

SUPERIOR COURT BERGEN COUNTY
FILED

NOV 07 2008

DATE FILED	11-7-08			
BATCH #	009			
PAYMENT #	141867			
CA	CK	CO	MO	CG
PAYOR	Hoffman			
AMOUNT	\$100.00			
OVER				

ACCOUNT NO.: 141867
HAROLD M. HOFFMAN, ESQ.
240 GRAND AVENUE
ENGLEWOOD, NJ 07631-4352
(201) 569-0086

ATTORNEY(S) FOR PLAINTIFF - HAROLD M. HOFFMAN, INDIVIDUALLY AND IN BEHALF OF THE CLASS OF PURCHASERS OF VAZOPREN
DEPUTY CLERK

HAROLD M. HOFFMAN, Individually and in
behalf of the class of purchasers of *Vazopren*,

Plaintiff,

vs.

NUTRASCI INC.,

Defendant.

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY - LAW DIVISION
DOCKET NO.: BER-L-8400 -08

CIVIL ACTION

COMPLAINT AND JURY
DEMAND IN CLASS ACTION

Plaintiff Harold M. Hoffman, a resident of the State of New Jersey, County of Bergen, individually and in behalf of the class of purchasers of *Vazopren*, by way of class action complaint against the defendants above named, respectfully alleges as follows:

Relevant Factual Allegations

1. At all relevant times, plaintiff was and is a resident of the State of New Jersey, County of Bergen.
2. Upon information and belief, at all relevant times, defendant was a Florida corporation with a place of business in West Palm Beach, FL. The defendant did, and continues to solicit, substantial business in the State of New Jersey.
3. At all relevant times, the defendant constituted a "person" as defined in the Consumer Fraud Act, *N.J.S.A.* 56:8-1(d).
4. In or about October of 2008, and prior thereto, defendant advertised, promised and represented to New Jersey and other consumers, through, without limitation, advertisements in newspapers having wide circulation in New Jersey and other places including, without limitation,

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internet, television, radio, telephone and other media, that an orally administered product known as *Vazopren*, could be purchased from defendant.

5. Defendant further advertised, promised and represented to New Jersey and other consumers that consumption of *Vazopren* was the “ultimate sexual experience;” that *Vazopren* goes to work instantly; that it provides up to 36 hours of “toe curling pleasure;” that the consumer of *Vazopren* would enjoy sex as often as he wants; that *Vazopren* was the “final solution” is male performance; that *Vazopren* will give the consumer new found levels of sexual stamina and endurance, every time;” and, that some *Vazopren* users report that “they are able to please their partners [sic] 2, 3 and even 4 times in a night.”

6. Defendant further advertised, promised and represented that *Vazopren* will “increase your performance in the bedroom and that its consumers will always be “up for the challenge.”

7. Plaintiff and, it is further believed, other members of the class, saw and/or heard defendant’s advertisements, promises and representations, as aforesaid, and purchased the *Vazopren* product.

8. Upon information and belief, defendant’s advertisements, promises and representations to New Jersey and other consumers as aforesaid, are false; deceptive; fabricated; constitute a misrepresentation; are replete with material omissions; constitute an unconscionable trade practice; constitute a sharp and deceitful marketplace practice, and are a false promise.

9. Upon information and belief, the *Vazopren* product does not, and lacks capacity, to induce the results promised, advertised and represented by defendant.

10. Plaintiff and members of the class suffered out of pocket loss as a result of defendants’ unlawful conduct as aforesaid. In the case of the individual plaintiff, the out of

pocket loss sustained was in the sum of \$105.94. Plaintiff and members of the putative class suffered a further element of loss in that they received far less than that which was promised and bargained for.

11. There is a direct causal nexus between defendant's unlawful and deceitful conduct, and the loss sustained by plaintiff and other class members as aforesaid.

12. As to the individual plaintiff, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$75,000.00. As to the putative plaintiff class, the amount in controversy in this action, including, without limitation, compensatory, treble, and/or punitive damages and counsel fees, is less than \$5 million.

Allegations Pertinent to the Class

13. In the instant action, the class is believed to be so numerous that joinder of all members is impracticable; there are questions of law common to all members of the class; the claims and defenses of the parties are typical of the claims and defenses of the class; and, the party-plaintiff will fairly and adequately protect the interests of the class.

14. Moreover, the prosecution of separate actions by members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class. Further, the party opposing the class has acted on grounds and in a manner generally applicable to the class. Additionally, questions of law common to members of the class predominate over any questions affecting only individual members and a class action is superior to other available methods for fair and efficient adjudication of the controversy.

COUNT I

15. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

16. Defendant's conduct constitutes an unconscionable commercial practice in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

17. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged.

WHEREFORE, plaintiff, individually and in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

COUNT II

18. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

19. Defendant's conduct constitutes deception in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

20. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged.

WHEREFORE, plaintiff, individually and in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

COUNT III

21. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

22. Defendant's conduct constitutes fraud in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

23. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged.

WHEREFORE, plaintiff, individually and in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

COUNT IV

24. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

25. Defendant's conduct constitutes false pretense, false promise and/or misrepresentation, in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

26. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged.

WHEREFORE, plaintiff, individually and in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

COUNT V

27. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

28. Defendant's conduct constitutes knowing concealment, suppression and/or omission of material facts with the intent that others, including members of the plaintiff-class, rely upon such concealment, suppression and/or omission, in connection with the sale or advertisement of services in violation of the New Jersey Consumer Fraud Act, *N.J.S.A. 56:8-2*.

29. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged.

WHEREFORE, plaintiff, individually and in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, civil penalties mandated by *N.J.S.A. 56:8-19*, and any other and further relief as the Court deems just and proper.

COUNT VI

30. Plaintiff repeats and realleges the prior allegations of this complaint as if fully set forth at length.

31. Defendant, in the advertisement and marketing of *Vazopren*, deliberately engaged in deception, false pretense, false promise and/or misrepresentation with respect to material facts and did so with the intent that others, including plaintiff and members of the plaintiff-class, rely upon same, and, plaintiff and members of the class did justifiably rely upon same to their detriment.


32. Defendant, in the advertisement and marketing of *Vazopren*, deliberately and

knowingly engaged in concealment, suppression and/or omission of material facts, and defendant did so with the intent that others, including plaintiff and members of the plaintiff-class, rely upon same, and, plaintiff and members of the class did justifiably rely upon same to their detriment.

33. As a proximate result of defendant's conduct, plaintiff and members of the class were damaged by the defendant's deceitful practices.

34. Defendant's conduct constitutes common law fraud.

WHEREFORE, plaintiff, in behalf of the class, demands judgment against the defendant for treble damages and punitive damages together with pre-judgment and post-judgment interest, fees, costs, attorney's fees, and any other and further relief as the Court deems just and proper.



Harold M. Hoffman
Attorney for Plaintiff

November 6, 2008

JURY DEMAND

Demand is hereby made for trial by jury as to all issues.

TRIAL COUNSEL DESIGNATION

Pursuant to Rule 4:25-4, the Court is respectfully advised that Harold M. Hoffman, Esq., is hereby designated as trial counsel in behalf of plaintiff.

CERTIFICATION PURSUANT TO RULE 4:5-1

Harold M. Hoffman, counsel for plaintiff, hereby certifies that the matter in controversy is not the subject of any other known pending action in this or any other Court or any pending arbitration, nor is any other action or arbitration known to be contemplated. At this time, no other

known party, other than members of the class, are anticipated for joinder.

I certify that the foregoing is true to the best of my knowledge. I am aware that if any of the foregoing is wilfully false, I am subject to punishment.

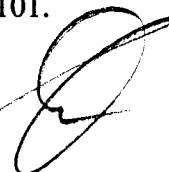


Harold M. Hoffman
Attorney for Plaintiff

November 6, 2008

NOTIFICATION TO ATTORNEY GENERAL

Pursuant to *N.J.S.A. 56:8-20*, I certify that a copy of this complaint will be served on the Office of the Attorney General, CN 080, Trenton, NJ, 08625, as well as the Division of Consumer Affairs, 124 Halsey Street, PO Box 45027, Newark, NJ, 07101.



Harold M. Hoffman
Attorney for Plaintiff

November 6, 2008