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

Elena Nacarino, on behalf of herself and all
others similarly situated,

Plaintiff,

v.

RB Health (US) LLC,

Defendant.

CASE NO.: 3:22-cv-04721

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiff Elena Nacarino (“Plaintiff”), on behalf of herself and all others similarly situated,
2 by and through her attorneys, brings this Class Action Complaint against RB Health (US) LLC
3 (“Defendant”), based upon personal knowledge as to herself, and upon information, investigation
4 and belief of her counsel.

5 **INTRODUCTION**

6 1. This case action seeks to challenge Defendant’s false and deceptive practices in the
7 marketing and sale of its Cepacol Extra Strength Sore Throat Honey Lemon Lozenges (the
8 “Product”).

9 2. The front label of the Product – which is a cough drop meant to soothe the throat –
10 leads reasonable consumers to believe the Product contains honey and lemon. Specifically, the
11 words “Honey Lemon” appear on the Product’s front label without any qualification, as well as an
12 image of a honey dipper with honey oozing down from the dipper, alongside a cut lemon wedge.

13 3. Unbeknownst to consumers however, the Product does not contain honey or lemon.

14 4. Plaintiff and other consumers purchased the Product and paid a premium price
15 based upon their reliance on Defendant’s front label representations about honey and lemon. Had
16 Plaintiff and other consumers been aware that the Product does not contain honey or lemon, they
17 would not have purchased the Product or would have paid significantly less for it. Accordingly,
18 Plaintiff and Class members have been injured by Defendant’s deceptive business practices.

19 **JURISDICTION AND VENUE**

20 5. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act
21 of 2005, 28 U.S.C. § 1332(d)(2), because this is a class action filed under Rule 23 of the Federal
22 Rules of Civil Procedure, there are thousands of proposed Class members, the aggregate amount
23 in controversy exceeds \$5,000,000 exclusive of interest and costs, and Defendant is a citizen of a
24 state different from at least some members of the proposed Classes, including Plaintiff.

25 6. This Court has personal jurisdiction over Defendant because Defendant has
26 sufficient minimum contacts in California, or otherwise intentionally avails itself of the markets
27 within California, through its sale of the goods and products in California and to California
28 consumers.

7. Venue is proper in this judicial District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. Plaintiff resides in this District and she purchased the Product in this District during the statute of limitations period.

PLAINTIFF

8. Plaintiff is a citizen of California and currently resides in San Francisco, California. Between December 2021 and January 2022, Plaintiff purchased the Product from a Target in Daly City, California. Based on the below depicted representations about honey and lemon on the front label of the Product (see paragraph 15), Plaintiff reasonably believed that the Product contained honey and lemon. Moreover, she did not see any statement or other information on the label indicating that the Product did not contain honey and lemon. Had she known that the Product did not contain honey and lemon, she would not have purchased it, or would have paid significantly less for it.

9. Despite Defendant's misrepresentations, Plaintiff would purchase the Product, as advertised, if it actually contained honey and lemon. Although Plaintiff regularly shops at stores that carry the Product, absent an injunction of Defendant's deceptive advertising, she will be unable to rely with confidence on Defendant's advertising of the Product in the future. Furthermore, while Plaintiff currently believes the Product's labeling is inaccurate, she lacks personal knowledge as to Defendant's specific business practices, and thus, she will not be able to determine whether the Product truly contains lemon and honey. This leaves doubt in her mind as to the possibility that at some point in the future the Product could be made in accordance with the representations on the Product's front label. This uncertainty, coupled with her desire to purchase the Product, is an ongoing injury that can and would be rectified by an injunction enjoining Defendant from making the alleged misleading representations. In addition, other Class members will continue to purchase the Product, reasonably but incorrectly, believing that it contains lemon and honey.

10. Defendant is a New Jersey corporation with its principal place of business in Parsippany, New Jersey. Defendant is a multinational corporation, and one of the largest producers of nutritional and medicinal products, like the Product challenged in this Complaint.

11. Defendant is responsible for the manufacturing, marketing, labeling, advertising, and sale of personal care, nutritional, and medicinal products, including the Product at issue here.

13. Unfortunately for consumers, Defendant engages false and misleading advertising about the Product to gain a competitive edge in the market, all at the expense of unsuspecting consumers.

15. First, the words “Honey Lemon” appear in large, bold font on the front label of the Product. Immediately above that phrase, Defendant has placed an image of a honey dipper with honey oozing down from the dipper, alongside a cut lemon wedge. Lastly, the lozenges are intentionally colored a golden honey brown color to make them appear as if they contain honey. *See below*.



16. Based on the foregoing representations, reasonable consumers purchase the Product with the expectation that the Product contains both honey and lemon.

17. However, unbeknownst to consumers, *the Product does not contain any honey or lemon.*

18. Instead, the Product appears to be, at most, honey and lemon *flavored*. However, unlike competitor products, nowhere on the front of the label does Defendant inform consumers that the Product is only flavored to taste like honey and lemon. As such, consumers cannot reasonably know or expect that the Product does not contain honey or lemon.

19. Moreover, consumers reasonably expect honey and lemon in the lozenges in part because other lemon/honey lozenges *actually contain both ingredients*. For example, Zand



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