

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JENNIFER SWEAT, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

Case No. 3:16-cv-940-J-34PDB

NBTY, INC.,

Defendant.

ORDER

THIS CAUSE came before the Court on September 18, 2017, for a hearing on Defendant NBTY, Inc.'s Motion to Dismiss First Amended Complaint (DE 19) and Incorporated Memorandum of Law (Dkt. No. 25; Motion) filed on November 10, 2016. For the reasons stated on the record during the hearing, it is

ORDERED:

1. Defendant NBTY, Inc.'s Motion to Dismiss First Amended Complaint (DE 19) and Incorporated Memorandum of Law (Dkt. No. 25) is **GRANTED, in part, and DENIED, in part.**
2. The Motion is **GRANTED** to the following extent:
 - a. Plaintiff's claims with regard to products other than the Ester-C product are **DISMISSED without prejudice.**
 - b. Count Two is **DISMISSED without prejudice.**
 - c. Plaintiff's request for injunctive relief in Count One is **DISMISSED.**

3. Otherwise, the Motion is **DENIED**.

DONE AND ORDERED in Jacksonville, Florida this 20th day of September, 2017.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record