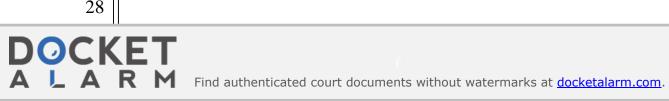
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14					
15					
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16	UNITED STATES DISTRICT COURT				
17	CENTRAL DISTRICT OF CALIFORNIA				
18	MIGUEL RODRIGUEZ, on behalf of	CASE NO. 2:20-CV-04829-ODW-PLA			
19	himself and all others similarly situated,				
20	Plaintiff,	DEFENDANTS' NOTICE OF MOTION AND MOTION TO			
21	v.	DISMISS FIRST AMENDED			
22	JUST BRANDS USA, INC., JUST	COMPLAINT			
23	BRANDS, INC., and SSGI FINANCIAL	Date: January 25, 2021			
	SERVICES, INC.,	Time: 1:30 p.m.			
24	Defendants.	Courtroom: 5D			
25		Judge: Hon. Otis D. Wright II			
26					
27					
28					



NOTICE OF MOTION AND MOTION

TO PLAINTIFF AND ALL ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on January 25, 2021 at 1:30 p.m. in Courtroom 5D of this Court, located at 350 West 1st Street, Los Angeles, CA. 90012, defendants Just Brands USA, Inc. ("Just Brands USA"), Just Brands, Inc. ("Just Brands"), and SSGI Financial Services, Inc. ("SSGI") (collectively, "Defendants") will and hereby do move this Court for an order dismissing the First Amended Complaint ("FAC") of plaintiff Miguel Rodriguez ("Plaintiff") pursuant

to Federal Rule of Civil Procedure 12(b)(1), 12(b)(2), and 12(b)(6) on the following grounds:

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

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



Concurrently with this Motion, Defendants move to stay this action under the 1 "primary jurisdiction doctrine" because the FDA and the States of California and 2 3 Florida are currently considering regulations and guidance applicable to cannabidiol (known as CBD), an ingredient in the products at issue here, which may affect the 4 5 claims in this action. This Motion is submitted following the conference of counsel pursuant to 6 Local Rule 7-3, which took place by telephone on November 12, 2020, involving 7 Plaintiff's attorney Alex Straus and Defendants' attorneys Isabelle Ord and 8 Alexander Wolf. The parties were unable to reach an informal resolution and 9 Plaintiff's counsel stated Plaintiff would oppose the Motion. 10 11 Dated: November 23, 2020 **DLA PIPER LLP (US)** 12 By: /s/ *Isabelle L. Ord* 13 ISABELLE L. ORD ALEXANDER E. WOLF 14 ELIZABETH C. CALLAHAN 15 **Attorneys for Defendants** JUST BRANDS USA, INC., JUST 16 BRANDS, INC., and SSGI FINANCIAL 17 SERVICES, INC. 18 STEFANIE J. FOGEL (Admitted Pro Hac 19 Vice) stefanie.fogel@dlapiper.com 20 **DLA PIPER LLP (US)** 21 33 Arch Street, 26th Floor Boston, MA 02110 22 Tel: 617.406.6000 23 COLLEEN C. GULLIVER (Admitted *Pro* 24 Hac Vice) 25 colleen.gulliver@dlapiper.com **DLA PIPER LLP (US)** 26 1251 Avenue of the Americas 27 New York, NY 10020 Tel: 212.335.4500 28



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