SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

BRIAN EGAN and ED MURRAY, individually and on behalf of all others similarly situated,

Plaintiffs,

Index No..:

- against –

TELOMERASE ACTIVATION SCIENCES, INC.,NOEL THOMAS PATTON and JOSEPH RAFFAELE, M.D.,

Defendants.

CLASS ACTION COMPLAINT

Plaintiffs, BRIAN EGAN and ED MURRAY, Individually and on behalf of all others similarly situated, by their attorneys, as and for their Complaint, allege the following upon information and belief, except as to paragraphs pertaining to their own actions, which are alleged upon personal knowledge.

PRELIMINARY STATEMENT

1. This is a proposed class action for monetary relief and redress for the unfair and deceptive business acts and practices by Defendants, singly and jointly, designed to mislead the public in connection with the promotion, marketing, advertising, packaging, labeling, distribution and/or sale of TA-65, a non-prescription nutraceutical and cosmeceutical, in violation of New York General Business Law § 349.

2. During the relevant period, Defendants, singly and jointly, deceptively promoted, marketed, advertised, packaged, labeled, distributed and/or sold TA-65, a telomerase activating agent, as containing safe ingredients to combat the effects of aging, improve cell longevity, health and quality of life.

PARTIES

3. Plaintiff, BRIAN EGAN, was and is a resident/citizen of the State of New Jersey.

4. Plaintiff, BRIAN EGAN, purchased/received TA-65, in the City and State of New York, during the relevant period.

5. Plaintiff, ED MURRAY, was and is a resident/citizen of the City and State of New York.

6. Plaintiff, ED MURRAY, purchased TA-65 in the City and State of New York, during the relevant period.

7. TELOMERASE ACTIVATION SCIENCES, INC ("TASI") is a domestic corporation organized and existing under the laws of New York, with its principal place of business located at 24 East 64th Street, New York, NY 10065.

8. Defendant, NOEL THOMAS PATTON, ("PATTON") is the founder, principal shareholder and Chairman of TASI.

9. Defendant, JOSEPH RAFFAELE, M.D., is a physician duly licensed to practice medicine in the State of New York. He is a trained licensee of TASI, authorized to market, distribute and sell TA-65.

10. In or about May 2011, RAFFAELE tested, recommended and approved for Plaintiff, BRIAN EGAN, the sale and/or administration of TA-65.

11. TASI marketed, distributed and sold TA-65 to Plaintiff, ED MURRAY, in or about April 2012.

STATEMENT OF MATERIAL FACTS

BACKGROUND

12. In 2001, scientists at Geron Corporation discovered TA-65®, a proprietary, single molecule purified from Astragalus Botanical Roots, which causes Telomerase Activation (TA).

13. TA-65 is an isolated synthetic version of the compound found in extracts of Astragalus membranaceus root, that is not only naturally occurring, but has been extracted and used by traditional medicines all over the world for thousands of years.

14. According to TASI's website:

"TA-65 is a naturally occurring molecule found in the ancient Chinese medicinal herb. Well known to most of China's 1.3 billion people for over 1000 years, this medicinal root can be found in every traditional Chinese herbal shop."

15. In 2002 PATTON secured exclusive worldwide rights to Geron's Telomerase Activation technology for non-prescription nutraceutical and cosmeceutical use.

16. PATTON has assigned TA-65 licensing rights to TASI.

17. TASI is a privately owned company, with a stated corporate mission "to minimize the decline associated with aging and maximize the potential for health and longevity through telomerase activation."

18. TASI claims that it has perfected a proprietary method for extracting the naturally-occurring TA-65 molecule from the Astragalus root. "Each batch of TA-65 starts with 3 tons of

astragalus root grown in a specific region of Inner Mongolia. Through a closely guarded proprietary process, a single molecule (TA-65) is extracted from the astragalus root and purified to a very high degree."

19. TASI claims that "TA-65 is an ultra-purification of one of the more than 2000 bioactive compounds found in the astragalus root."

20. In 2007 TASI announced the opening of the TA Sciences Center in Manhattan where customers can purchase TASI's first product, a nutraceutical containing the telomerase activating agent "TA-65."

21. In launching TA-65, PATTON publicly represented:

"A natural consequence of aging is the shortening of telomeres (caps of DNA located at the ends of all chromosomes), which ultimately results in loss of cell function. TA-65 offers the potential of reducing or reversing telomere shortening and battles tissue and organ degeneration by rejuvenating aging cells."

22. TASI markets TA-65 as a nutritional supplement, not a drug. Since the compound is sold as a dietary supplement, it does not undergo the same review by the Food and Drug Administration as prescription and over the counter drugs to prove its safety and efficacy.

23. TASI commands and charges a premium price for TA-65.

24. TASI offers its telomerase-activating product, TA-65, as part of the 12 month "Patton Protocol."

25. The "Patton Protocol" contains the dosing guidelines for TA-65.

A. **"250 units (1 capsule daily)** is efficacious for healthy adults in their 40's or 50's. Also 250 units can serve as a maintenance dose for older people who have been taking higher doses of TA-65 for several years and want to continue on a reduced cost program. Clients who took this

dose were shown to have increased short telomere length and significantly improved immune system function. There are also anecdotal reports of increased endurance and other benefits. **Cost: US $600.00 for each 3 month segment. "**

B. **"500 units (2 capsules daily)** has been proven to lengthen short telomeres, restore the immune system, and improve other important bio markers. Anecdotal reports included increased energy, endurance, vision improvements, sexual enhancement, and more. This medium strength dose is recommended for people who are generally in good health and want to be proactive in longevity and healthy aging. Many people in their 50's or 60's fall into this category. **Cost: US $1,200.00 for each 3 month segment."**

C. **"1000 units (4 capsules daily)** This is considered the HIGH DOSE and is recommended for clients who are:

1. Over 70 years of age, or
2. Are of any age and have measured their telomeres and found them to be short, or
3. Have reason to believe that strengthening their immune system would have particular benefit.

It is expected that this dose will give an increased benefit over the lower doses (although not a proportional benefit). Study subjects experienced lengthened telomeres, restoration of weak immune systems, bone density improvements and other important bio marker improvements which usually decline with age. Anecdotal reports include energy increase, endurance, cognitive improvements, improved vision, sexual enhancement, and an overall feeling of well being. **Cost: US $2,200.00 for each 3 month segment."**

26. TA-65 is primarily available through physicians trained and licensed by TASI. To date, approximately 10,000 consumers have purchased TA-65.

27. RAFFAELE, through his clinical practice, PhysioAge Medical Group, acts as the New York City clinical arm of TASI. In that capacity, he oversees the administration of testing, data collection and data preparation for analysis by statisticians. In 2008, PhysioAge became the first licensee of the Patton Protocol.

TELOMERASE ACTIVATION

28. Every human cell contains 92 telomeres, located at both ends of the 23 pairs of chromosomes. Telomeres are responsible for maintaining the integrity of our DNA.

29. Telomeres shorten with each round of cell division, until one of them becomes critically short and the cell either stops functioning properly or dies. (senescence)

30. Telomere shortening limits stem cell function, regeneration and organ maintenance during aging.

31. Telomere shortening is associated with age related decline and dysfunction of the tissues of immune cells; heart; stem cells; lung cells skin; liver; retinal pigment ;skeletal muscle and kidneys.

32. It is currently unknown to what extent telomere erosion contributes to the normal aging process.

33. Telomerase is a ribonucleoprotein that is an enzyme which adds DNA sequence repeats in the telomere regions. Telomerase carries its own RNA molecule, which is used as a template when it elongates telomeres, which are shortened after each replication cycle.

34. With the presence of telomerase, each dividing cell can replace the lost bit of DNA, and any single cell can then divide unbounded. This same unbounded growth, however, is a crucial step in enabling cancerous growth.

35. Geron Corporation discovered that certain extracts of the astragalus plant had a capability to activate the expression of telomerase in certain cell types, at least under test-tube conditions.

36. In June 2004, Geron Corporation applied for a patent on telomerase activators which was issued in December 2010 (Patent No. 784690) entitled *Compositions and Methods for Increasing Telomerase Activity*. The patent application introduction states "The present invention relates to methods and compositions for increasing telomerase activity in cells. Such compositions include pharmaceutical, including topical, and nutraceutical formulations. The methods and compositions are useful for treating diseases subject to treatment by an increase in telomerase activity in cells or tissue of a patient, such as, for example, HIV infection, various degenerative diseases, and acute or chronic skin aliments. They are also useful for enhancing replicative capacity of cells in culture, as in ex vivo cell therapy and proliferation of stem cells."

37. Of the Geron-researched telomerase-activating products, two in particular have received the most attention: TA-65 being marketed to the public by TASI and TAT2 under investigation as part of drug development by TA Therapeutics, a Geron subsidiary.

38. Based on reading the Geron patent, it appears that a number of astragalus membranaceus extracts exhibit varying degrees of capability to promote the expression of telomerase. One extract mentioned in the patent is astragaloside IV, and another extract with roughly ten times the activation potency is cycloastragenol.

39. TASI has failed to disclose from which astragalus extract, TA-65 originates.

40. Although Astragalus is used for many conditions, there is presently no reliable and accepted scientific evidence to determine whether or not it is effective for any of them.

41. Astragalus is considered safe for most adults. Its possible side effects are not well known because astragalus is generally used in combination with other herbs.

42. Astragalus may interact with medications that suppress the immune system, such as the drug cyclophosphamide taken by cancer patients and similar drugs taken by organ transplant recipients. It may also affect blood sugar levels and blood pressure.

DEFENDANTS' ACTIONABLE CONDUCT

43. TASI's website and pamphlet claim that TA-65 is "THE WORLD'S ONLY TELOMERASE ACTIVATOR." This statement is knowingly false.

44. A study published in the September 2008 online edition of the prestigious journal *Lancet Oncology* shows that a healthy lifestyle increases telomerase and is beneficial in controlling the aging process. This study included 30 men with low-risk prostate cancer who improved their diet, exercised moderately, and reduced stress. At the end of the study, the men had 29% higher levels of telomerase than when they began.

45. TASI's website and pamphlet claims that TA-65Md is "the only scientifically proven Telomerase Activator in the world available to the public." This statement is knowingly false.

46. Based on the information in the Geron patent, other companies are marketing both astragaloside IV and cycloastragenol, as telomerase activator supplements. One such company, Revgenetics, sells these supplements considerably cheaper than TA-65, with cost of a 30-day supply typically running up to $80.

47. There are research studies establishing that there are other interventions that result in telomerase activation, besides TA-65, TAT2, astragaloside and cycloastragenol. Peer review articles published in learned medical journals have concluded that Ginko Biloba, Nitrous Oxide, Nicotine and Estrogen, to name a few, activate telomerase and reduce cell senescence.

48. Published studies suggest that telomerase activation may have a positive effect on the immune function. However, this conjecture based on lab cell-level studies must be confirmed via large-scale human studies. To date, no such studies exist.

49. There is also research strongly suggesting important potential health benefits from taking astragaloside IV in particular, and possibly also from taking TAT2. No such studies exist for TA-65. Further, how telomerase activation relates to the beneficial effects of these substances, remains unstudied and inconclusive.

50. The case for specifically taking TA-65 is mainly based on propriety information provided by TASI, by doctors offering TA-65 as a treatment, and peripherally by the original research done by Geron.

51. A small human trial was conducted by TASI in 2005. The Pivotal 2005 Anti-Aging Trial was a double blind, placebo-controlled, 24 week study conducted in the USA involving 36 male subjects aged 60-85. Subjects consumed 2 or 4 tablets daily of a placebo for 12 weeks or 2 or 4 tablets daily of molecule (TA-41) for 12 weeks.This trial is described in the TASI web site.

52 The relationship, if any, between TA-41 (an astragulus extract) and TA-65 has never been disclosed by Defendants. In addition, the trial was relatively short, with scale far smaller than typical Phase III FDA-approved trials. Because of the small sample size and the short term of the study, the statistical significance of the results reported is scientifically inconclusive.

53. Those taking TA-65 as part of the Patton Protocol have had extensive measurements of aging-related biomarkers and their telomere lengths. "There are currently hundreds of clients taking TA-65, some over 3.5 years." Despite its sale to the public since 2007, epidemological human studies, if any, relating to actual user experience of those taking TA-65, have not been conducted and/or released by TASI.

54. TASI claims that "TA-65MD has been shown to activate telomerase and increase telomere length in humans. This has led to improvements in immune cell function, bone density and a number of other important age related bio-marker improvements." This statement is knowingly false.

55. Studies, to date, demonstrate that with TASI customers taking TA-65, along with vitamin supplements, the percentage of very short telomeres appeared to decrease, but there is no indication that they actually change telomere length.

56. The 2009 publication *Cycloastragenol extends T cell proliferation by increasing telomerase activity* covers another in-vitro study of the nutraceuticals resveratrol and cycloastragenol. Conclusions reached in this study were that their effect on telomerase activity was moderate, outside the body, and the study said nothing about extending telomeres.

57. TASI claims that "Not a single adverse reaction reported by our licensed physicians" and/or "Not a single diagnosis of cancer has been reported." This statement is knowingly false.

58 Plaintiff EGAN reported to all Defendants, that he had received a diagnosis of prostate cancer from a qualified physician, after he started taking TA-65.

59. Defendants have failed to reasonably warn consumers of the potential dangerous consequences associated with TA-65 telomerase activation and malignant tumor formation.

60. Defendants have failed to disclose to the consumer public, including plaintiffs, that cancer cells have the unique ability to turn on telomerase, an enzyme that elongates telomeres, preventing them from growing shorter and enabling cancer cells to divide and survive

indefinitely. In fact, the association between tumor formation and telomerase activation is undisputed —about 90% of tumors rely on telomerase to thrive.

61. Defendants have failed to disclose to the consumer public, including plaintiffs, that opinions have been expressed in the scientific community that a year of continuous telomerase activation, (i.e., TA-65) could reasonably allow occult pre-malignant lesions in the human body to expand into larger tumors that then could mutate into overt and immortal malignancies on their own even after the drug was removed.

62. Defendants claim that TA-65 is "Now clinically proven to lengthen critically short telomeres and restore the aging immune system." This statement is knowingly false.

63. There are no clinical studies on the effects of TA-65 on humans and/or any credible scientific basis supporting the premise that TA-65 intervenes in the human aging process or improves health and/or vitality.

64. Immortalizing cells in a laboratory doesn't translate to extending the lives of whole human beings. As Elizabeth Blackburn, the cell biologist and Nobel Peace Prize recipient who first described telomerase, pointed out to science journalist Stephen Hall in 2003, "a connection between telomere shortening and aging in the context of a whole organism has never been established." Even more important, new research shows that structure, *not* length, is the main determinant of telomere function. Simply making dysfunctional telomeres longer is not likely to re-establish them as protective units.

65. The mainstream scientific community has viewed TA-65 with extreme skepticism. Pubmed.org is the definitive National Library of Medicine database of medical and related

scientific research, containing millions of literature abstracts covering virtually every article in every research publications worldwide. While TA-65 has an immense standing in the popular literature, it is not generally found on PubMed.

66. Since TA-65 is an unreported molecule. Defendants have failed to disclose to the consumer public, including Plaintiffs, whether TA-65 is a protein, like an enzyme, or some other organic or inorganic molecule. Enzymes are complex proteins that act as biological catalysts allowing biological processes to occur without being changed themselves. However, since they are proteins they are most likely digested by the gut. Telemerase, the enzyme that regulates telemeres would be digested. If TA-65 is digested then oral use would be ineffective. Thus, only if the TA-65 molecule can be absorbed upon ingestion without degradation, could it be effective.

67. Had Plaintiffs known that Defendants' statements, claims and representations, as set forth herein, were false, misleading, deceptive and unfair and that there is no credible scientific evidence that TA-65 confers longevity and health benefits of any kind, they would have neither purchased TA-65, nor paid the premium price Defendants charge for it.

CLASS ALLEGATIONS

68. Plaintiffs repeat and reallege all preceding paragraphs, as if fully set forth herein.

69. Plaintiffs bring this action on behalf of themselves and all other similarly situated putative Class members, present and former, who were and/or are affected by the actions, policies and business practices of Defendants, as described herein.

70. In addition, and in the alternative, Plaintiffs bring this action in their individual and personal capacities, separate and apart from the Class claims set forth herein.

71. Class certification is appropriate under CPLR Rule 901 because all of the requirements thereof are satisfied.

72. The Class is defined as follows:

All persons, who during the relevant period of time, purchased, received and/or consumed from Defendants, in the State of New York, TA-65®MD or TA-65®.

Excluded from the Class are officers and directors of TASI, members of the immediate families of the officers and directors of TASI and their legal representatives, heirs, successors or assigns and any entity in which they have or have had a controlling interest.

73. Plaintiffs are each members of the Class they seek to represent.

74. This action has been brought and may properly be maintained as a class action against Defendants pursuant to CPLR Rule 901 because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

75. Numerosity is satisfied. Plaintiffs do not know the exact size of the classes, but based upon representations made by Defendants, it is estimated that the Class is composed of thousands of persons. While the exact number and identities of Class members are unknown at this time, this information can be readily ascertained through appropriate discovery of the records maintained by Defendants.

76. Furthermore, even if subclasses need to be created for these consumers, it is estimated that each subclass would have thousands of members. The persons in each of the Classes are so numerous that the joinder of all such persons is impracticable and the disposition of their claims in a class action rather than in individual actions will benefit the parties and the courts.

77. The common questions of law and fact involved predominate over questions that affect only Plaintiffs or individual Class Members. Thus, proof of a common or single set of facts will establish the right of each member of the Classes to recover. Among the questions of law and fact common to the Classes are:

(a) Whether Defendants' herein described deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, violated §349 of the New York General Business Law.

(b) Whether Plaintiffs and members of the Class have sustained actual injury as a result of Defendants' deceptive business practices.

78. The named Plaintiffs' claims are typical of those of the Class members. Plaintiffs' claims encompass the challenged practices and course of conduct of Defendants. Furthermore, Plaintiffs' legal claims are based on the same legal theories as the claims of the putative Class members. The legal issues as to which New York state laws were violated by such conduct apply equally to Plaintiffs and to the Class.

79. Plaintiffs have no interest(s) antagonistic to the interests of the other members of the Class. Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in Class action litigation. Accordingly, Plaintiffs are adequate representatives and will fairly and adequately protect the interests of the Class.

80. A Class action is a superior and cost effective method for the fair and efficient adjudication of the present controversy and there would accrue enormous savings to both the Courts and the Class in litigating the common issues on a class wide, instead of on a repetitive individual basis.

81. No unusual difficulties are likely to be encountered in the management of this class action in that all questions of law and/or fact to be litigated at the liability stage of this action n are common to the Class.

82. A Class action is also fair and efficient because prosecution of separate actions by individual Class members would create a risk of differing adjudications with respect to such individual members of the Class, which as a practical matter may be dispositive of the interests of other members not parties to the adjudication, or substantially impair or impede their ability to protect their interests.

FIRST CAUSE OF ACTION
(Individual Claims-New York General Business Law §349)

83. Plaintiffs repeat and reallege all preceding paragraphs, as if fully set forth herein.

84. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65® were directed at consumers, including Plaintiffs.

85. As alleged in this Complaint, Defendants' joint and single deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that they involve information that is important to consumers and, hence, likely to affect their choice of, or conduct regarding a product, such as TA-65®.

86. As alleged in this Complaint, Defendants' joint and single deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that pertinent scientific and medical studies/reports discussing the association between telomerase activation (with TA-65®,) and malignant tumor formation was intentionally omitted and not disclosed by Defendants to the consumer public, including Plaintiffs.

87. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that Defendants jointly and singly knew, at the time made, that statements, representations and claims in connection with the efficacy and beneficial effects of TA-65 on humans was not supported by any credible scientific evidence.

88. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that Defendants jointly and singly knew, at the time made, that statements, representations and claims that TA-65® intervenes in the human aging process or improves health and/or vitality, was not supported by any credible scientific evidence.

89. The transactions in which Plaintiffs were deceived by Defendants, jointly and/or singly, occurred in the City and State of New York.

90. Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, as alleged in this Complaint, were those that are likely to mislead a reasonable consumer, including Plaintiffs, acting reasonably under the circumstances.

91. Defendants' aforedescribed deceptive acts and business practices have proximately caused direct, forseeable, and irreparable pecuniary and economic damages to Plaintiffs.

92. Defendants command a premium price for TA-65®, distinguishing it from other competitive astragalus dietary supplements, as being the "first and only commercially available telomerase activator that is safe for human consumption."

93. The Plaintiffs would not have purchased TA-65®, if they had known of Defendants' deceptive business practices as set forth in this pleading.

94. But for Defendants' deceptive business practices, Plaintiffs could have more easily purchased other competitive astragalus dietary supplements, at a fraction of the price.

95. Defendants are jointly and severally liable to Plaintiffs for compensatory damages available under New York General Business Law, § 349 et. seq.

96. Defendants are jointly and severally liable to Plaintiffs for punitive damages available under New York General Business Law, § 349 *et. seq.*

97. Pursuant to New York General Business Law, § 349 *et. seq.*, Defendants are jointly and severally liable to pay costs to Plaintiffs, including reasonable attorney's fees.

SECOND CAUSE OF ACTION
(Class Claims-New York General Business Law §349)

98. Plaintiffs repeat and reallege all preceding paragraphs, as if fully set forth herein.

99. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65® were directed at consumers, including Plaintiffs and putative members of the class..

100. As alleged in this Complaint, Defendants' joint and single deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that they involve information that is important to consumers and, hence, likely to affect their choice of, or conduct regarding a product, such as TA-65®.

101. As alleged in this Complaint, Defendants' joint and single deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that pertinent scientific and medical studies/reports discussing the association between telomerase activation (with TA-65®,) and malignant tumor formation was intentionally omitted

and not disclosed by Defendants to the consumer public, including Plaintiffs and putative members of the class.

102. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that Defendants jointly and singly knew, at the time made, that statements, representations and claims in connection with the efficacy and beneficial effects of TA-65 on humans was not supported by any credible scientific evidence.

103. As alleged in this Complaint, Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, were misleading in a material way in that Defendants jointly and singly knew, at the time made, that statements, representations and claims that TA-65® intervenes in the human aging process or improves health and/or vitality, was not supported by any credible scientific evidence.

104. The transactions in which Plaintiffs and putative members of the class were deceived by Defendants, jointly and/or singly, occurred in the City and State of New York.

105. Defendants' deceptive acts or practices in the conduct of the business, trade or commerce of TA-65®, as alleged in this Complaint, were those that are likely to mislead a reasonable consumer, including Plaintiffs and putative members of the class, acting reasonably under the circumstances.

106. Defendants' aforedescribed deceptive acts and business practices have proximately caused direct, forseeable, and irreparable pecuniary and economic damages to Plaintiffs and putative members of the class.

107. Defendants command a premium price for TA-65®, distinguishing it from other competitive astragalus dietary supplements, as being the "first and only commercially available telomerase activator that is safe for human consumption."

108. The Plaintiffs and putative members of the class would not have purchased TA-65®, if they had known of Defendants' deceptive business practices, as set forth in this pleading.

109. But for Defendants' deceptive business practices, Plaintiffs and putative members of the class, could have more easily purchased other competitive astragalus dietary supplements, at a fraction of the price.

110. Defendants are jointly and severally liable to Plaintiffs and putative members of the class, for compensatory damages available under New York General Business Law, § 349 et. seq.

111. Defendants are jointly and severally liable to Plaintiffs and putative members of the class for punitive damages available under New York General Business Law, § 349 *et. seq.*

112. Pursuant to New York General Business Law, § 349 *et. seq.*, Defendants are jointly and severally liable to pay costs to Plaintiffs and putative members of the class, including reasonable attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, in their individual capacities and on behalf of the putative members of the Class, pray that the Court enter judgment against Defendants, jointly and severally, as follows:

(a) Granting Class Certification pursuant to CPLR Rule 901;

(b) Certifying Plaintiffs as the representatives of the Class, and designating Plaintiff's

attorneys,. Blau, Brown & Leonard, LLC as counsel for the Class;

(c) Awarding Plaintiffs and the members of the class all available statutory damages provided by New York General Business Law §349);

(d) Awarding Plaintiffs and members of the class their costs and disbursements, including reasonable attorney's fees and other reasonable costs;

(e) Awarding both pre-judgment and post-judgment interest on any amounts awarded;

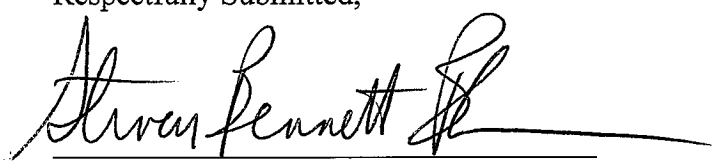
(f) For such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury.

Dated: New York, New York
July 16, 2012

Respectfully Submitted,



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