

1 **EDELSBERG LAW, P.A.**
2 Scott Edelsberg (State Bar No. 330990)
3 scott@edelsberglaw.com
4 Christopher Gold
5 (*pro hac vice to be filed*)
6 chris@edelsberglaw.com
7 1925 Century Park E #1700
8 Los Angeles, CA 90067
9 Telephone: (305) 975-3320

6 *Counsel for Plaintiff and the Proposed Class*

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 AMY ROBERTS, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 BLOSSOM NATURE, LLC,

16 Defendant.

No.

CLASS ACTION COMPLAINT

JURY DEMAND

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1 Plaintiff, individually and on behalf of all others similarly situated, files this Class Action
2 Complaint against Defendant Blossom Nature, LLC, (“Defendant”), and upon information and
3 belief, alleges as follow:

4 **NATURE OF THE ACTION**

5 1. This is a consumer class action arising from Defendant’s deceptive and unfair
6 advertising, marketing, and sale of a worthless, misbranded drug, in violation of California’s
7 consumer protection laws.

8 **JURISDICTION AND VENUE**

9 2. This Court has jurisdiction over the subject matter of this action pursuant to 28
10 U.S.C. § 1332(d)(2)(A), because at least one member of the Class is a citizen of a different state
11 than Defendant, there are more than 100 members of the Class, and upon information and belief
12 the aggregate amount in controversy exceeds \$5,000,000.00 exclusive of interest and costs.

13 3. This Court has personal jurisdiction over Defendant because Defendant conducts
14 business in this District and in the State of California.

15 4. Venue is also proper in this Court because Defendant resides in this District and a
16 substantial part of the events or omissions giving rise to the claims occurred in this District.

17 **PARTIES**

18 5. At all relevant times, Plaintiff Amy Roberts was a citizen of Franklin County, Ohio.

19 6. At all relevant times, Defendant was a California limited liability company with its
20 principal place of business at 1193 Elderberry Circle, Folsom, CA 95630.

21 **FACTUAL ALLEGATIONS**

22 7. Throughout the Class Period (defined below), Defendant marketed, advertised, and
23 sold Full Spectrum™ St. John’s Wort Extract (“Product”).

24 8. During the Class Period, Defendant’s website made the following claims regarding
25 the Product:

- 26 a. “St. John’s Wort is a natural treatment for mental health problems.”
27 b. “Today, St. John’s Wort is best known as a treatment for depression, anxiety and
28

1 stress.”

2 c. “St. John’s Wort is effective as prescribed antidepressants but with no side effects.”

3 d. “St. John’s Wort . . . moderates Seasonal Affective Disorder (SAD)”

4 e. “Blossom Nature’s 1 capsule of 450 mg taken twice a day relieves symptoms of
5 depression and anxiety for 24 hours with No Side Effects.”

6 9. During the Class Period, Defendant’s Amazon product page at
7 [http://www.amazon.com/Supplement-National-Antidepressant-Support-Provides-Relief-
8 120/dp/B082TTLJGP](http://www.amazon.com/Supplement-National-Antidepressant-Support-Provides-Relief-120/dp/B082TTLJGP), on a graphic titled “Blossom Nature’s St. John’s Wort”, made the following
9 claims regarding the Product:

10 a. “NATURAL ANTIDEPRESSANT HYPERCIN”

11 b. “GET THE BEST TREATMENT FOR DEPRESSION, ANXIETY AND STRESS
12 with BLOSSOM NATURE’s St. John’s Wort.”

13 10. Upon information and belief, the labeling of the Product purported to give directions
14 for its intended use.

15 11. On February 18, 2021, the U.S. Food and Drug Administration, Center for Food
16 Safety and Applied Nutrition (CFSAN), sent a warning letter to Defendant in which it explained
17 that the Product is misbranded under section 502(f)(1) of the Federal Food, Drug, and Cosmetic
18 Act (“FDCA”), 21 U.S.C. § 352(f)(1) (“Warning Letter”):

19 This is to advise you that the Food and Drug Administration (FDA) reviewed your
20 website at the Internet address, www.blossom-nature.com, in December 2020.
21 FDA observed that your website directs customers to your Amazon page to
22 purchase your St. John’s Wort product. We have also reviewed your product
23 listing on your Amazon page, [http://www.amazon.com/Supplement-National-
24 Antidepressant-Support-Provides-Relief-120/dp/B082TTLJGP](http://www.amazon.com/Supplement-National-Antidepressant-Support-Provides-Relief-120/dp/B082TTLJGP), which operates
25 under the name Blossom Nature. The claims on your websites establish that
26 your product is a drug under section 201(g)(1)(B) of the Federal Food, Drug, and
27 Cosmetic Act (the Act) [21 U.S.C. § 321(g)(1)(B)] because it is intended for use
28 in the cure, mitigation, treatment, or prevention of disease. As explained further
below, introducing or delivering this product for introduction into interstate
commerce violates the Act. You can find the Act and FDA regulations through
links on FDA’s home page at www.fda.gov.

Examples of some of the website claims that provide evidence that your St. John’s
Wort is intended for use as a drug include:

1 On the webpage for “St. John’s Wort | Blossom Nature” at www.blossom-nature.com:

- 2
- 3 • “St. John’s Wort is a natural treatment for mental health problems.”
 - 4 • “Today, St. John’s Wort is best known as a treatment for depression, anxiety and stress.”
 - 5 • “St. John’s Wort is effective as prescribed antidepressants but with no side effects.”
 - 6 • “St. John’s Wort . . . moderates Seasonal Affective Disorder (SAD)”
 - 7 • “Blossom Nature’s 1 capsule of 450 mg taken twice a day relieves symptoms of depression and anxiety for 24 hours with No Side Effects.”

8 On your Amazon product page at <http://www.amazon.com/Supplement-National-Antidepressant-Support-Provides-Relief-120/dp/B082TTLJGP>:

- 9
- 10 • On a graphic titled “Blossom Nature’s St. John’s Wort”:
 - 11 ○ “NATURAL ANTIDEPRESSANT HYPERCIN”
 - 12 ○ “GET THE BEST TREATMENT FOR DEPRESSION, ANXIETY AND STRESS with BLOSSOM NATURE’s St. John’s Wort.”

13 Your St. John’s Wort product is not generally recognized as safe and effective for the above referenced uses and, therefore, this product is a “new drug” under section 201(p) of the Act [21 U.S.C. § 321(p)]. With certain exceptions not applicable here, new drugs may not be legally introduced or delivered for introduction into interstate commerce without prior approval from FDA, as described in sections 301(d) and 505(a) of the Act [21 U.S.C. §§ 331(d), 355(a)]. FDA approves a new drug on the basis of scientific data and information demonstrating that the drug is safe and effective.

14 A drug is misbranded under section 502(f)(1) of the Act [21 U.S.C. § 352(f)(1)] if the drug fails to bear adequate directions for its intended use(s). “Adequate directions for use” means directions under which a layperson can use a drug safely and for the purposes for which it is intended (21 C.F.R. § 201.5). Prescription drugs, as defined in section 503(b)(1)(A) of the Act [21 U.S.C. § 353(b)(1)(A)], can only be used safely at the direction, and under the supervision, of a licensed practitioner.

15 Your St. John’s Wort product is intended for treatment of one or more diseases that are not amenable to self-diagnosis or treatment without the supervision of a licensed practitioner. Therefore, it is impossible to write adequate directions for a layperson to use your product safely for its intended purposes. Accordingly, your St. John’s Wort product fails to bear adequate directions for its intended use and, therefore, the product is misbranded under section 502(f)(1) of the Act [21 U.S.C. § 352(f)(1)]. The introduction or delivery for introduction into interstate commerce of this misbranded drug violates section 301(a) of the Act [21 U.S.C. §331(a)].

1 The violations cited in this letter are not intended to be an all-inclusive list of
2 violations that exist in connection with your products. You are responsible for
3 investigating and determining the causes of the violations identified above and for
4 preventing their recurrence or the occurrence of other violations. It is your
responsibility to ensure that your firm complies with the Act and its implementing
regulations.

5 You should take prompt action to address the violations cited in this letter. Failure
6 to promptly address these violations may result in enforcement action without
further notice, including, without limitation, seizure and injunction.

7 Please notify FDA in writing, within fifteen working days of receipt of this letter,
8 of the specific steps that you have taken to address these violations. Include an
9 explanation of each step being taken to prevent the recurrence of violations, as
10 well as copies of related documentation. If you believe that your products are not
11 in violation of the Act, include your reasoning and any supporting information for
our consideration. If you cannot complete addressing these violations within
fifteen working days, state the reason for the delay and the time within which you
will do so. Your reply should be sent via e-mail to FDAAdvisory@fda.hhs.gov.

12 Sincerely,

13 /S/

14
15 William A. Correll Jr.
16 Director
17 Office of Compliance
Center for Food Safety and Applied Nutrition
Food and Drug Administration

18 12. Because the Product is a misbranded drug that is unlawful to sell, it is a worthless
19 product. Further, the Product's advertising and labeling is deceptive because, as the Warning Letter
20 notes, the Product is "not generally recognized as safe and effective for the above referenced uses"
21 and because "it is impossible to write adequate directions for a layperson to use [the P]roduct safely
22 for its intended purposes."

23 13. Plaintiff and the members of the Class purchased the Product during the Class Period
24 and suffered damages as a result.

25 **CLASS ALLEGATIONS**

26 14. This action is brought and is properly maintained as a class action pursuant to Fed.
27 R. Civ. P. 23(a), (b)(2), and (b)(3).
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1 15. Plaintiff seeks to certify a nationwide class (“Class”) defined as follows:

2 **All persons who purchased the Product during the period beginning four years**
3 **before the filing of this action and the date of class notice.**

4 16. Excluded from the Class are Defendant, its subsidiaries and affiliates, its officers,
5 directors and member of their immediate families and any entity in which Defendant has a
6 controlling interest, the legal representatives, heirs, successors or assigns of any such excluded
7 party, the judicial officer(s) to whom this action is assigned, and the members of their immediate
8 families.

9 17. Plaintiff reserves the right to modify or amend the definition of the proposed Class
10 and/or to add subclasses if necessary before this Court determines whether certification is
11 appropriate.

12 18. **Numerosity.** The precise number of members for the Class are unknown to Plaintiff
13 at this time and can only be determined through appropriate discovery. Based upon information
14 and belief, Plaintiff alleges that the number of potential class members are geographically
15 distributed across the country and the state and are so numerous that joinder would be
16 impracticable.

17 19. **Commonality.** Common questions of law and fact exist as to all members of the
18 Class and predominate over any questions affecting only individual Class members. Those common
19 questions of fact and law include, but are not limited to, the following: (a) whether Defendant’s
20 sold a misbranded drug; (b) whether Defendant’s marketing, advertising, and sale of the Product
21 would deceive a reasonable consumer; (c) whether Plaintiff suffered damages caused by Defendant
22 and the measure of those damages; (d) whether Plaintiff is entitled to injunctive relief; and (e)
23 whether Defendant was unjustly enriched.

24 20. **Typicality.** Plaintiff’s claims are typical of the claims of all other members of the
25 Class because all such arise from Defendant’s false and deceptive marketing, advertising, and sale
26 of a misbranded Product, and Plaintiff is not subject to any unique defenses.

27 21. **Adequacy of representation.** Plaintiff will fairly and adequately protect the interests
28 of the Class. Plaintiff has retained counsel highly experienced in complex consumer class action

1 litigation, and Plaintiff intends to vigorously prosecute this action. Plaintiff has no known conflicts
2 of interest with any members of the Class; its interests and claims are not antagonistic to those of
3 any other Class members; nor are its claims subject to any unique defenses.

4 22. **Superiority.** A class action is superior to all other available means for the fair and
5 efficient adjudication of this controversy. The damages or other financial detriment suffered by
6 individual Class members is relatively small compared to the burden and expense that would be
7 involved in individual litigation of their claims. It would, thus, be virtually impossible for the Class,
8 on an individual basis, to obtain effective redress for the wrongs committed against them.
9 Furthermore, even if Class members could afford such individualized litigation, the court system
10 could not. Individualized litigation would create the danger of inconsistent or contradictory
11 judgments arising from the same set of facts. Individualized litigation would also increase the delay
12 and expense to all parties and the court system from the issues raised by this action. By contrast,
13 the class action device provides the benefits of adjudication of these issues in a single proceeding,
14 economies of scale, and comprehensive supervision by a single United States District Court, and
15 presents no unusual management difficulties under the circumstances here.

16 **COUNT I**

17 **Violation of the Consumer Legal Remedies Act, Cal. Civ. Code § 1750, et seq.**

18 23. Plaintiff realleges and incorporates by reference the allegations above as though
19 fully set forth herein.

20 24. The Consumer Legal Remedies Act (“CLRA”) “shall be liberally construed and
21 applied to promote its underlying purposes, which are to protect consumers against unfair and
22 deceptive business practices and to provide efficient and economical procedures to secure such
23 protection.” Cal. Civ. Code § 1760.

24 25. Plaintiff and the other Class members are consumers as defined by Cal. Civ. Code
25 § 1761(d).

26 26. The Product is a good as defined by Cal. Civ. Code § 1761(a).

27 27. As alleged herein, Defendant deceptively marketed, advertised, and sold a Product
28 that: (1) is not effective for its promoted use; (2) includes false and deceptive instructions for use

1 on its label; and (3) is a misbranded drug under the FDCA and, thus, is worthless.

2 28. In doing so, Defendant violated the CLRA by engaging in the following practices
3 proscribed by Cal. Civ. Code § 1770(a) in transactions that were intended to result in, and did result
4 in, the sale of goods to consumers, including Plaintiff and other Class members:

5 a. Representing that goods or services have sponsorship, approval,
6 characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has
7 a sponsorship, approval, status, affiliation, or connection which he or she does not have
8 (§ 1770(a)(5)); and

9 b. Advertising goods or services with intent not to sell them as advertised
10 (§ 1770(a)(9)).

11 29. Defendant's deceptive practices would deceive a reasonable consumer.

12 30. Defendant's deceptive practices relate to material facts.

13 31. Plaintiff and the Class members purchased Defendant's Product and, thus, suffered
14 damages in that they overpaid to purchase a deceptively advertised and labeled, and unlawful
15 product.

16 32. Plaintiff and the Class members would not have purchased the Product but for
17 Defendant's deceptive acts and practices alleged herein.

18 33. Plaintiff provided notice to Defendant pursuant to Cal. Civ. Code § 1782. *See*
19 **Exhibit A.**

20 34. Pursuant to Cal. Civ. Code § 1780(d), Plaintiff has prepared and attached an affidavit
21 stating facts showing that this action has been commenced in a county described as a proper place
22 for the trial. *See Exhibit B.*

23 35. Pursuant to Cal. Civ. Code § 1782(d), Plaintiff seeks an order enjoining the above
24 described wrongful acts and practices and for restitution and disgorgement. Plaintiff also seeks
25 actual, punitive, and statutory damages, as well as costs and attorneys' fees pursuant to Cal. Civ.
26 Code §§ 1780(e) and 1021.5.

27 **COUNT II**

28 **Unjust Enrichment**

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JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues so triable.

Dated: June 9, 2021

Respectfully submitted,

By: /s/ Scott Edelsberg

Scott Edelsberg
(State Bar No. 330990)
scott@edelsberglaw.com
Christopher Gold
(*pro hac vice* forthcoming)
chris@edelsberglaw.com
EDELSBERG LAW, P.A.
1925 Century Park E #1700
Los Angeles, CA 90067
Telephone: (305) 975-3320

*Counsel for Plaintiff and the Proposed
Class*

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

AMY ROBERTS, individually and on behalf of all others

(b) County of Residence of First Listed Plaintiff Franklin, OH

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

EDELSBERG LAW, 1925 Century Park E #1700, Los Angeles, CA 90067 305-975-3320

DEFENDANTS

BLOSSOM NATURE, LLC

County of Residence of First Listed Defendant Sacramento, CA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

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

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

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

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

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, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

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

Brief description of cause: This is a putative class action pursuant to California's Consumer Legal Remedies Act, Cal. Civ. Code § 1750 et seq.

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 SIGNATURE OF ATTORNEY OF RECORD

6/9/2021 /s/ Scott Edelsberg

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE