

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAIME JENSEN,
Plaintiff,
v.
NATROL, LLC,
Defendant.

Case No. 17-cv-03193-VC

**ORDER RE: MOTION TO DISMISS
AND MOTION TO STRIKE**

Re: Dkt. Nos. 16, 17

Motion to Dismiss

1. The complaint adequately alleges that Natrol's claims about the health benefits of the biotin supplement are false (as opposed to merely unsubstantiated). For example, Jensen alleges that:

- "The Institute of Medicine has set an adequate intake (AI) for biotin at 30 micrograms (mcg) per day for people 19 years and older and even less for younger people." Dkt. No. 12, First Amended Complaint at ¶ 3.
- "More than sufficient biotin is derived from the daily diets of the general U.S. population as healthy persons ingest anywhere from 30mcg-60mcg of biotin from their daily diets." *Id.*
- "Once there is sufficient biotin in the body, saturation occurs and the body just does not use this surplus biotin." *Id. See also id.* at ¶ 5.
- "Therefore, . . . for the general population the biotin supplements sold by Defendant are unneeded, superfluous and will not provide any benefits, let alone support healthy hair and strong nails." *Id.* at ¶ 6.

These are allegations of falsity, not merely lack of substantiation. *Greenberg v. Target Corp.*, No. 17-CV-1862-RS, slip op. at 4-5 (N.D. Cal., filed Aug. 28, 2017).

The complaint also cites an Institute of Medicine report. Natrol asserts that this report actually undermines the allegations in the complaint, but that is not correct. Although the report alone may not allow Jensen to prove her case (or even to get past summary judgment), at this stage it supports the plausibility of her allegations. *See id.*

2. Nor is Natrol correct that Jensen has failed to plead that she was injured by the allegedly false representations regarding the health effects of the supplement because she might conceivably be among the small percentage of the population that could in fact benefit from a biotin supplement. Jensen has alleged that Natrol's product "did not and could not provide the represented health benefits" to Jensen. First Amended Complaint at ¶ 15. She also alleges that biotin supplementation is only necessary for people with "exceedingly rare conditions" and people "who chronically ingest inordinate amounts of raw egg whites." *Id.* at ¶ 4. The obvious implication of Jensen's allegations is that she is not someone who requires biotin supplementation.¹

3. Natrol is correct that Jensen lacks standing to pursue injunctive relief, because she alleges that had she "known the truth" about Natrol's product, she would not have purchased it. *Id.* at ¶ 15; *Garrison v. Whole Foods Mkt. Grp., Inc.*, No. 13-CV-05222-VC, 2014 WL 2451290, at *5 (N.D. Cal. June 2, 2014). *See also Jou v. Kimberly-Clark Corp.*, No. 13-CV-03075-JSC, 2013 WL 6491158, at *4 (N.D. Cal. Dec. 10, 2013).

Accordingly, the motion to dismiss is granted with respect to the claim for injunctive relief, and denied in all other respects.

Motion to Strike

1. There is no reason to strike the class allegations on the ground that, as currently proposed, the class could include consumers who are biotin deficient. These issues are better

¹ For similar reasons, Jensen's allegations are sufficient to allow for restitution under California's Consumers Legal Remedies Act and Unfair Competition Law.

addressed on a motion for class certification.

2. Nor should the nationwide and multistate class allegations be stricken at this stage. "In determining whether the UCL and CLRA apply to non-California residents, courts consider where the defendant does business, whether the defendant's principal offices are located in California, where class members are located, and the location from which advertising and other promotional literature decisions were made." *In re Toyota Motor Corp.*, 785 F. Supp. 2d 883, 917 (C.D. Cal. 2011). Here Jensen has alleged that Natrol is headquartered in California. Some courts in this district have determined that merely alleging that a company is headquartered within the state is insufficient to "create a plausible inference that the unlawful conduct emanated from that location." *Gross v. Symantec Corp.*, No. 12-CV-00154-CRB, 2012 WL 3116158, at *7 (N.D. Cal. July 31, 2012). But at least where, as here, there is no indication the company has any operations outside of California, an allegation that the company is headquartered in California is sufficient at the pleading stage to allow a plaintiff to allege a nationwide and multistate class. *See Bias v. Wells Fargo & Co.*, 942 F. Supp. 2d 915, 929 (N.D. Cal. 2013). Of course, the proper scope of the class will be revisited at the class certification stage. *See Greenberg*, slip op. at 7-8.

Accordingly, the motion to strike the class allegations is denied.

IT IS SO ORDERED.

Dated: September 22, 2017



VINCE CHHABRIA
United States District Judge