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6
7 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

8 Krystal Lopez, individually and on behalf of
9 all others similarly situated,

10 *Plaintiff,*

11 vs.

12 Zarbee's Inc.,

13 *Defendant.*
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Case No. 5:22-cv-4465

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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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, the National Institute of Health, and consumer advocates have warned that the same is true in the U.S.

3. Zarbee’s is a major U.S. brand of melatonin supplements, sold nationwide at retailers like Walmart, Kroger, and Target. Many Zarbee’s melatonin products are specifically marketed for young children. Each bottle claims to have a specific dose of melatonin per serving. For example:



4. Like millions of other consumers, Ms. Lopez bought Zarbee’s melatonin for her children and trusted the accuracy of Zarbee’s dosing and labelling. To determine how much melatonin is really in Zarbee’s, a university mass-spectrometry laboratory tested multiple bottles, including her bottle. The results were alarming—the bottles are substantially (and seemingly randomly) overdosed. The true amount of melatonin in her bottle was 216% of the claimed amount.

5. Zarbee’s systematically misrepresents how much melatonin is in the supplements it sells. Consumers are being misled and overcharged and children are being put at risk.

1 **II. Parties.**

2 6. Plaintiff Krystal Lopez is domiciled in Salinas, California.

3 7. The proposed class includes citizens of every state.

4 8. Defendant Zarbee's Inc. is a Delaware corporation with its principal place of business
5 at 11650 State St. #101, Draper, Utah 84020.

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

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

10 10. The Court has personal jurisdiction over Defendant because Defendant sold Zarbee's
11 melatonin products to consumers in California, including to Plaintiff.

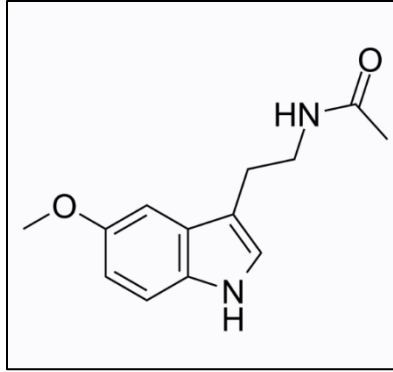
12 11. Venue is proper under 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(d) because
13 Defendant would be subject to personal jurisdiction in this District if this District were a separate
14 state, given that Defendant sold Zarbee's melatonin products to consumers in this District,
15 including Plaintiff. Venue is also proper under 28 U.S.C. § 1391(b)(2) because a substantial part
16 of Defendant's conduct giving rise to the claims occurred in this District, including Defendant's
17 sale to Plaintiff.

18 12. Divisional Assignment. This action arose in Monterey County (San Jose Division).
19 Ms. Lopez purchased Zarbee's melatonin while living in Salinas (in Monterey County). Thus, a
20 substantial part of the events giving rise to the claim occurred in Monterey County.

21 **IV. Facts.**

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

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



The chemical structure of melatonin

14. 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.¹ Its use to help children sleep is becoming increasingly popular too, which concerns health experts.²

15. 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.”³ When melatonin is falsely labelled, “higher doses could lead to unpleasant/unexpected side effects.”⁴ Side effects of melatonin include headaches, dizziness, nausea, or excessive or unwanted sleepiness.⁵ “Many experts recommend starting with the smallest available dosage — 0.5 milligrams to 1 milligram.”⁶ When melatonin is given to children, the American Academy of Pediatricians (AAP) warns that “quality may not be the same for all melatonin products” and recommends its use only “cautiously and carefully.” The AAP

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

² 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>

³ 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).

⁴ 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).

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

⁶ 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-insomnia.html>

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