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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Hope Murphy and Carol Lesh,  
individually and on behalf of all others  
similarly situated,

*Plaintiffs,*

vs.

Olly Public Benefit Corporation,

*Defendant.*

Case No.

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

## Table of Contents

I.	Introduction.....	1
II.	Parties.....	2
III.	Jurisdiction, venue, and divisional assignment.....	2
IV.	Facts.....	2
A.	It is important to consumers that over-the-counter melatonin is accurately dosed and labelled.....	2
B.	Scientific research reveals serious problems with the accuracy of melatonin dosing and labelling in Canada. Scientists warn that the same is likely true of some U.S. brands. ....	4
C.	Olly sells over-the-counter melatonin supplements to millions of U.S. consumers.....	4
D.	Scientific testing reveals that Olly Melatonin has substantial and random overdoses of melatonin. ....	6
E.	Olly’s labelling is false and misleading to reasonable consumers.....	7
F.	Olly overcharges millions of consumers.....	8
G.	Plaintiffs were misled and harmed by Olly’s misleading labelling. ....	9
V.	Class action allegations.....	10
VI.	Claims.....	12
	Count 1: Violations of State Consumer Protection Acts.....	12
	Count 2: Violation of California’s Unfair Competition Law (UCL) .....	13
	Count 3: Violation of California’s False Advertising Law (FAL).....	14
	Count 4: Unjust Enrichment/Quasi-Contract.....	15
VII.	Jury Demand.....	15
VIII.	Prayer for Relief.....	15

## I. Introduction.

1. Melatonin is a neurohormone that regulates the brain's sleep cycle. Millions of consumers take over-the-counter melatonin supplements to help them sleep. Because melatonin alters brain chemistry, it is important that these supplements are accurately dosed and labelled.

2. A few years ago, scientists tested Canadian melatonin supplements and found that, for a number of brands, the true amount of melatonin varied wildly from the label. Scientists and the National Institute of Health have warned that the same may be true here in the U.S.

3. Olly is a major U.S. brand of melatonin supplements, sold nationwide at retailers like Walmart, Whole Foods, and Target. Each bottle claims to have a specific dose of melatonin per serving. For example:



4. Like millions of other consumers, Plaintiffs bought Olly melatonin and trusted the accuracy of Olly's dosing and labelling. To determine how much melatonin is really in Olly, a university mass-spectrometry laboratory tested multiple bottles, including Plaintiffs' bottles. The results were alarming—all bottles were substantially (and seemingly randomly) overdosed. The true amount of melatonin was 165% to 274% of the amount claimed.

5. Olly systematically misrepresents how much melatonin is in the supplements it sells. Consumers are being misled, overcharged, and put at risk.

1 **II. Parties.**

2 6. Plaintiff Hope Murphy is domiciled in Vista, California. She purchased a bottle of  
3 Olly Sleep in California.

4 7. Plaintiff Carol Lesh is domiciled in Berkeley, California. She purchased a bottle of  
5 Olly Sleep Extra Strength in California.

6 8. The proposed class includes citizens of every state.

7 9. Defendant Olly Public Benefit Corporation is a Delaware corporation with its  
8 principal place of business in San Francisco, California.

9 **III. Jurisdiction, venue, and divisional assignment.**

10 10. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(d)(2). The amount  
11 in controversy exceeds \$5,000,000, exclusive of interest and costs, and the matter is a class action in  
12 which one or more members of the proposed class are citizens of a state different from Olly.

13 11. The Court has personal jurisdiction over Olly because (among other reasons) its  
14 principal place of business is in California.

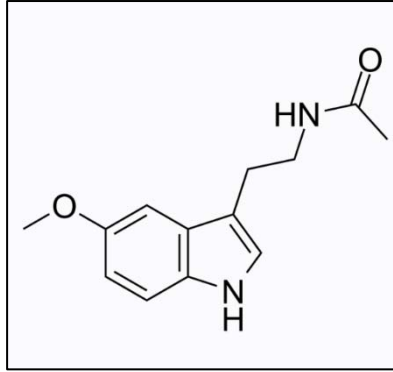
15 12. Venue is proper under 28 U.S.C. § 1391(b)(1) because Olly resides in this District, at  
16 its San Francisco headquarters.

17 13. Divisional Assignment. This case should be assigned to the San Francisco or Oakland  
18 division. *See* L.R. 3-2(d). A substantial part of the events giving rise to the claims occurred in San  
19 Francisco, at Olly's headquarters.

20 **IV. Facts.**

21 **A. It is important to consumers that over-the-counter melatonin is accurately dosed**  
22 **and labelled.**

23 14. Melatonin (N-acetyl-5-methoxytryptamine) is a neurohormone produced by the pineal  
24 gland in the brain. It regulates the brain's circadian rhythm and sleep cycle.



*The chemical structure of melatonin*

15. Millions of U.S. consumers take melatonin supplements to treat sleep problems, anxiety, and other issues. Melatonin is one of the most popular over-the-counter supplements in the U.S., and its use has “significantly increased” in the last 20 years.<sup>1</sup> Its use to help children fall asleep is becoming increasingly popular too.<sup>2</sup>

16. As scientists explained in the Journal of Clinical Sleep Medicine, because melatonin is “self-prescribed” (i.e., purchased directly by consumers who are not experts), it is particularly “important that labels are informative and representative of the product,” i.e., that the “label claim values for the active ingredient are accurate.”<sup>3</sup> When melatonin is falsely labelled, lower doses of melatonin “might be ineffective,” while “higher doses could lead to unpleasant/unexpected side effects.”<sup>4</sup> Side effects of melatonin include headaches, dizziness, nausea, or excessive or unwanted sleepiness.<sup>5</sup> “Many experts recommend starting with the smallest available dosage — 0.5 milligrams to 1 milligram.”<sup>6</sup> And regardless of side effects, consumers don’t want to take random, uncontrolled amounts of a neurohormone that alters brain chemistry.

<sup>1</sup> JAMA Research Letter, Trends in Use of Melatonin Supplements Among US Adults, 1999-2018, 327(5) JAMA 483 (2022).

<sup>2</sup> The New York Times, Parents Are Relying on Melatonin to Help Their Kids Sleep. Should They?, <https://www.nytimes.com/2020/05/18/parenting/melatonin-sleep-kids.html>

<sup>3</sup> Erland, L. & Saxena, P., Melatonin Natural Health Products and supplements: Presence of serotonin and significant variability of melatonin content, 13 Journal of Clinical Sleep Medicine 275–281 (2017).

<sup>4</sup> Grigg-Damberger, M. & Ianakieva, D., Poor quality control of over-the-counter melatonin: What they say is often not what you get, 13 Journal of Clinical Sleep Medicine 163–165 (2017).

<sup>5</sup> NIH National Library of Medicine Medline Plus, Melatonin, <https://medlineplus.gov/druginfo/natural/940.html>

<sup>6</sup> The New York Times, *Melatonin Isn’t a Sleeping Pill. Here’s How to Use It*, <https://www.nytimes.com/2022/01/11/health/melatonin-sleep-issues.html>



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