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8 Attorneys for CHRISTIE CHRISTENSEN and
the Class
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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
12

13 CHRISTIE CHRISTENSEN, individually, and
on behalf of all others similarly situated,
14

15 Plaintiff,

16 vs.

17 JILLIAN MICHAELS, an individual; THIN
CARE INTERNATIONAL, a business entity;
18 BASIC RESEARCH, LLC, a Utah limited
liability company; and DOES 1-250, Inclusive,
19

20 Defendants.
21

CASE NO.

CLASS ACTION

COMPLAINT FOR

1) VIOLATION OF THE CONSUMERS
LEGAL REMEDIES ACT,
(CAL. CIV. CODE § 1750 et seq.);

2) VIOLATION OF UNFAIR
COMPETITION ACT,
(CAL. B & P CODE § 17200 et seq.)

3) UNTRUE AND MISLEADING
ADVERTISING
(CAL. B & P CODE § 17500, et seq.);

JURY TRIAL DEMANDED
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I. INTRODUCTION

Defendant Jillian Michaels developed a reputation as a credible fitness instructor by emphasizing that weight loss requires hard work and discipline: indeed, she is fond of saying that long term weight loss requires “blood, sweat, and tears.” Regrettably, however, she has decided to squander her fame by lending her name to a worthless dietary supplement called “Jillian Michaels Maximum Strength Calorie Control.” Contrary to everything that Ms. Michaels has ever instructed, she and the companies peddling this product suggest it makes weight-loss effortless, falsely claiming: “*Take Two Capsules Before Main Meals And You Lose Weight. That’s It.*”

Ms. Michaels knows better – taking two pills before eating does not miraculously cause weight loss. Plaintiff brings this lawsuit to enjoin these ongoing deceptions.

II. THE PARTIES

A. Plaintiff.

1. Plaintiff Christie Christensen (“Plaintiff”) is a resident of California who has purchased “Jillian Michaels Maximum Strength Calorie Control” (“Calorie Control”) in January, 2010 at Wal-Green’s.

B. The Defendants.

2. Defendant Jillian Michaels (“Michaels”) is a California resident who lives in Los Angeles County and is prominent in the weight loss and dietary supplement business. Plaintiff is informed and believes, and upon such information and belief alleges, that Michaels formulated, or was involved in the formulation, of Calorie Control.

3. Defendant Thin Care International, LLC (“Thin Care”) is a Utah limited liability company with its principal place of business in the state of Utah that does business in California. Plaintiff is informed and believes, and upon such information and belief alleges, that Thin Care is associated with Michaels and markets and promotes her dietary supplements and other weight loss-related products, including Calorie Control, throughout California and the United States.

4. Defendant Basic Research, LLC (“Basic Research”) is a Utah limited liability company with its principal place of business in the state of Utah that does business in California.

1 Plaintiff is informed and believes, and upon such information and belief alleges, that Basic
2 Research is associated with Michaels and Thin Care in connection with the formulation,
3 development, and marketing of Michaels's dietary and weight-loss supplements, including Calorie
4 Control.

5 5. Plaintiff does not know the true names or capacities of the persons or entities sued
6 herein as DOES 1 to 250, inclusive, and therefore sues such defendants by such fictitious names.
7 Plaintiff is informed and believes and thereon alleges that each of the DOE defendants is in some
8 manner legally responsible for the damages suffered by Plaintiff and the members of the class as
9 alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of
10 these defendants when they have been ascertained, along with appropriate charging allegations, as
11 may be necessary.

12 **III. JURISDICTION AND VENUE**

13
14 6. This Court has jurisdiction over all causes of action asserted herein. The amount in
15 controversy is substantial but is not believed to exceed \$5,000,000.

16 7. Venue is proper in this Court because Defendants have received substantial
17 compensation from sales in this County and because Defendant Michaels is a resident of this
18 County. Specifically, each Defendant knowingly engages in activities directed at consumers in
19 this County, and each Defendant obtains substantial benefits from the Defendants' common
20 scheme perpetrated in this County. Plaintiff has filed concurrently herewith the declaration of
21 venue required by Civil Code Section 1780(d).

22 8. All out-of-state defendants can be brought before this Court pursuant to
23 California's "long-arm" jurisdictional statute.

24 **IV. FACTS**

25
26 9. Defendant Jillian Michaels is a popular and prominent weight loss celebrity who
27 appears regularly on television and other media promoting weight loss and, most particularly, her
28 own line of weight loss supplements and related products. She has been most prominently

1 associated with the "Biggest Loser" reality TV show, which features morbidly obese contestants
2 and depicts their efforts, under Michaels's supervision, to lose substantial amounts of weight.

3 10. Sadly, Michaels has decided to exploit her fame and goodwill by collaborating with
4 Thin Care and Basic Research to promote a weight loss supplement that purportedly will cause
5 weight loss by itself, without any additional effort on the part of the consumer. Michaels, Thin
6 Care and Basic Research have formulated and developed Calorie Control, which they claim will
7 "restrict your caloric intake automatically." Indeed, they claim: "Two Capsules Before Main
8 Meals And You Lose Weight. That's It." An accurate copy of the advertising and packaging
9 containing these claims is attached as Exhibit 1. Michaels goes even further on her website,
10 www.jillianweightloss.com, where she makes the remarkable claim that Calorie Control is "like an
11 automatic diet. What could be easier!"

12 11. The United States Food and Drug Administration has warned consumers to be wary
13 of claims like the ones being made by the defendants: "[M]any people look for quick and easy
14 solutions to their weight problems. They find it hard to believe in this age of scientific
15 innovations and medical miracles that an effortless weight-loss method doesn't exist. *Any claims*
16 *that you can lose weight effortlessly are false.*"

17 12. Plaintiff first saw the packaging for Calorie Control (attached as Exhibit 1) in
18 December 2009 at Wal-Greens. Having struggled with weight loss her entire life and relying upon
19 the credibility established by Michaels, Plaintiff was intrigued by the claims made by Defendants
20 to peddle Calorie Control. She visited Michaels' website and reviewed the claims referenced
21 above. She then decided to purchase Calorie Control in January 2010 after reviewing, believing,
22 and relying upon the claims set forth above. She took Calorie Control as directed, but her appetite
23 did not decrease, her caloric intake was not automatically restricted, and she did not lose any
24 weight. Calorie Control was worthless to her.

25 13. Plaintiff is informed and believes that the false claims for Calorie Control were
26 personally approved in the summer of 2009 in Los Angeles, California by Michaels and two
27 managing agents of Basic Research and Thin Care: Dennis Gay and Nathalie Chevreau. Each of
28 these individuals knew in the summer of 2009 that the challenged claims were false based upon

1 their experience in the weight-loss and supplement industry.

2
3 **V. CLASS ACTION ALLEGATIONS**

4 14. Plaintiff brings this class action on behalf of the following class:

5 All persons located within California who purchased Calorie
6 Control for personal use within four years before the filing of this
action (the "Class").

7 15. Excluded from the Class are governmental entities, Defendants, any entity in which
8 defendants have a controlling interest, and Defendants' officers, directors, affiliates, legal
9 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded
10 from the Class is any judge, justice, or judicial officer presiding over this matter and the members
11 of their immediate families and judicial staff.

12 16. The proposed Class is so numerous that individual joinder of all its members is
13 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes
14 that the total number of Class members is in the thousands and members of the Class as numerous
15 and geographically dispersed across California. The disposition of the claims of the Class
16 members in a single class action will provide substantial benefits to all parties and to the Court.

17 17. There is a well-defined community of interest in the questions of law and fact
18 involved affecting the plaintiff class and these common questions predominate over any questions
19 that may affect individual Class members. Common questions of fact and law include, but are not
20 limited to, the following:

- 21 (a) Whether Defendants' claims are accurate;
- 22 (b) Whether Defendants' claims are properly substantiated;
- 23 (c) Whether Defendants' have falsely represented that Calorie Control has
- 24 benefits which it does not; and
- 25 (d) Whether Defendants knew that these claims were false;
- 26

27 18. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff
28 and all members of the Class have been similarly affected by Defendants' common course of

1 conduct since they all relied on Defendants' representations concerning Calorie Control and
2 purchased the product based on those representations.

3 19. Plaintiff will fairly and adequately represent and protect the interests of the Class.
4 Plaintiff has retained counsel with substantial experience in handling complex class action
5 litigation. The firm has also been certified as lead class counsel in similar class actions.

6 20. Plaintiff and the members of the Class suffered, and will continue to suffer, harm as
7 a result of Defendants' unlawful and wrongful conduct. A class action is superior to other
8 available methods for the fair and efficient adjudication of the present controversy. Individual
9 joinder of all members of the class is impracticable. Even if individual class members had the
10 resources to pursue individual litigation, it would be unduly burdensome to the courts in which the
11 individual litigation would proceed. Individual litigation magnifies the delay and expense to all
12 parties in the court system of resolving the controversies engendered by Defendants' common
13 course of conduct. The class action device allows a single court to provide the benefits of unitary
14 adjudication, judicial economy, and the fair and efficient handling of all class members' claims in
15 a single forum. The conduct of this action as a class action conserves the resources of the parties
16 and of the judicial system and protects the rights of the class members. Furthermore, for many, if
17 not most, a class action is the only feasible mechanism that allows an opportunity for legal redress
18 and justice.

19 21. Adjudication of individual class members' claims with respect to the Defendants
20 would, as a practical matter, be dispositive of the interests of other members not parties to the
21 adjudication, and could substantially impair or impede the ability of other class members to
22 protect their interests.

23
24 **VI. CAUSES OF ACTION**

25 **FIRST CAUSE OF ACTION**

26 **VIOLATION OF CALIFORNIA LEGAL REMEDIES ACT**

27 (By Class Against All Defendants)
28

22. Plaintiff incorporates by reference all the above allegations as if fully set forth herein.

23. Plaintiff has standing to pursue this claim as she has suffered injury in fact and has lost money or property as a result of Defendants' actions as set forth herein. Specifically, prior to the filing of this action, Plaintiff purchased Calorie Control for her own personal use. In so doing, she reviewed, believed, and relied upon each of the preceding marketing claims. She has consumed Calorie Control as directed, but the product has not worked as advertised, nor did she experience any of the promised benefits.

24. Concurrently with filing this action, Plaintiff's counsel mailed to Defendants, by certified mail, return receipt requested, the written notice required by Civil Code Section 1782(a).

25. Plaintiff has filed concurrently herewith the declaration of venue required by Civil Code Section 1780(d).

26. Defendants' wrongful business practices constituted, and constitute, a continuing course of conduct in violation of the California Consumer Legal Remedies Act since Defendants are still representing that their products have characteristics and abilities which are false and misleading, and have injured Plaintiff and the Class.

27. Pursuant to Section 1770 of the California Civil Code, Plaintiff and the Class seek an order of this court enjoining Defendants from continuing to engage in unlawful, unfair, or deceptive business practices and any other act prohibited by law, including those set forth in the complaint.

28. *Notice Pursuant to Civil Code section 1782:* As a direct and proximate result of Defendant's violations of law, Plaintiff and the Putative Class have been injured. Pursuant to the provisions of Civil Code section 1782, Plaintiff demands that within thirty (30) days from service of this Complaint, Defendant adequately correct, repair, replace or otherwise rectify the deceptive practices described in this Complaint for the entire Class, pursuant to Civil Code section 1770. This includes providing notice and full compensation to consumers who have purchased the Product within the Class Period. If Defendant fails to do so, Plaintiff will amend this Complaint to seek damages pursuant to Civil Code section 1782.

SECOND CAUSE OF ACTION
VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS
CODE SECTIONS 17200 ET SEQ.

(On Behalf of the Class against all Defendants)

29. Plaintiff incorporates by reference all the above allegations as if fully set forth herein.

30. As alleged hereinabove, Plaintiff has standing to pursue this claim as she has suffered injury in fact and has lost money or property as a result of Defendants' actions as set forth herein. Specifically, prior to the filing of this action, Plaintiff purchased Calorie Control for her own personal use. In so doing, she relied upon the false representations referenced above. She has consumed Calorie Control, but the product has not worked as advertised and was worthless.

31. Defendants' actions as alleged in this Complaint constitute an unfair or deceptive business practice within the meaning of California Business and Professions Code section 17200 in that Defendants' actions are unfair, fraudulent, and misleading. Their actions are offensive to established public policy and/or are immoral, unethical, unscrupulous, and injurious to consumers.

32. Defendants' wrongful business practices constituted, and constitute, a continuing course of conduct of fraudulent, illegal and unfair competition since Defendants are marketing and selling their products in a manner likely to deceive the public.

33. Defendants' wrongful business practices have caused injury to Plaintiff and the Class.

34. Pursuant to section 17203 of the California Business and Professions Code, Plaintiff and the Class seek an order of this court enjoining Defendants from continuing to engage in unlawful, unfair, or deceptive business practices and any other act prohibited by law, including those set forth in the complaint. Plaintiff and the Class also seek an order requiring Defendants to make full restitution of all moneys they wrongfully obtained from Plaintiff and the Class.

THIRD CAUSE OF ACTION
VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS
CODE SECTIONS 17500 ET SEQ.

(On Behalf of the Class against all Defendants)

35. Plaintiff incorporates by reference all the above allegations as if fully set forth herein.

36. As alleged hereinabove, Plaintiff has standing to pursue this claim as she has suffered injury in fact and has lost money or property as a result of Defendants' actions as set forth herein. Specifically, prior to the filing of this action, Plaintiff purchased Calorie Control for her own personal use. In so doing, she relied upon the false representations referenced above. She has consumed Calorie Control, but the product has not worked as advertised and was worthless

37. Defendants made a series of common representations disseminated to the public as to the uses of Calorie Control in advertisements, product descriptions and other sales materials. These representations were made to induce the public to purchase Calorie Control. The representations were false.

38. Defendants' misleading advertising constituted, and constitute, a continuing course of conduct since Defendants are still marketing and selling Calorie Control in a manner likely to deceive the public.

33. Defendants' misleading advertisements have caused injury to Plaintiff and the Class.

40. Pursuant to Bus. & Prof. Code section 17535, Plaintiff and members of the Class are entitled to remedies as set forth below.

VII. PRAYER FOR RELIEF

Wherefore, Plaintiff and members of the Class request that the Court enter an order or judgment against Defendants as follows:

1. Certification of the proposed classes and notice thereto to be paid by Defendants;
2. Adjudge and decree that Defendants have engaged in the conduct alleged herein;

- 1 3. For injunctive relief available under the First Cause of Action.
- 2 4. For all remedies available under the Second and Third Causes of Action, including
- 3 injunctive relief, penalties, compensatory, general, statutory, exemplary, and any other damages;
- 4 5. For both pre and post-judgment interest at the maximum allowable rate on any
- 5 amounts awarded under the Second Cause of Action;
- 6 6. Costs of the proceedings herein;
- 7 7. Reasonable attorneys' fees as allowed by statute; and
- 8 8. Any and all such other and further relief that this Court may deem just and proper.
- 9

10 DATED: February 9, 2010

11 **WASSERMAN, COMDEN &**
12 **CASSELMAN, L.L.P.**
13 MELISSA M. HARNETT
14 GREGORY SCARLETT
15 JESSE B. LEVIN

16 By: 

17 MELISSA M. HARNETT
18 Attorneys for CHRISTIE CHRISTENSEN and the
19 Class
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TMZ

EXHIBIT 1

JILLIAN
MICHAELS

WARNING: This product contains a significantly potent xanthine (i.e., caffeine and caffeine-like stimulants) mixture of about 100 mg per regular 2-MetaCap serving. Consult your physician before use if you are sensitive to stimulants. Do not exceed suggested daily serving. Not for use by individuals under the age of 18 years. Do not use if pregnant or nursing.

**Keep out of reach of children.
Use only as directed.**

Individual results will vary.

Use in conjunction with any sensible diet and exercise program.

If you or your health-care provider have any questions, please call: 1-800-898-5153.

www.JillianWeightLoss.com

Our guarantee: Because no weight-control product or program will work for everyone, Jillian Michaels Maximum Strength Calorie Control™ is backed by our 100% satisfaction guarantee. Simply stated, if you are not satisfied with your Jillian Michaels Maximum Strength Calorie Control just return it to the place of purchase within 60 days.

International distribution is not authorized without prior written approval. Product resale allowed only through authorized representatives.

Store at controlled room temperature:
15°-30°C/59°-86°F

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.



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BR27182



FREE 7-DAY TRIAL MEMBERSHIP

For complete details on this offer visit

JillianWeightLoss.com/membership

PRINTED

No Purchase Necessary

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JILLIAN
MICHAELS

Maximum Strength
Calorie Control.

- Two Capsules Before Main Meals And You Lose Weight... That's It!*
- Helps Reduce Caloric Intake*
- High Energy Formula Fights "Diet Fatigue"*

Dietary Supplement

84 Easy To Swallow MetaCaps™

**America's TOUGHEST Trainer
Makes Losing Weight EASY**

Supplement Facts

Serving Size: 2 MetaCaps™
Servings Per Container: 42

	Amount Per Serving	% Daily Value†
Proprietary Blend Containing:	922 mg	
Wing Nut (root) Extract		†
Guarana (seed) Extract		†
standardized to 10% caffeine		
Damiana (seed) Extract		†
Coffee (bean) Extract		†
standardized to 70% natural caffeine		
Garlic (root) Powder		†
Kola Nut (seed) Extract		†
standardized to 12% caffeine		
White Willow (bark) Powder		†
Cocoa (seed) Extract		†
standardized to 4% theobromine		
Juice (seed) Extract		†
Schizandra (fruit) Extract		†
Chinese Skullcap (root) Extract		†
standardized to 36% flavones as baicalin		

†† Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value not established.

Other Ingredients: Gelatin, Microcrystalline Cellulose, Stearic Acid, Silicon Dioxide, Magnesium Stearate, Spirulina, Titanium Dioxide.

This product is manufactured to be within all acceptable industry variances. Standardized Extract means an extraction process to provide the highest quality extract containing a specific compound. All botanical extracts are manufactured to acceptable industry variances.

Directions for use: Take 2 MetaCaps with a full glass of water 15 minutes before main meals. Do not exceed 6 MetaCaps per day.

NOTE: Limit the use of caffeine-containing medications, foods or beverages while taking this product because too much caffeine may cause nervousness, irritability, sleeplessness and occasionally, rapid heart beat. For additional information on this or any other Jillian Michaels product, please call our experienced customer service representatives at: 1-800-698-5153.

JILLIAN MICHAELS

Jillian Michaels Maximum Strength Calorie Control™

We all know if you want to lose weight, you need to reduce your caloric intake. It sounds simple, but the truth is, if it were easy, most of us would not be overweight. This is where Jillian Michaels Maximum Strength Calorie Control™ comes in: it's a unique, scientifically developed formulation that helps restrict your caloric intake automatically. In other words, when you take this compound 15 minutes before main meals, you want to eat fewer calories. But the best part is, you don't FEEL like you're eating fewer calories. So essentially you're on a calorie-restricted diet without even knowing it. You take 2 capsules before your main meals, you automatically reduce your caloric intake, and you lose weight. It is a simple, effective way to move you towards overall health.

THIN CARE
INTERNATIONAL

280 Lake City, UT 84016
Manufactured in the U.S.A.

**America's TOUGHEST Trainer
Makes Losing Weight EASY**