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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MIGUEL RODRIGUEZ, on behalf of
himself and all others similarly situated,

Plaintiff,

v.

JUST BRANDS USA, INC., JUST
BRANDS, INC., and SSGI FINANCIAL
SERVICES, INC.,

Defendants.

CASE NO. 2:20-CV-04829-ODW-PLA

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO
DISMISS FIRST AMENDED
COMPLAINT**

Date: January 25, 2021

Time: 1:30 p.m.

Courtroom: 5D

Judge: Hon. Otis D. Wright II

1 **NOTICE OF MOTION AND MOTION**

2 TO PLAINTIFF AND ALL ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that, on January 25, 2021 at 1:30 p.m. in
4 Courtroom 5D of this Court, located at 350 West 1st Street, Los Angeles, CA.
5 90012, defendants Just Brands USA, Inc. (“Just Brands USA”), Just Brands, Inc.
6 (“Just Brands”), and SSGI Financial Services, Inc. (“SSGI”) (collectively,
7 “Defendants”) will and hereby do move this Court for an order dismissing the First
8 Amended Complaint (“FAC”) of plaintiff Miguel Rodriguez (“Plaintiff”) pursuant
9 to Federal Rule of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6) on the following
10 grounds:

11 First, Plaintiff lacks Article III and statutory standing to assert claims based
12 on products that he did not purchase, or to seek injunctive relief. Second, Plaintiff
13 impermissibly lumps together his allegations against all Defendants throughout the
14 Complaint, a shotgun-style pleading that violates Rule 8 and Rule 9(b). Third,
15 under *Bristol-Myers Squibb v. Super. Ct. of Cal., San Francisco Cty.*, 137 S. Ct.
16 1773 (2017) and its progeny, Plaintiff cannot represent a putative nationwide class
17 because Defendants are not subject to personal jurisdiction in California for non-
18 California putative class members’ claims. Fourth, Plaintiff’s express warranty,
19 unjust enrichment, and fraud claims are defective because the FAC fails to specify
20 the governing state’s law. Fifth, Plaintiff’s unjust enrichment, Unfair Competition
21 Law, and False Advertising Law claims for equitable restitution fail because
22 Plaintiff has not (and cannot) allege inadequate remedies at law pursuant to *Sonner*
23 *v. Premier Nutrition Corp.*, 971 F.3d 834, 2020 WL 4882896, at *7 (9th Cir.
24 August 20, 2020).

25 This Motion is based on this Notice of Motion and Motion, the attached
26 Memorandum of Points and Authorities, Defendants’ Request for Judicial Notice in
27 support of the Motion filed concurrently herewith, the record in this action, and any
28 evidence and argument that may be presented at or before the hearing.

1 Concurrently with this Motion, Defendants move to stay this action under the
 2 “primary jurisdiction doctrine” because the FDA and the States of California and
 3 Florida are currently considering regulations and guidance applicable to cannabidiol
 4 (known as CBD), an ingredient in the products at issue here, which may affect the
 5 claims in this action.

6 This Motion is submitted following the conference of counsel pursuant to
 7 Local Rule 7-3, which took place by telephone on November 12, 2020, involving
 8 Plaintiff’s attorney Alex Straus and Defendants’ attorneys Isabelle Ord and
 9 Alexander Wolf. The parties were unable to reach an informal resolution and
 10 Plaintiff’s counsel stated Plaintiff would oppose the Motion.

11 Dated: November 23, 2020

DLA PIPER LLP (US)

12 By: */s/ Isabelle L. Ord*

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