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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

██████████ Individually
situated,

Plaintiff,

v.

TERRAVIA HOLDINGS, INC., JONATHAN
S. WOLFSON, APU MODY, and TYLER W.
PAINTER,

Defendants.

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

JURY TRIAL DEMANDED

Plaintiff ██████████ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by Plaintiff undersigned attorneys, for Plaintiff’s complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys, which included, among other things, a review of the Defendants’ public documents, announcements, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding TerraVia Holdings, Inc. (“TerraVia” or the “Company”), analysts’ reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that

1 substantial evidentiary support will exist for the allegations set forth herein after a reasonable
2 opportunity for discovery.

3 **NATURE OF THE ACTION**

4 1. This is a federal securities class action on behalf of a class consisting of all
5 persons other than Defendants who purchased or otherwise acquired TerraVia securities between
6 August 8, 2016 and November 7, 2016, both dates inclusive (the “Class Period”), seeking to
7 recover compensable damages caused by Defendants’ violations of the federal securities laws
8 and to pursue remedies under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934
9 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder.

10 **JURISDICTION AND VENUE**

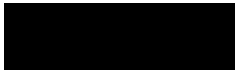

11 2. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of
12 the Exchange Act (15 U.S.C. §§78j(b), 78b-1 and 78t(a)) and Rule 10b-5 promulgated
13 thereunder by the SEC (17 C.F.R. §240.10b-5).

14 3. This Court has jurisdiction over the subject matter of this action pursuant to 28
15 U.S.C. §1331 and Section 27 of the Exchange Act (15 U.S.C. §78aa).

16 4. Venue is proper in this District pursuant to Section 27 of the Exchange Act (15
17 U.S.C. §78aa), and 28 U.S.C. §1391(b) as the Company maintains its headquarters and
18 conducts business in this District.

19 5. In connection with the acts, conduct, and other wrongs alleged in this Complaint,
20 Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce,
21 including but not limited to, the United States mails, interstate telephone communications and
22 the facilities of the national securities exchange.

23 **PARTIES**

24 6. Plaintiff  as set forth in the accompanying certifica
25 incorporated by referen  ased TerraVia securities at artificially inflated prices
26 during the Class Period and has been damaged thereby.

1 7. Defendant TerraVia is a company that creates and sells food, nutrition, and
2 specialty ingredients from algae. Its platform uses microalgae to produce high-value triglyceride
3 oils, proteins, fibers, micronutrients, and other ingredients. The Company offers products, such
4 as specialty food and nutrition ingredients, animal nutrition ingredients, and specialty personal
5 care ingredients, as well as consumer-focused food products. The company was formerly known
6 as Solazyme, Inc. and changed its name to TerraVia Holdings, Inc. in May 2016. TerraVia was
7 incorporated in Delaware in 2003 and is headquartered at 225 Gateway Boulevard, South San
8 Francisco, CA 94080. The Company’s common stock is listed on the NASDAQ Global Select
9 Market (“NASDAQ”) under the ticker symbol “TVIA.”

10 8. Defendant Jonathan S. Wolfson (“Wolfson”) is a co-founder and the Chairman of
11 the board of directors during the entire Class Period. Wolfson was TerraVia’s Chief Executive
12 Officer (“CEO”) from 2008 to on or about August 21, 2016.

13 9. Defendant Apu Mody (“Mody”) is the CEO of TerraVia since on or about August
14 22, 2016 through the end of the Class Period.

15 10. Defendant Tyler W. Painter (“Painter”) is the Chief Financial Officer (“CFO”)
16 since 2007 and Chief Operating Officer (“COO”) of TerraVia since 2014.

17 11. Defendants Wolfson, Mody and Painter are sometimes collectively referred to
18 herein as “Individual Defendants.”

19 12. Each of the Individual Defendants:

- 20 (a) directly participated in the management of the Company;
- 21 (b) was directly involved in the day-to-day operations of the Company at the
22 highest levels;
- 23 (c) was privy to confidential proprietary information concerning the Company
24 and its business and operations;
- 25 (d) was involved in drafting, producing, reviewing and/or disseminating the
26 false and misleading statements and information alleged herein;
- 27
- 28

1 (e) was aware of or recklessly disregarded the fact that the false and
2 misleading statements were being issued concerning the Company; and

3 (f) approved or ratified these statements in violation of the federal securities
4 laws.

5 13. TerraVia is liable for the acts of the Individual Defendants and their employees
6 under the doctrine of *respondeat superior* and common law principles of agency because all of
7 the wrongful acts complained of herein were carried out within the scope of their employment.

8 14. The scienter of the Individual Defendants and other employees and agents of
9 TerraVia are similarly imputed to TerraVia under *respondeat superior* and agency principles.

10 15. Defendants TerraVia, Wolfson, Mody, and Painter are referred to herein as
11 “Defendants.”

12 SUBSTANTIVE ALLEGATIONS

13 Materially False and Misleading Statements

14 16. The Company provides the following descriptions of its products on its official
15 website:

- 16 • Our microalgae-based protein platform leverages fermentation technology to
17 produce highly nutritious, naturally derived, minimally processed ingredients with
18 **outstanding consistency**.¹
- 19 • AlgaVia® Whole Algae Ingredients provide **an array of benefits** that can make
20 reduced-fat foods taste richer, vegan protein fortification simpler and the
21 reduction of saturated fat with great taste and texture possible. Experience a food
22 revolution that makes the future bolder and brighter.²
- 23 • AlgaVia® Whole Algae Ingredients **help make delicious foods that are better for**
24 **people and inspire solutions for a better planet**.³

25
26
27 ¹ <http://algavia.com/wp-content/uploads/2014/11/ProteinRich.pdf>

28 ² <http://algavia.com/>

³ <http://algavia.com/>

- 1 • [Lipid Rich Whole Algae] **Deliver healthier, indulgent products without**
- 2 **compromise.**⁴
- 3 • AlgaVia® Protein-Rich Whole Algae is vegan, **free of known allergens** and
- 4 gluten-free—with additional fiber, lipids, carbohydrates and micronutrients.⁵
- 5 • AlgaVia® Protein-Rich Whole Algae delivers a unique set of functional and
- 6 nutritional benefits.
 - 7 ○ Whole food ingredient
 - 8 ○ **Free of known allergens**
 - 9 ○ Sustainable, naturally-derived
 - 10 ○ Contains all essential amino acids
 - 11 ○ Adds dietary fiber, healthy lipids¹ and micronutrients to food products
 - 12 ○ Gluten-free, non-GMO and vegan
 - 13 ○ Manufactured in the U.S.
 - 14 ○ FDA GRAS No Questions Letter received
 - 15 ○ **High protein digestibility**
 - 16 ○ Zero to minimal impact on the texture or viscosity of a finished product
 - 17 ○ Stable in a variety of temperatures and pH conditions⁶

18 (Emphasis added).

19 17. On August 8, 2016, the Company filed a quarterly report on Form 10-Q with the
20 SEC announcing the Company’s financial and operating results for the quarter ended June 30,
21 2016 (the “2Q 2016 10-Q”). The 2Q 2016 10-Q was signed by Defendant Painter. The 2Q 2016
22 10-Q contained signed certifications pursuant to the Sarbanes-Oxley Act of 2002 (“SOX”) by
23 Defendants Wolfson and Patiner attesting to the accuracy of financial reporting, the disclosure of
24 any material changes to the Company’s internal controls over financial reporting, and the
25 disclosure of all fraud. The 2Q 2016 10-Q stated in relevant part:

26 _____
27 ⁴ <http://algavia.com/ingredients/>

28 ⁵ <http://algavia.com/ingredients/>

⁶ <http://algavia.com/ingredients/proteins/>

1 Our food oils are formulated to offer a variety of functional benefits such as
2 enhanced structuring capabilities and stability while providing robust formulation
3 and process flexibility. These food oils have the potential to improve upon
4 conventionally utilized specialty fats and oils and our high oleic algae oil has
5 received an FDA generally recognized as safe (GRAS) "No Questions" letter.
6 Currently, these oils are commercially available in our AlgaWise® branded food
7 oil platform and in our consumer culinary oil Thrive® brand. In addition, we have
8 developed novel methods of preparing powdered forms of triglyceride oils and
9 vegan proteins, and our powdered ingredients are composed of unmodified whole
10 algae cells. AlgaVia® Lipid Powder (commonly known as whole algae flour) and
11 AlgaVia® Protein (commonly known as whole algae protein) are whole algae
12 ingredients that can improve the nutritional profile of foods and beverages.
13 AlgaVia® Lipid Powder is a new fat source that allows for the reduction or
14 replacement of dairy fats, oils, and eggs. AlgaVia® Protein is a new vegan source
15 of protein that is free of known allergens and gluten. Both AlgaVia® Lipid Powder
16 and Protein can be used across a range of applications such as beverages (ready-
17 to-drink and powdered), bakery, snacks, bars, dressings, sauces and frozen
18 desserts and have received FDA GRAS "No Questions" letters. In May 2016, we
19 and Bunge announced that we launched a native, whole algae DHA,
20 docosahexaenoic acid, a long chain omega-3 fatty acid as a sustainable specialty
21 feed ingredient, prioritizing the aquaculture market.

14 18. On November 4, 2016, the Company filed a quarterly report on Form 10-Q with
15 the SEC announcing the Company's financial and operating results for the quarter ended
16 September 30, 2016 (the "3Q 2016 10-Q"). The 3Q 2016 10-Q was signed by Defendant Painter.
17 The 3Q 2016 10-Q contained signed SOX certifications by Defendants Mody and Patiner
18 attesting to the accuracy of financial reporting, the disclosure of any material changes to the
19 Company's internal controls over financial reporting, and the disclosure of all fraud. The 3Q
20 2016 10-Q stated in relevant part:

22 Our food oils are formulated to offer a variety of functional benefits such as
23 enhanced structuring capabilities and stability while providing robust formulation
24 and process flexibility. These food oils have the potential to improve upon
25 conventionally utilized specialty fats and oils and our high oleic algae oil has
26 received an FDA generally recognized as safe (GRAS) "No Questions" letter.
27 Currently, these oils are commercially available in our AlgaWise® branded food
28 oil platform and in our consumer culinary oil Thrive® brand. In addition, we have
developed novel methods of preparing powdered forms of triglyceride oils and
vegan proteins, and our powdered ingredients are composed of unmodified whole
algae cells. AlgaVia® Lipid Powder (commonly known as whole algae flour) and

1 AlgaVia[®] Protein (commonly known as whole algae protein) are whole algae
2 ingredients that can improve the nutritional profile of foods and beverages.
3 AlgaVia[®] Lipid Powder is a new fat source that allows for the reduction or
4 replacement of dairy fats, oils, and eggs. AlgaVia[®] Protein is a new vegan source
5 of protein that is free of known allergens and gluten. Both AlgaVia[®] Lipid Powder
6 and Protein can be used across a range of applications such as beverages (ready-to-
7 drink and powdered), bakery, snacks, bars, dressings, sauces and frozen desserts
8 and each ingredient received a FDA GRAS “No Questions” letter. In May 2016,
9 we and Bunge announced that we launched a native, whole algae DHA,
10 docosahexaenoic acid, a long chain omega-3 fatty acid as a sustainable specialty
11 feed ingredient, prioritizing the aquaculture market.

12 19. The statements contained in ¶¶ 16-18 were materially false and/or misleading
13 when made because Defendants failed to disclose or indicate that: (1) TerraVia’s products
14 caused gastrointestinal distress, such as nausea and vomiting; and (2) as a result, Defendants’
15 statements about TerraVia’s business, operations, and prospects were false and misleading
16 and/or lacked a reasonable basis at all relevant times.

17 The Truth Emerges

18 20. On November 7, 2016, *Bloomberg* published an article entitled “Soylent Thinks It
19 Found What Was Making People Sick: Algae”, stating that Rosa Foods, Inc.’s flagship meal
20 replacement drink, Soylent, contains an algal flour ingredient provided by TerraVia that causes
21 consumers to become sick, namely nausea vomiting, and that Rosa Foods will be removing the
22 ingredient altogether from its product formulations by early 2017. Despite TerraVia Senior Vice
23 President Mark Brooks’ adamant denial that TerraVia’s algal flour was
24 responsible, *Bloomberg* further reported that TerraVia sent a letter in July to a distributor of
25 Honey Stinger, a Colorado energy bar company owned by EN-R-G Foods, LLC, **“warning that
26 it had received a ‘modest number of reports’ showing that algal protein can cause
27 ‘gastrointestinal distress,’ according to a copy seen by Bloomberg”**—similar ailments to
28 those reported by Soylent customers. (Emphasis added)

29 21. On this news, shares of TerraVia’s fell \$0.15 per share or over 8% to close at
30 \$1.70 per share on November 7, 2016, damaging investors.

1 22. As a result of Defendants' wrongful acts and omissions, and the precipitous
2 decline in the market value of the Company's securities, Plaintiff and other Class members have
3 suffered significant losses and damages.

4 **CLASS ACTION ALLEGATIONS**

5 23. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil
6 Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or
7 otherwise acquired TerraVia securities traded on NASDAQ during the Class Period; and were
8 damaged upon the revelation of the alleged corrective disclosures. Excluded from the Class are
9 Defendants herein, the officers and directors of the Company at all relevant times, members of
10 their immediate families and their legal representatives, heirs, successors or assigns and any
11 entity in which Defendants have or had a controlling interest.

12 24. The members of the Class are so numerous that joinder of all members is
13 impracticable. Throughout the Class Period, the Company's securities were actively traded on
14 the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time,
15 and can only be ascertained through appropriate discovery, Plaintiff believes that there are at
16 least hundreds of members in the proposed Class. Members of the Class may be identified from
17 records maintained by TerraVia or its transfer agent, and may be notified of the pendency of this
18 action by mail using a form of notice customarily used in securities class actions.

19 25. Plaintiff's claims are typical of the claims of the members of the Class as all
20 members of the Class are similarly affected by Defendants' wrongful conduct in violation of
21 federal law that is complained of herein.

22 26. Plaintiff will fairly and adequately protect the interests of the members of the
23 Class and has retained counsel competent and experienced in class and securities litigation.
24 Plaintiff has no interests antagonistic to or in conflict with those of the Class.

25 27. Common questions of law and fact exist as to all members of the Class and
26 predominate over any questions solely affecting individual members of the Class. Among the
27 questions of law and fact common to the Class are:
28

- 1 • whether the federal securities laws were violated by Defendants' acts as alleged
- 2 herein;
- 3 • whether statements made by Defendants to the investing public during the Class
- 4 Period misrepresented material facts about the business, operations and
- 5 management of TerraVia;
- 6 • whether the Individual Defendants caused TerraVia to issue false and misleading
- 7 statements during the Class Period;
- 8 • whether Defendants acted knowingly or recklessly in issuing false and misleading
- 9 statements;
- 10 • whether the prices of TerraVia securities during the Class Period were artificially
- 11 inflated because of the Defendants' conduct complained of herein; and,
- 12 • whether the members of the Class have sustained damages and, if so, what is the
- 13 proper measure of damages.

14 28. A class action is superior to all other available methods for the fair and efficient
15 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as
16 the damages suffered by individual Class members may be relatively small, the expense and
17 burden of individual litigation make it impossible for members of the Class to individually
18 redress the wrongs done to them. There will be no difficulty in the management of this action as
19 a class action.

20 29. Plaintiff will rely, in part, upon the presumption of reliance established by the
21 fraud-on-the-market doctrine in that:

- 22 • Defendants made public misrepresentations or failed to disclose material facts
- 23 during the Class Period;
- 24 • the omissions and misrepresentations were material;
- 25 • TerraVia securities are traded in efficient markets;
- 26 • the Company's shares were liquid and traded with moderate to heavy volume
- 27 during the Class Period;

28

- 1 • the Company traded on NASDAQ, and was covered by multiple analysts;
- 2 • the misrepresentations and omissions alleged would tend to induce a reasonable
- 3 investor to misjudge the value of the Company's securities; and
- 4 • Plaintiff and members of the Class purchased and/or sold TerraVia securities
- 5 between the time the Defendants failed to disclose or misrepresented material
- 6 facts and the time the true facts were disclosed, without knowledge of the omitted
- 7 or misrepresented facts.

8 30. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a
9 presumption of reliance upon the integrity of the market.

10 31. Alternatively, Plaintiff and the members of the Class are entitled to the
11 presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State*
12 *of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material
13 information in their Class Period statements in violation of a duty to disclose such information,
14 as detailed above.

15 **COUNT I**
16 **Violation of Section 10(b) Of**
17 **The Exchange Act Against and Rule 10b-5**
18 **Promulgated Thereunder Against All Defendants**

19 32. Plaintiff repeats and realleges each and every allegation contained above as if
20 fully set forth herein.

21 33. During the Class Period, Defendants carried out a plan, scheme and course of
22 conduct which was intended to and, throughout the Class Period, did: (1) deceive the investing
23 public, including plaintiff and other Class members, as alleged herein; and (2) cause plaintiff and
24 other members of the Class to purchase TerraVia's securities at artificially inflated prices. In
25 furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them,
26 took the actions set forth herein.

27 34. Defendants (a) employed devices, schemes, and artifices to defraud; (b) made
28 untrue statements of material fact and/or omitted to state material facts necessary to make the

1 statements not misleading; and (c) engaged in acts, practices, and a course of business that
2 operated as a fraud and deceit upon the purchasers of the Company's common stock in an effort
3 to maintain artificially high market prices for TerraVia's securities in violation of Section 10(b)
4 of the Exchange Act and Rule 10b-5 thereunder. All Defendants are sued either as primary
5 participants in the wrongful and illegal conduct charged herein or as controlling persons as
6 alleged below.

7 35. Defendants, individually and in concert, directly and indirectly, by the use, means
8 or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a
9 continuous course of conduct to conceal adverse material information about the business,
10 operations and future prospects of TerraVia as specified herein.

11 36. These Defendants employed devices, schemes and artifices to defraud, while in
12 possession of material adverse non-public information and engaged in acts, practices, and a
13 course of conduct as alleged herein in an effort to assure investors of TerraVia value and
14 performance and continued substantial growth, which included the making of, or participation in
15 the making of, untrue statements of material facts and omitting to state material facts necessary
16 in order to make the statements made about TerraVia and its business operations and future
17 prospects in the light of the circumstances under which they were made, not misleading, as set
18 forth more particularly herein, and engaged in transactions, practices and a course of business
19 that operated as a fraud and deceit upon the purchasers of TerraVia securities during the Class
20 Period.

21 37. Each of the Defendants' primary liability, and controlling person liability, arises
22 from the following facts: (1) Individual Defendants were high-level executives, directors, and/or
23 agents of the Company during the Class Period and members of the Company's management
24 team or had control thereof; (2) each of these Defendants, by virtue of his responsibilities and
25 activities as a senior officer and/or director of the Company, was privy to and participated in the
26 creation, development and reporting of the Company's financial condition; (3) each of these
27 defendants enjoyed significant personal contact and familiarity with the other defendants and
28

1 was advised of and had access to other members of the Company's management team, internal
2 reports and other data and information about the Company's finances, operations, and sales at all
3 relevant times; and (4) each of these defendants was aware of the Company's dissemination of
4 information to the investing public which they knew or recklessly disregarded was materially
5 false and misleading.

6 38. Defendants had actual knowledge of the misrepresentations and omissions of
7 material facts set forth herein, or acted with reckless disregard for the truth in that they failed to
8 ascertain and to disclose such facts, even though such facts were available to them. Such
9 Defendants' material misrepresentations and/or omissions were done knowingly or recklessly.

10 39. As a result of the dissemination of the materially false and misleading information
11 and failure to disclose material facts, as set forth above, the market price of TerraVia's securities
12 was artificially inflated during the Class Period. In ignorance of the fact that market prices of
13 TerraVia's publicly-traded securities were artificially inflated, and relying directly or indirectly
14 on the false and misleading statements made by Defendants, or upon the integrity of the market
15 in which the securities trade, and/or on the absence of material adverse information that was
16 known to or recklessly disregarded by Defendants but not disclose in public statements by
17 Defendants during the Class Period, Plaintiff and the other members of the Class acquired
18 TerraVia securities during the Class Period at artificially high prices and were or will be
19 damaged thereby.

20 40. At the time of said misrepresentations and omissions, Plaintiff and other members
21 of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff and the
22 other members of the Class and the marketplace known the truth regarding TerraVia financial
23 results, which were not disclosed by Defendants, Plaintiff and other members of the Class would
24 not have purchased or otherwise acquired their TerraVia securities, or, if they had acquired such
25 securities during the Class Period, they would not have done so at the artificially inflated prices
26 that they paid.

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1 41. By virtue of the foregoing, Defendants have violated Section 10(b) of the
2 Exchange Act, and Rule 10b-5 promulgated thereunder.

3 42. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and
4 the other members of the Class suffered damages in connection with their respective purchases
5 and sales of the Company's common stock during the Class Period.

6 43. This action was filed within two years of discovery of the fraud and within five
7 years of each plaintiff's purchases of securities giving rise to the cause of action.

8 **COUNT II**
9 **Violation of Section 20(a) Of**
10 **The Exchange Act Against Individual Defendants**

11 44. Plaintiff repeats and realleges each and every allegation contained above as if
12 fully set forth herein.

13 45. Individual Defendants are sued herein as a controlling person of TerraVia.

14 46. By virtue of their high-level positions, agency, and their ownership and
15 contractual rights, participation in and/or awareness and/or intimate knowledge of the misleading
16 statements disseminated to the investing public, these defendants had the power to influence and
17 control, and did influence and control, directly or indirectly, the decision-making of the primary
18 violator, including the content and dissemination of the various statements that plaintiff contends
19 are false and misleading. In particular, each defendant had the power to control or influence the
20 particular transactions giving rise to the securities violations as alleged herein, and exercised the
21 same.

22 47. As set forth above, TerraVia violated Section 10(b) and Rule 10b-5 by their acts
23 and omissions as alleged in this Complaint.

24 48. By virtue of their positions as controlling persons, the Individual Defendants are
25 liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of
26 Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in
27 connection with their purchases of the Company's common stock during the Class Period.
28

1 49. This action was filed within two years of discovery of the fraud and within five
2 years of each Plaintiff's purchases of securities giving rise to the cause of action.

3
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

6 A. Determining that this action is a proper class action, designating Plaintiff as class
7 representative under Rule 23 of the Federal Rules of Civil Procedure and Plaintiff's counsel as
8 Class Counsel;

9 B. Awarding compensatory damages in favor of Plaintiff and the other Class
10 members against all defendants, jointly and severally, for all damages sustained as a result of
11 Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

12 C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in
13 this action, including counsel fees and expert fees;

14 D. Such other and further relief as the Court may deem just and proper.

15 **JURY TRIAL DEMANDED**

16 Plaintiff hereby demands a trial by jury.

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19 Dated: November 16, 2016

