

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Debbie Kuciver, individually and on behalf of
all others similarly situated,

Plaintiff,

- against -

KSF Acquisition Corporation,

Defendant

1:21-cv-05964

Class Action Complaint

Jury Trial Demanded

Plaintiff alleges upon information and belief, except for allegations pertaining to plaintiff, which are based on personal knowledge:

1. KSF Acquisition Corporation (“defendant”) manufactures, packages, labels, markets, and sells meal replacement foods such as shakes, bars, and snacks, promising “Clinically Proven – Lose Weight & Keep It Off,*” and “4hr Hunger Control,” under the SlimFast brand (“Product”).



2. The back and side labels of the Product describe the SlimFast Plan as “Clinically Proven,” consisting of:

1. ONE SENSIBLE MEAL – enjoy your favorite foods
2. REPLACE TWO MEALS A DAY – with shakes, smoothies or bars
3. ONE SENSIBLE MEAL – enjoy your favorite foods



3. The above claims – and Satisfies hunger” “Energy for hours” “4-hour hunger control” and control blood sugar – appear on over fifty (50) SlimFast items.

4. Weight loss appeals to the many Americans who are considered overweight.

5. Consumers who view the Clinically Proven claims will expect the Product and Plan is proven to achieve the results indicated.

6. Consumers will expect that (1) the Products on which the claim appears has been clinically proven to achieve and maintain weight loss and (2) the Products have been clinically proven to promote weight loss and keep it off when used as part of the SlimFast plan.

7. A claim that something is “clinically proven” requires clinical studies.

8. Defendant's clinically proven claims are false, because it does not possess evidence to support them, such as randomized and relevant controlled studies.

9. The studies relied upon to support the clinically proven claim are from products introduced many years ago, which are no longer sold.

10. Defendant has not clinically tested the weight-loss efficacy of the Products.

11. Defendant's clinical trials are of discontinued SlimFast products, as part of a high carbohydrate diet with no resemblance to today's products, which are higher in fat, protein, and contain fewer carbohydrates.

12. Defendant's clinically proven claims are false because the products and plan upon which the claims are based have not been offered for many years.

13. Defendant's studies about the SlimFast plan being clinically proven are not even entirely relevant to weight loss.

14. For instance, one study of required only two snacks per day, and did not involve the participants exercising, nor adjust for higher calories consumed by men.

15. Another study failed to indicate whether any specific eating plan was required.

16. Another study involved subjects being advised to eat various servings of fruits and vegetables per day, in addition to meal replacements and meals.

17. No current SlimFast plan requires consumption of a set number of fruits and vegetables.

18. Other studies involve adherence to a low-calorie diet using SlimFast products to achieve a calorie deficit.

19. Studies relied upon for the "Keep It Off" part of the claim are not supportive of the clinically proven claims because they show that over 20% participants' weight was regained at the

end of one-year.

20. Guidelines provided by the government indicate that longer term evidence of continued weight loss advantage of meal replacement programs is lacking.

21. Defendant's back label seeks to disclaim the unqualified front label claim.

CLINICALLY PROVEN [©]

The SlimFast PLAN

1 ONE SENSIBLE MEAL
enjoy your favorite foods

2 REPLACE TWO MEALS A DAY
with shakes, smoothies or bars

3 INDULGE IN THREE SNACKS
satisfy hunger between meals

THE CLINICALLY PROVEN WAY TO LOSE WEIGHT FAST AND KEEP IT OFF!*

Nobody gives you more ways to lose weight than SlimFast

SlimFast Original
A taste you'll love, guaranteed

SlimFast Advanced Nutrition
Higher protein, lower sugar[†], and lower carb[‡]

SlimFast Advanced Energy
Energy for hours, higher protein, lower sugar[†], and lower carb[‡]

SlimFast Keto
Optimal low-carb ketogenic nutrition made easy

Original Formula
A classic for over 40 years, bringing you the taste you'll love. Specially formulated meal replacement ready-to-drink shakes for home, work, or on-the-go

- * 10g of protein
- * 5g of fiber[§] and 24 vitamins and minerals
- * Hunger control for 4 hours, satisfies you between meals
- * Gluten free

Delicious Variety of Options

Ready-to-Drink Shakes

Shake Mixes

Enjoy all five delicious flavors, including Creamy Milk Chocolate, French Vanilla, Cappuccino Delight, Strawberries & Cream and Rich Chocolate Royale

Get free recipes and smoothie ideas at SlimFast.com/Recipes

Nutrition Facts
8 servings per container
Serving size 1 bottle (325mL)

Amount per serving

Calories 180

% Daily Value*

Total Fat 5g **6%**
Saturated Fat 1g **5%**
Trans Fat 0g

Cholesterol 5mg **2%**

Sodium 120mg **5%**

Total Carbohydrate 26g **9%**
Dietary Fiber 5g **18%**
Total Sugars 19g **10%**
Includes 5g Added Sugars **20%**

Protein 10g

Vitamin D 6.7mcg 35% • Calcium 490mg 40%
Iron 6mg 35% • Potassium 770mg 15%
Vitamin A 300mcg 35% • Vitamin C 30mg 35%
Vitamin E 5mg 35% • Vitamin K 40mcg 35%
Thiamin 0.4mg 35% • Riboflavin 0.43mg 35%
Niacin 5.3mg 35% • Vitamin B6 0.57mg 35%
Folate 135mcg DFE 35% • Vitamin B12 0.8mcg 35%
(80mcg folic acid)

Biotin 10mcg 35% • Pantothenic Acid 1.7mg 35%
Phosphorus 940mg 25% • Iodine 50mcg 35%
Magnesium 95mg 25% • Zinc 3.7mg 35%
Selenium 18mcg 35% • Manganese 0.77mg 35%
Chromium 11.7mcg 35% • Molybdenum 15mcg 35%

*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

INGREDIENTS: STEEV FREE MILK, WATER, SUGAR, COCOA PROCESSED WITH ALKALI, CACAO OIL, FRUCTOSE, MILK PROTEIN CONCENTRATE, MALTODEXTRIN, CELLULOSE, GEL, CELLULOSE GUM, NATURAL & ARTIFICIAL FLAVORS, MONO & DIGLYCERIDES, POTASSIUM PHOSPHATE, SODIUM LACTATE, CALCIUM PHOSPHATE, GELLAN GUM, GARRAGEEMAN, SUCRALOSE, ACESULFAME POTASSIUM.

VITAMINS AND MINERALS: MAGNESIUM PHOSPHATE, CALCIUM PHOSPHATE, SODIUM ASCORBATE, THIAMINE MONONITRATE, RIBOFLAVIN, NICOTINIC ACID, PYRIDOXINE HYDROCHLORIDE, CYANOCOBALAMIN, CHROMIUM CHLORIDE, BIOTIN, PANTOTHENIC ACID, FOLIC ACID, POTASSIUM IODIDE, NIACINAMIDE, PHYTYLMALONATE, VITAMIN E PALMITATE, CHOLECALCIFEROL, MANGANESE SULFATE, CALCIUM D-PANOTHEATE, SODIUM MOLYBDATE, CYANOCOBALAMIN, CHROMIUM CHLORIDE, BIOTIN, PYRIDOXINE HYDROCHLORIDE, THIAMINE MONONITRATE, RIBOFLAVIN.

CONTAINS MILK AND SOY.
SWEETENED WITH NUTRITIVE AND NON-NUTRITIVE SWEETENERS.

Distributed By: SlimFast
11780 U.S. Highway One, Suite 400N
Palm Beach Gardens, FL 33408
1-800-SLIMFAST
www.SlimFast.com

****COMPARED TO THE PRICE OF A 4-PACK.**
* WHEN USED AS PART OF THE SLIMFAST PLAN. INDIVIDUAL RESULTS MAY VARY.
† CONTAINS 5g TOTAL FAT PER SERVING.
‡ 94.7% REDUCTION IN SUGAR COMPARED TO ORIGINAL SLIMFAST MEAL REPLACEMENT SHAKES, 19g vs. 1g.
§ SLIMFAST ADVANCED HAS 20g OF PROTEIN AND 7g OF CARBOHYDRATES COMPARED TO SLIMFAST ORIGINAL WHICH HAS 10g OF PROTEIN AND 26g OF CARBOHYDRATES.
§ MESSAGE AND DATA RATES MAY APPLY. FOR THE SLIMFAST PRIVACY POLICY GO TO SLIMFAST.COM/PRIVACY-POLICY. FOR TERMS AND CONDITIONS GO TO SLIMFAST.COM/LEGAL. © SLIMFAST® 2020

GET STARTED
text* **STARTPLAN** to **44123**

Join our supportive SlimFast Together group! Get inspired by real success stories, swap recipes, and cheer each other on. Sign-up at SlimFast.com/SlimFastTogether

If you want to lose weight and are under 18, pregnant, nursing, following a diet recommended by a doctor, have health problems such as diabetes, or want to lose more than 30 lbs., see a doctor before starting this or any diet. Do not lose more than 2 pounds per week after the first week. Rapid weight loss may cause health problems. Do not use as a sole source of nutrition. Consume at least 1,200 calories a day. Exercise at least 30 minutes a day and drink plenty of water.

22. The text, “*When Used as Part of the SlimFast Plan,” is small and difficult to read.

****COMPARED TO THE PRICE OF A 4-PACK.**
* WHEN USED AS PART OF THE SLIMFAST PLAN. INDIVIDUAL RESULTS MAY VARY.
† CONTAINS 5g TOTAL FAT PER SERVING.
‡ 94.7% REDUCTION IN SUGAR COMPARED TO ORIGINAL SLIMFAST MEAL REPLACEMENT SHAKES, 19g vs. 1g.
§ SLIMFAST ADVANCED HAS 20g OF PROTEIN AND 7g OF CARBOHYDRATES COMPARED TO SLIMFAST ORIGINAL WHICH HAS 10g OF PROTEIN AND 26g OF CARBOHYDRATES.
§ MESSAGE AND DATA RATES MAY APPLY. FOR THE SLIMFAST PRIVACY POLICY GO TO SLIMFAST.COM/PRIVACY-POLICY. FOR TERMS AND CONDITIONS GO TO SLIMFAST.COM/LEGAL. © SLIMFAST® 2020

If you want to lose weight and are under 18, pregnant, nursing, following a diet recommended by a doctor, have health problems such as diabetes, or want to lose more than 30 lbs., see a doctor before starting this or any diet. Do not lose more than 2 pounds per week after the first week. Rapid weight loss may cause health problems. Do not use as a sole source of nutrition. Consume at least 1,200 calories a day. Exercise at least 30 minutes a day and drink plenty of water.

23. The other claims – regarding hunger control, satiety, and blood sugar, are false and misleading.

24. Defendant's hunger control claim is misleading because the studies relied upon had limited consumer relevance because the subjects were not given food during the test period, so

whether or not they could control their hunger was not actually evaluated.

25. Reasonable consumers must and do rely on a company to honestly identify and describe the components, attributes, and features of a Product, relative to itself and other comparable products or alternatives.

26. The value of the Product that plaintiff purchased was materially less than its value as represented by defendant.

27. Defendant sold more of the Product and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers.

28. Had Plaintiff and proposed class members known the truth, they would not have bought the Product or would have paid less for it.

29. The Product is sold for a price premium compared to other similar products, no less than \$12.79 for eight 11 oz bottles, a higher price than it would otherwise be sold for, absent the misleading representations and omissions.

Jurisdiction and Venue

30. Jurisdiction is proper pursuant to Class Action Fairness Act of 2005 (“CAFA”). 28 U.S.C. § 1332(d)(2).

31. The aggregate amount in controversy exceeds \$5 million, including any statutory damages, exclusive of interest and costs.

32. Plaintiff Debbie Kuciver is a citizen of Illinois.

33. Defendant KSF Acquisition Corporation is a Delaware corporation with a principal place of business in Palm Beach Gardens, Palm Beach County, Florida.

34. Defendant transacts business within this district by selling its Products to thousands of retailers in this district, and directly shipping the Products to persons in this district.

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