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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY DEPUTY

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Attorneys for Plaintiffs and the Class

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VANCE MONROE and MAC
GONZALES, individually and on behalf of
all others similarly situated,

Plaintiffs,

vs.

BIOTAB NUTRACEUTICALS, INC., a
California corporation; DANIEL S. STEIN,
M.D., an individual; GENERAL
NUTRITION CORPORATION, dba GNC,
a Pennsylvania corporation; STG MEDIA

Case No. 09 CV 1207 L POR

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

ORIGINAL

CALL, JENSEN &
FERRELL
A PROFESSIONAL
CORPORATION

CP

1 CORP., dba SELECT TITLE GROUP
2 MEDIA SALES, an Arizona corporation;
3 STG RETAIL DIRECT, an Arizona
4 corporation; STG INTERACTIVE LLC, an
5 Arizona limited liability company; CVS
6 CAREMARK CORP., dba CVS and DOES
7 1-10, Inclusive,

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Defendants.

I. INTRODUCTION

Defendants are defrauding hundreds of thousands of unwary consumers by selling a pill (“ExtenZe”) that claims to increase penis size with no risk of side effects and a 100% money back guarantee. They market these pills as revolutionary and backed by science. Furthermore, Defendant Biotab Nutraceuticals, Inc. (“Biotab”) lures consumers into purchasing the product by offering a risk-free 7-day trial (a time period which by its own standards is insufficient for the pill to have any effect), but then enrolls the purchaser in automatic recurring payments without authorization.

Defendants’ claims are false and their marketing strategies are misleading. In offering ExtenZe for sale, Defendants have violated California’s Consumer Legal Remedies Act (“CLRA,” Civil Code §§ 1750–1784), California’s False Advertising Law (“FAL,” Business and Professions Code §§ 17500–17536), California’s Unfair Competition Act (“UCA,” Business and Professions Code §§ 17200 et seq.), California’s Sherman Food, Drug, and Cosmetic Act (the “Sherman Law,” Health and Safety Code §§ 108975–111915), and California’s warranty laws. Plaintiffs bring this lawsuit to enjoin these lies and to recover the many millions of dollars generated by Defendants via their false and misleading claims.

II. INTERNET ACCESS

For ease of access a summary and copy of this lawsuit can be found at www.extenzelawsuit.com.

II. THE PARTIES

1. Plaintiffs Vance Monroe and Mac Gonzales are residents of California and have purchased ExtenZe from GNC or CVS.

2. Plaintiffs are informed and believe that defendant Biotab Nutraceuticals, Inc. (“Biotab”), is a California corporation with its principal place of business in California.

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1 11. This Court also has subject matter jurisdiction under 28 U.S.C. § 1332(d)
2 because members of the Plaintiff Class are citizens of different states from Defendants
3 and the amount in controversy exceeds \$5,000,000.

4 12. Venue is proper in this Court because Plaintiffs purchased ExtenZe in this
5 Judicial District and because Defendants received substantial compensation from sales
6 in this Judicial District.

7 13. Defendants and other out-of-state participants can be brought before this
8 Court pursuant to state and federal law.

9 **IV. FACTS**

10 14. The manufacture and marketing of sexual enhancement products is a multi-
11 billion-dollar industry in the United States. Some products come in the form of
12 prescription drugs, but most are marketed as dietary supplements. Among these dietary
13 supplements, many products claim to increase penis size, improve the size and quality
14 of an erection, and/or otherwise improve sexual desire or performance.

15 15. ExtenZe is a dietary supplement marketed by Defendants that claims to
16 enlarge the size of the penis and increase sexual desire, pleasure, and performance in
17 men. Its key ingredients are a blend of prohormones (DHEA and Pregnenolone) and a
18 blend of herbal ingredients including yohimbe, tribulus terrestris, Korean ginseng, etc.
19 Attached as Exhibit A hereto is a true and correct copy of the product label.

20 16. Defendant Biotab guarantees that ExtenZe will temporarily increases penis
21 size within a few weeks when used as directed. It claims that it is "100% safe," with no
22 reported side effects, and that it works for every man. To create the image of legitimacy,
23 Biotab claims that ExtenZe is "medically designed" and developed using "the same type
24 of research that created miracle drugs like Viagra." Biotab also pays Dr. Daniel Stein
25 M.D., a specialist in obstetrics and gynecology, to endorse the product, using the phrase
26 "Clinically Tested and Doctor Approved." Attached hereto as Exhibit B is a true and
27 correct copy of the advertising materials for ExtenZe available on its website.

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1 17. Defendant Biotab markets ExtenZe as a drug. Its label identifies ExtenZe
2 with the words “ambesium labidrol,” a name that, while concocted to sound like a
3 medicinal formula, in fact has no scientific meaning or history. Furthermore,
4 Defendants market ExtenZe as a treatment for erectile dysfunction, indicating that they
5 intend ExtenZe to be used as a drug within the meaning of the U.S. Food Drug and
6 Cosmetic Act, 21 U.S.C. § 321(g)(1)(B) (“The term ‘drug’ means . . . articles intended
7 for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or
8 other animals.”). The FDA, however, has never approved ExtenZe for distribution as a
9 drug. ExtenZe, therefore, also violates California Health and Safety Code § 110403(aa).

10 18. Furthermore, the ExtenZe packaging describes it with the words,
11 “Maximum Strength.” However, none of the active dietary ingredients have any
12 established Reference Daily Intake (“RDI”) or Daily Reference Value (“DRV”). Under
13 FDA standards, “maximum strength” claims may only be used to describe nutrients
14 which are present at 100 percent or greater of the RDI per serving or customary dosage.
15 21 C.F.R. 101.54(f). ExtenZe is, therefore, misbranded because it claims to be
16 “Maximum Strength” but does not identify which ingredients are described by the
17 claim.

18 19. ExtenZe is advertised as “Clinically Tested and Doctor Approved.” The
19 clinical tests on which the claim relies, however, are grossly deficient in that they are
20 biased, were not performed by qualified persons, and did not follow generally accepted
21 scientific procedures. In fact, Daniel S. Stein, M.D., the director of the “studies” and
22 doctor touted to have “approved” ExtenZe, in fact has a direct financial interest in the
23 sales of ExtenZe.

24 20. On information and belief, Defendants STG Media, STG Retail Direct, and
25 STG Interactive assisted Defendant Biotab in developing its marketing campaign for
26 ExtenZe and facilitated its sale by purchasing direct response print media and
27 facilitating distribution of ExtenZe in retail stores, including but not limited to CVS.

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1 21. Defendants GNC and CVS offer ExtenZe for sale in their retail outlets and
2 on their websites and include Biotab's claims in their advertisements for ExtenZe.

3 **V. CLASS ACTION ALLEGATIONS**

4 22. Plaintiffs bring this class action for damages and other monetary relief on
5 behalf of the following class:

6 All persons located within California who
7 purchased ExtenZe within the last 3 years
8 ("Class").

9 23. Excluded from the Class are governmental entities, Defendants, any entity
10 in which Defendants have a controlling interest, and Defendants' officers, directors,
11 affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries,
12 and assigns. Also excluded from the Class is any judge, justice, or judicial officer
13 presiding over this matter and the members of their immediate families and judicial
14 staff.

15 24. **Numerosity:** The proposed Class is so numerous that individual joinder of
16 all its members is impracticable. Due to the nature of the trade and commerce involved,
17 however, Plaintiffs believe that the total number of Class members is at least in the tens
18 of thousands and members of the Class are numerous and geographically dispersed
19 across California. While the exact number and identities of the Class members are
20 unknown at this time, such information can be ascertained through appropriate
21 investigation and discovery. The disposition of the claims of the Class members in a
22 single class action will provide substantial benefits to all parties and to the Court.

23 25. **Common Questions of Law and Fact Predominate:** There are many
24 questions of law and facts common to the representative Plaintiffs and the Class, and
25 those questions substantially predominate over any questions that may affect individual
26 Class members. Common questions of fact and law include, but are not limited to, the
27 following:

- a. Whether Defendants claim or have claimed that ExtenZe increases penis size;
- b. Whether Defendants claim or have claimed that ExtenZe is 100% safe and has no negative side effects;
- c. Whether Defendants' claims are accurate;
- d. Whether Defendants' claims have any adequate and reliable scientific basis;
- e. Whether Defendants improperly market ExtenZe as a drug;
- f. Whether ExtenZe is a drug within the meaning of the FDCA;
- g. Whether Defendants falsely claim that ExtenZe has been "clinically tested" and/or "doctor approved;"
- h. Whether Defendants have engaged in unfair, unlawful and/or fraudulent business practices;
- i. Whether Defendants have failed to disclose material facts about products; and
- j. Whether Defendants have breached the implied covenant of good faith and fair dealing with Plaintiffs and the Class.

26. **Typicality:** Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiffs and all members of the Class have been similarly affected by Defendants' common course of conduct since the product they bought does not have the properties it is claimed to have and was sold pursuant to false and misleading advertisements.

27. **Adequacy of Representation:** Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs have retained counsel with substantial experience in handling complex class action litigation. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the Class and have the financial resources to do so. Plaintiffs' lead counsel, Mark Robinson and Scott Ferrell, are two of the nation's premier trial lawyers. Their trial victories have been

1 publicized on CNN, Fox News, MSNBC, and nearly every major California newspaper.
2 They have been profiled by the California Daily Journal as two of California's Top 100
3 Rainmakers and the Most Influential Attorneys in California. Their published opinions
4 include: (1) *Rivera v. Bio Engineered Supplements & Nutrition, Inc.*, 2008 WL
5 4906433 (Nov. 2008); *In Re BCBG*, 163 Cal. App. 4th 1293 (June 2008); (2) *Chalk v.*
6 *T-Mobile USA, Inc.*, 2006 WL 2599506, (Sept. 2006); (3) *Wolski v. Fremont Investment*
7 *& Loan*, 127 Cal. App. 4th 347 (2005); (4) *Pollard v. Ericsson*, 125 Cal. App. 4th 214
8 (2004); (5) *Knevelbaard v. Public Storage, Inc.*, 2004 Westlaw 2185849; and (6)
9 *Consumer Cause, Inc. v. Emerging Vision, Inc.*, 2004 Westlaw 717001.

10 **28. Superiority of a Class Action:** Plaintiffs and the members of the Class
11 suffered, and will continue to suffer, harm as a result of Defendants' unlawful and
12 wrongful conduct. A class action is superior to other available methods for the fair and
13 efficient adjudication of the present controversy. Individual joinder of all members of
14 the class is impractical. Even if individual class members had the resources to pursue
15 individual litigation, it would be unduly burdensome to the courts in which the
16 individual litigation would proceed. Individual litigation magnifies the delay and
17 expense to all parties in the court system of resolving the controversies engendered by
18 Defendants' common course of conduct. The class action device allows a single court
19 to provide the benefits of unitary adjudication, judicial economy, and the fair and
20 efficient handling of all class members' claims in a single forum. The conduct of this
21 action as a class action conserves the resources of the parties and of the judicial system
22 and protects the rights of the class member. Furthermore, for many, if not most, a class
23 action is the only feasible mechanism that allows therein an opportunity for legal
24 redress and justice.

25 **29.** Adjudication of individual class members' claims with respect to the
26 Defendants would, as a practical matter, be dispositive of the interests of other members
27 not parties to the adjudication, and could substantially impair or impede the ability of
28 other class members to protect their interests.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

VIOLATION OF CALIFORNIA CONSUMER LEGAL REMEDIES ACT

(On behalf of Class)

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5 30. Plaintiffs incorporate by this reference the preceding allegations as if fully
6 set forth herein and, to the extent necessary, plead this cause of action in the alternative.

7 31. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered
8 injury in fact and have lost money or property as a result of Defendants' actions as set
9 forth herein.

10 32. This cause of action is brought on behalf of all people of the State of
11 California in accordance with the provisions of the California Consumer Legal
12 Remedies Act (California Civil Code § 1770). Class members have lost money or
13 property as a result of Defendants' actions as set forth herein.

14 33. Defendants' wrongful business practices constituted, and constitute, a
15 continuing course of conduct of violation of the Consumer Legal Remedies Act since
16 Defendants are still representing that their products have characteristics and abilities
17 which are false and misleading.

18 34. Defendants' wrongful business practices have caused injury to Plaintiffs
19 and the Class.

20 35. Pursuant to section 1770 of the California Civil Code, Plaintiffs and the
21 Class seek an order of this court enjoining Defendants from continuing to engage in
22 unlawful, unfair, or deceptive business practices and any other act prohibited by law,
23 including those set forth in the complaint. Plaintiffs and the Class seek an order
24 requiring Defendants to make full restitution of all moneys it wrongfully obtained from
25 Plaintiffs and the Class. Plaintiffs and the Class also seek Punitive damages since
26 Defendants were put on notice of its violation of the California Legal Remedies Act and
27 took no remedial actions.

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SECOND CAUSE OF ACTION

UNJUST ENRICHMENT

(On behalf of Class)

36. Plaintiffs incorporate by this reference the preceding allegations as if fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

37. Through the conduct described herein, Defendants have received money belonging to Plaintiffs and the Class through the sale of its supplement ExtenZe.

38. Defendants have reaped substantial profit by misrepresenting and/or concealing the facts regarding their product that purportedly guarantees increases in penis size without risk of side effects in just a few weeks. Ultimately, this has resulted in Defendants' wrongful receipt of profits and injury to Plaintiffs and the Class. Defendants have benefited from the receipt of such money that they would not have received but for their misrepresentation and/or concealment.

39. As a direct and proximate result of Defendants' misconduct as set forth herein, Defendants have been unjustly enriched.

40. Under principles of equity and good conscience, Defendants should not be permitted to keep the money belonging to Plaintiffs and the Class which Defendants have unjustly received as a result of their actions.

THIRD CAUSE OF ACTION

FRAUD

(On behalf of Class)

41. Plaintiffs incorporate by this reference the preceding allegations as if fully set forth herein and, to the extent necessary, plead this cause of action in the alternative.

42. As alleged herein, Plaintiffs are informed and believe and thereon allege that Defendants have made at least the following uniform material misrepresentations to Plaintiffs and the Class:

- a. Defendants claim ExtenZe can safely increase penis and erection size, provide harder and more frequent erections, provide more

1 intense orgasms, make erections last longer, make getting an
2 erection easier and more reliable, enhance sexual desire, power,
3 pleasure, and performance, and improve overall sex life and penile
4 sensitivity, all without risk of side effects. In fact, ExtenZe can **do**
5 **no such thing.**

6 b. Defendants misleadingly represent ExtenZe as “medically
7 designed,” “clinically tested and doctor approved,” and based on
8 “the same type of research that created miracle drugs like Viagra,”
9 when in fact no reasonable qualified expert familiar with the product
10 would describe it in these terms.

11 c. Defendants use misleading pseudo-scientific nomenclature
12 (identifying ExtenZe by the name, “ambesium labidrol”) and
13 phraseology (describing ExtenZe as “Maximum Strength”) to imply
14 that ExtenZe is medication.

15 43. Plaintiffs are informed and believe and thereon allege, that in doing the
16 things alleged above, Defendants acted fraudulently and deceitfully with knowledge
17 that Plaintiffs and the Class would rely on their actions and omissions. Defendants
18 made the aforesaid material representations and/or concealed material facts to induce
19 Plaintiffs and the Class to act in reliance on the misrepresentations and statements.

20 44. Plaintiffs and the Class at all times are presumed to have reasonably and
21 justifiably relied both directly and indirectly on the actions and representations of
22 Defendants.

23 45. As a direct and proximate result of Defendants’ fraud, Plaintiffs and the
24 Class have suffered actual damages in an amount not presently known, but which will
25 be shown by proof at time of trial, including incidental and consequential damages,
26 interest, and reasonable attorneys’ fees.

27 46. Plaintiffs are informed and believe and thereon allege that Defendants
28 undertook the aforesaid illegal acts intentionally or with conscious disregard of the

1 rights of Plaintiffs and the Class, and did so with fraud, oppression, and malice.
2 Therefore, Plaintiffs and the Class are also entitled to punitive damages against
3 Defendants in an amount that will be shown by proof at trial.

4 **FOURTH CAUSE OF ACTION**
5 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**
6 **CODE SECTIONS 17200 ET SEQ.**

7 **(On behalf of Class)**

8 47. Plaintiffs incorporate by this reference the preceding allegations as if fully
9 set forth herein and, to the extent necessary, plead this cause of action in the alternative.

10 48. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered
11 injury in fact and have lost money or property as a result of Defendants' actions as set
12 forth herein.

13 49. Defendants' actions as alleged in this complaint constitute an unfair or
14 deceptive business practice within the meaning of California Business and Professions
15 Code § 17200 in that Defendants' actions are unfair, unlawful, and fraudulent, and
16 because Defendants have made unfair, deceptive, untrue or misleading statements in
17 advertising media, including the Internet, within the meaning of California Business and
18 Professions Code §§ 17500, et seq.

19 50. Defendants' business practices, as alleged herein, are unfair because they
20 offend established public policy and/or are immoral, unethical, oppressive,
21 unscrupulous and/or substantially injurious to consumers in that consumers are
22 potentially misled by the claim that ExtenZe is guaranteed to safely increase penis size
23 and sexual performance with no risk of side effects and is offered on a risk-free trial
24 basis.

25 51. Defendants' business practices as alleged herein are unlawful in, but not
26 limited to, the following ways:

27 a. the conduct constitutes false marketing and advertising;

1 b. ExtenZe is misbranded within the meaning of California Health &
2 Safety Code §§ 110665, 110705, and 110670, and 21 U.S.C. §§
3 343(g) and 343(r).

4 c. ExtenZe is unlawfully labeled in violation of California Health &
5 Safety Code § 114089

6 52. Defendants' business practices as alleged herein are fraudulent because
7 they are likely to deceive customers into believing that ExtenZe will safely increase
8 penis size and sexual performance when in fact it can do no such thing.

9 53. Defendants' wrongful business practices constituted, and constitute, a
10 continuing course of conduct of unfair competition since Defendants are marketing and
11 selling their products in a manner likely to deceive the public.

12 54. Defendants' wrongful business practices have caused injury to Plaintiffs
13 and the Class.

14 55. Pursuant to California Business and Professions Code § 17203, Plaintiffs
15 and the Class seek an order of this court enjoining Defendants from continuing to
16 engage in unlawful, unfair, or deceptive business practices and any other act prohibited
17 by law, including those set forth in the complaint. Plaintiffs and the Class also seek an
18 order requiring Defendants to make full restitution of all moneys it wrongfully obtained
19 from Plaintiffs and the Class.

20 **FIFTH CAUSE OF ACTION**
21 **BREACH OF EXPRESS WARRANTY IN VIOLATION OF CALIFORNIA**
22 **COMMERCIAL CODE § 2313**
23 **(On behalf of Class)**

24 56. Plaintiffs incorporate by this reference the preceding allegations as if fully
25 set forth herein and, to the extent necessary, plead this cause of action in the alternative.

26 57. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered
27 injury in fact and have lost money or property as a result of Defendants' actions as set
28 forth herein.

1 58. Defendants have made an express affirmation of fact-that ExtenZe:

- 2 a. will increase penis size;
- 3 b. will improve sexual performance;
- 4 c. is 100% safe; and
- 5 d. has no side effects

6 These affirmations are false.

7 59. Plaintiffs relied on Defendants' false affirmation.

8 60. Defendants' false express affirmation has caused injury to Plaintiffs and
9 the Class.

10 **SIXTH CAUSE OF ACTION**
11 **BREACH OF IMPLIED WARRANTY IN VIOLATION OF CALIFORNIA**
12 **COMMERCIAL CODE §§ 2314-2315**
13 **(On behalf of Class)**

14 61. Plaintiffs incorporate by this reference the preceding allegations as if fully
15 set forth herein and, to the extent necessary, plead this cause of action in the alternative.

16 62. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered
17 injury in fact and have lost money or property as a result of Defendants' actions as set
18 forth herein.

19 63. Defendants sold ExtenZe with the implied warranty of merchantability in
20 that the product would pass without objection in the trade, is fit for the ordinary purpose
21 for which it is used, is adequately contained, packaged, and labeled, and conforms to the
22 promises or affirmations of fact made on the container and label. ExtenZe does not meet
23 these criteria.

24 64. Defendants sold ExtenZe with the implied warranty of fitness in that
25 Defendants had reason to know of the particular purpose for which the product was
26 required (i.e., as a penis enlarger) and Plaintiffs and Class members relied upon
27 Defendants' skill and judgment to furnish suitable goods. ExtenZe is not suitable for the
28 purpose for which it is required and sold.

1 65. The defects in ExtenZe existed prior to the delivery of the product to
2 Plaintiffs and the Class members.

3 66. Defendants' breach of the implied warranty has caused injury to Plaintiffs
4 and the Class.

5 **SEVENTH CAUSE OF ACTION**
6 **UNTRUE AND MISLEADING ADVERTISING IN VIOLATION OF**
7 **CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17500 ET SEQ.**
8 **(On behalf of Class)**

9 67. Plaintiffs incorporate by this reference the preceding allegations as if fully
10 set forth herein and, to the extent necessary, plead this cause of action in the alternative.

11 68. Plaintiffs have standing to pursue this claim as Plaintiffs have suffered
12 injury in fact and have lost money or property as a result of Defendants' actions as set
13 forth herein.

14 69. Defendants engaged in the deceptive conduct alleged hereinabove, which
15 included deceptive and untrue representations regarding ExtenZe, representations made
16 to induce the public to purchase the product.

17 70. Defendants were aware, or by the exercise of reasonable care should have
18 been aware, that the representations were untrue or misleading.

19 71. Pursuant to California Business & Professions Code § 17535, Plaintiffs
20 and Class members are entitled to remedies as set forth in this complaint.

21 **PRAYER FOR RELIEF**

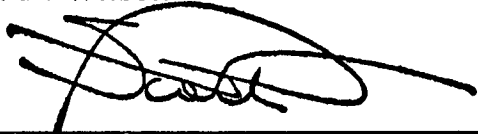
22 Wherefore, Plaintiffs and members of the Class request that the Court enter an
23 order or judgment against Defendants as follows:

- 24 1. Certification of the proposed classes and notice thereto to be paid by
25 Defendants;
- 26 2. Adjudge and decree that Defendants have engaged in the conduct alleged
27 herein;
- 28 3. For restitution and disgorgement on certain causes of action;

- 1 4. For an injunction ordering Defendants to cease and desist from engaging in
- 2 the unfair, unlawful, and/or fraudulent practices alleged in the Complaint;
- 3 5. For compensatory and general damages according to proof on certain
- 4 causes of action;
- 5 6. For both pre and post-judgment interest at the maximum allowable rate on
- 6 any amounts awarded;
- 7 7. Costs of the proceedings herein;
- 8 8. Reasonable attorneys' fees as allowed by statute; and
- 9 9. Any and all such other and further relief that this Court may deem just and
- 10 proper, including but not limited to punitive damages.

11 Dated: June 3, 2009

CALL, JENSEN & FERRELL
 A Professional Corporation
 Scott J. Ferrell
 Matthew R. Orr
 Julie R. Trotter
 Scot D. Wilson

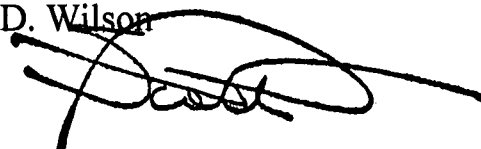
14 
 15 By: _____
 16 Scott J. Ferrell
 17 Attorneys for Plaintiffs and the Class

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil procedure Section 38(b), Plaintiffs and the Class demand a trial by jury on all issues so triable.

Dated: June 3, 2009

CALL, JENSEN & FERRELL
A Professional Corporation
Scott J. Ferrell
Matthew R. Orr
Julie R. Trotter
Scot D. Wilson



By: _____
Scott J. Ferrell

Attorneys for Plaintiffs and the Class

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**EXHIBITS A-B
TO CLASS ACTION COMPLAINT**

EXHIBIT A

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EXHIBIT B

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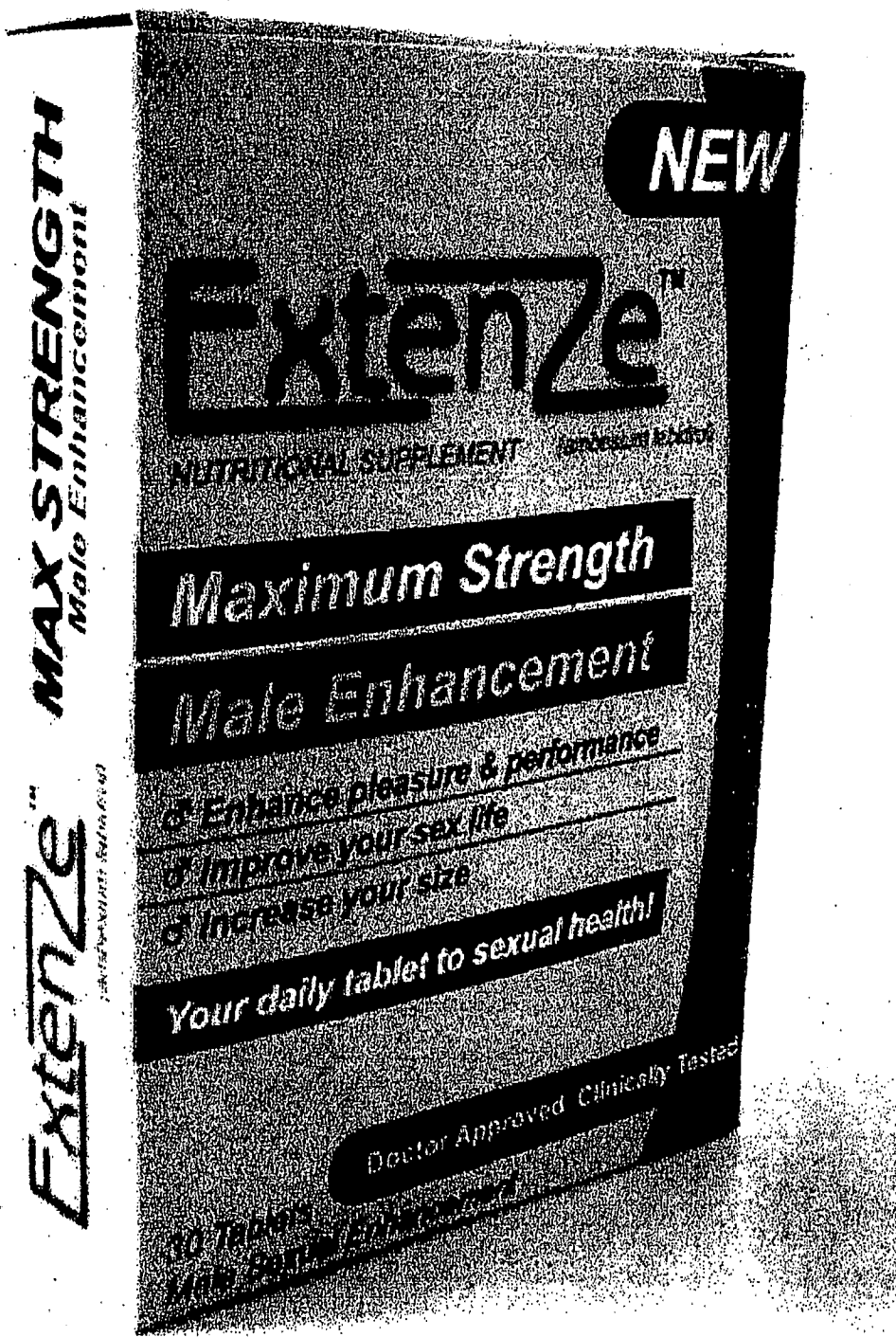
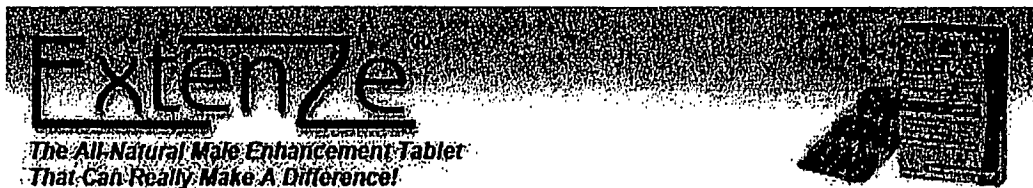


EXHIBIT A

[ExtenZe en Espanol](#)



**The All-Natural Male Enhancement Tablet
That Can Really Make A Difference!**

[Home](#) | [How It Works](#) | [Meet Dr. Stein](#) | [FAQs](#) | [Guarantee](#) | [Customer Service](#) | [Try It Free Today!](#)

No Gimmick . . . Just Real Science!

The same type of research that created miracle drugs like Viagra®, has now created a revolutionary herbal pill that will increase your penis size* while you are taking the product as directed, or your money back.

ExtenZe® Male Enhancement is the proprietary blend of herbs and medical grade substances that can truly make a difference in your life. Being larger is not impossible and it doesn't require surgery, prescriptions, gadgets or exercises. All it takes is taking a simple tablet. A tablet may seem too simple, but it's not. Simple tablets have been making a difference in our lives for over half a century . . . from relieving pain, improving our health, managing our weight and increasing our energy. "Simple tablets" can be considered the mini-miracles of modern times.

Having a larger penis* and enjoying a more fulfilling sex life is possible and attainable.

With today's technical advancements in chemistry and medicine, there is no reason for a man not to have a larger penis and a better love life. A man with a larger, harder penis may be more confident and experience greater pleasure from sex.

*Temporary increase in size while you use ExtenZe®. Individual results may vary.

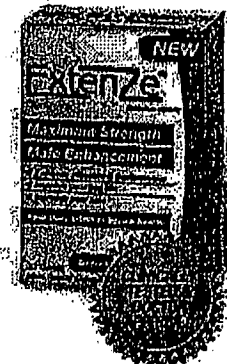
Viagra® is a registered trademark of Pfizer, Inc.

**GET BIGGER. GET WIDER
GET IT NOW!**

**FREE
7 DAY TRIAL!**

just pay \$.97 cents
for postage.

**JUST 1 PILL
A DAY!**



**Clinically Tested and
Doctor Approved**
Daniel S. Stein, M.D.,
F.A.C.O.G., author of *Passionate
Sex*, is the founder and medical
director of The Foundation for
Intimacy and The Stein Medical Institute.

[Learn more about Dr. Stein](#)

SEE AN INCREASE IN SIZE AND WIDTH

If you don't experience real growth in both girth and width with ExtenZe® as long as the product is taken as directed, or you are not satisfied for any reason with ExtenZe®, just return the packaging for a complete refund.

**Enhance your desire, pleasure and performance!
Order Today!**

EXHIBIT B

RISK-FREE TRY IT
7 DAY TRIAL NOW!
FOR JUST \$97 CENTS S&H

Or Call 800-298-3171

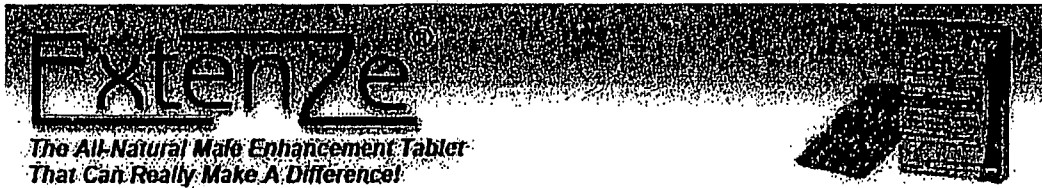
For telephone orders, call 800-298-3171
For customer service, call 800-727-1664, Monday through Friday,
6 AM to 7 PM PST.



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

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[ExtenZe en Espanol](#)



[Home](#) | [How It Works](#) | [Meet Dr. Stain](#) | [FAQs](#) | [Guarantee](#) | [Customer Service](#) | [Try It Free Today!](#)

No Gimmick . . . Just Real Science!

How It Works

How Does ExtenZe® Work?

ExtenZe® is a safe and effective blood flow stimulator that makes the most of your natural potential. The penis is made up of three erectile chambers. When aroused, blood flow increases into these chambers, and the outflow of blood is decreased, producing an erection. The more blood that is pushed into the chambers, the larger you can become.

ExtenZe® helps force more blood flow so these chambers stretch, creating growth in both length and girth. While using ExtenZe® as directed, your penis can be larger*.

What will ExtenZe® Do For Me?*

- Enlarge your penis and erection.
- Give you harder, more frequent erections.
- Give you more intense orgasms.
- Make your erections last longer.
- Makes getting an erection easier and more reliable.
- Enhance desire, power, pleasure and performance.
- Improve your overall sex life and penile sensitivity.

How Is This for A Good Reason to Try ExtenZe®?

ExtenZe® is a strong, advanced formula designed to increase the size* of your penis and enhance sexual desire, pleasure and performance. It is one of the newest, most advanced medically designed formulas ever created for male sexual enhancement, it's simply the best and is all natural with no harmful side effects. Increase the size of your penis in just a few weeks by taking one ExtenZe® tablet each day. ExtenZe® works for men of any age.

Even if you've tried everything, even other pills, you owe it to yourself to try the one that really works...ExtenZe®!

*Temporary increase in size while you use ExtenZe®. Individual results may vary.

***Enhance your desire, pleasure and performance!
Order Today!***



Or Call 800-298-3171

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For customer service, call 800-727-1664, Monday through Friday,
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JS 44 (Rev. 07/89)

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 THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

VANCE MONROE and MAC GONZALES, individually and on behalf of all others similarly situated,

DEFENDANTS

BIOTAB NUTRACEUTICALS, INC., a California corporation, Daniel ~~2009 JUN 3 11 31 AM~~ an individual,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT San Diego
(IN U.S. PLAINTIFF CASES ONLY) DEPUTY

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Call, Jensen & Ferrell, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
(949) 717-3000

ATTORNEYS (IF KNOWN)

'09 CV 1207 /

POR

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
Civil Code section 1770, et. seq., fraud and unjust enrichment.

28:1332 Fr

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 181 Medicare Act <input type="checkbox"/> 182 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 183 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 382 Personal Injury - Medical Malpractice <input type="checkbox"/> 385 Personal Injury - Product Liability <input type="checkbox"/> 388 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 881 HIA (1395B) <input type="checkbox"/> 882 Black Lung (923) <input type="checkbox"/> 883 DIWC/DIWW (405(g)) <input type="checkbox"/> 884 SSID Title XVI <input type="checkbox"/> 885 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence HABES CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		

VI. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)
 1 Original Proceeding
 2 Removal from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ Docket Number _____
DATE June 3, 2009 SIGNATURE OF ATTORNEY OF RECORD Scott J. Ferrell

1428 6/3/09 8:55
ORIGINAL

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS001628
Cashier ID: sramirez
Transaction Date: 06/03/2009
Payer Name: SANTA ANA LEGAL SUPPORT

CIVIL FILING FEE
For: MONROE V. BIOTAB
Case/Party: D-CAS-3-09-CV-001207-001
Amount: \$350.00

CHECK
Check/Money Order Num: 77463
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.