

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

JENNY MCCLOUGH and VICTORIA
GARCIA, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

LUNA PHARMACEUTICALS, INC. d/b/a
PREMAMA,

Defendant.

Civil Action No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. Defendant Luna Pharmaceuticals, Inc. d/b/a Premama (“Premama”) is a fertility supplement company that peddles false hope to people who are trying to have children.
2. Conception can sometimes be difficult, and modern interventions — while sometimes effective — can be expensive. So it’s not surprising that some people would consider supplements as a possible way to improve the chances of conception. Deceptive claims about fertility supplements can play on the emotions of individuals who are struggling to conceive.
3. At best, bogus fertility supplements give false hope and are a waste of time and money. At worst, they can result in harmful side effects.
4. Fertility supplements that falsely imply they can improve the chances of conception can also potentially harm consumers who use these products instead of seeking effective treatments, such as drugs or assisted reproductive technology approved by the U.S. Food and Drug Administration (“FDA”). The FDA has not approved fertility supplements as a method for increasing the chances of conception.

5. The fertility supplement industry is facing booming growth, due in part to declining fertility rates. The fertility supplement market was estimated at USD \$1.7 billion in 2020 and is expected to grow to \$2.6 billion by 2026.¹

6. Premama is one of several companies in the United States that preys on people having difficulties conceiving. Premama markets and sells two related supplement products called “Fertility Support for Her” and “Fertility Support for Him” (collectively “Fertility Support”) that claim to increase chances of conception. The products are expensive and the marketing is bold. Displayed prominently on the product packaging, directly underneath the product name, is the large word “Conceive.” Premama claims that Fertility Support “optimizes your chances of conception” and tells purchasers to use the product “for at least 3 months or until you become pregnant.” Premama implies that certain marquee ingredients in Fertility Support like myo-inositol and folate are clinically proven to increase the chances of conception, but that is false. Taking Fertility Support does not improve the chances of conception, yet that is the product’s only purported purpose.

7. Premama knows perfectly well that its products do not help people conceive. In 2019, Premama privately admitted in an email to a non-profit watchdog organization that “**I think you’ll be hard pressed to find any supplement company that can definitively say that their product increases the chances of becoming pregnant. If you do, I’d be very curious to see.**” That admission is directly contrary to everything Premama says and implies about Fertility Support’s effectiveness.

8. Therefore, Plaintiffs Victoria Garcia and Jenny McClough have filed this class action on behalf of themselves and other U.S. purchasers of Fertility Support. They seek actual

¹ <https://www.expertmarketresearch.com/reports/fertility-supplements-market>

damages, statutory damages, restitution, injunctive relief, and all other relief available under the causes of action asserted here.

PARTIES

9. Plaintiff Victoria Garcia is domiciled in New York. In or around January 2021, she purchased Fertility Support for Her and Fertility Support for Him. The products cost approximately \$35 each. Ms. Garcia purchased the products directly from Premama's website, and she was in New York when she made her purchase. Before purchasing the products, Ms. Garcia reviewed and relied on the representations made on the product packaging and the information provided about the products on Premama's website. Based on the product name, packaging, and information disclosed on the website, Ms. Garcia believed that Fertility Support for Her and Fertility Support for Him would improve her chances of conception. It did not have that effect. Had Ms. Garcia known the truth about the products' ineffectiveness, she would not have purchased them.

10. Plaintiff Jenny McClough is domiciled in California. On April 15, 2021, she purchased Fertility Support for Her. The product cost approximately \$35. Ms. McClough purchased the products from a Target store in California. Before purchasing the products, Ms. McClough reviewed and relied on the representations made on the product packaging and the information provided about the products on the product page of Premama's website. Based on the product name, packaging, and information disclosed on the website, Ms. McClough believed that consuming Fertility Support for Her would improve her chances of conception. It did not have that effect. Had Ms. McClough known the truth about the product's ineffectiveness, she would not have purchased it.

11. Defendant Luna Pharmaceuticals, Inc. d/b/a Premama ("Premama") is a

Delaware corporation with its headquarters in Providence, Rhode Island.

FACTUAL BACKGROUND

12. The two products at issue in this case are called “Fertility Support for Her” and “Fertility Support for Him.”

13. Premama manufactures, distributes, advertises, and sells Fertility Support for Her and Fertility Support for Him.

14. Premama sells Fertility Support for Her and Fertility Support for Him directly to consumers through its website premama.com and through its Amazon store.

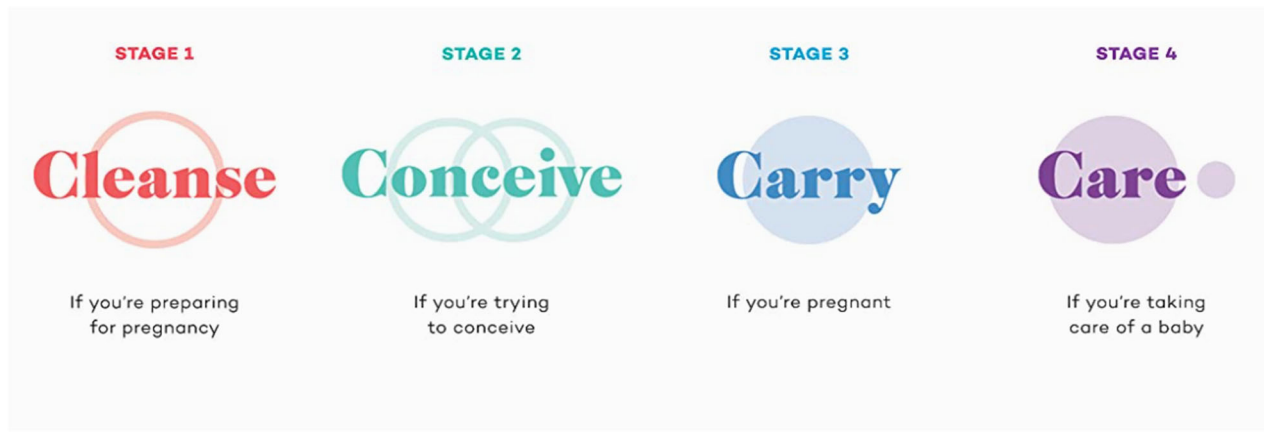
15. Premama also sells Fertility Support for Her and Fertility Support for Him through major U.S. retailers like Target and Walmart.

16. The conduct at issue here occurred at all times during the last four years, at least.

I. Premama’s Expensive, Four-Stage Pregnancy “System”

17. Premama sells maternity supplements for people who want to conceive, who are already pregnant, or who have recently given birth. Premama does not target any other demographic for its products.

18. Premama sells a four-stage nutritional supplement “system” that supposedly supports women “through each stage of maternity.” The four stages of the system are called “Cleanse,” “Conceive,” “Carry,” and “Care.” For each stage of the system, Premama sells a variety of corresponding supplements and drink mixes.



19. The products in Premama’s system are expensive. For a couple trying to conceive, adhering to Premama’s recommended daily intake of the products can easily cost \$400 or more.

20. Stage 1 of the Premama system is called “Cleanse” and involves a berry-flavored drink mix called “Birth Control Cleanse.” Premama claims this Stage 1 product “resets” and “prepares the body for pregnancy” by offsetting the effects of synthetic birth control hormones. One package of Birth Control Cleanse costs about \$60 and provides enough drink mix to last a month. Premama tells consumers they should use Birth Control Cleanse for two to three months.

21. Stage 2 of Premama’s system is called “Conceive,” and its corresponding products are two, related drink mixes called Fertility Support for Her and Fertility Support for Him.. These are the product at issue in this lawsuit and they are addressed more fully below. In a nutshell, Premama falsely claims that taking Fertility Support helps people conceive. One package of

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