Plaintiffs  
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