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ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
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Attorney for Plaintiffs

By: Patricia Schiripo
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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MERCER COUNTY
DOCKET NO.: MER-C- _____

JEFFREY S. CHIESA, Attorney General
of the State of New Jersey, and ERIC T.
KANEFSKY, Acting Director of the New
Jersey Division of Consumer Affairs,

Plaintiffs,

v.

SKECHERS USA, INC., d/b/a
SKECHERS, a Delaware corporation,

Defendant.

Civil Action

COMPLAINT

1. Plaintiffs, Jeffrey S. Chiesa, Attorney General of the State of New Jersey (“Attorney General”), with offices located 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Eric T. Kanefsky, Acting Director of the New Jersey Division of Consumer Affairs (“Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey (collectively, “Plaintiffs”) bring this action in the public interest against Skechers USA, Inc., d/b/a Skechers, (“Defendant”) for violating the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-

1et seq., (“CFA”), by among other things, failing to substantiate benefit claims Defendant has made regarding its rocker-bottom footwear products, including Shape-ups, Tone-ups, and the Skechers Resistance Runner.

2. This Complaint is being filed concurrently with a Final Consent Judgment.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to the CFA and over Defendant pursuant to the CFA. Venue is proper under R. 4:3-2 because Mercer County is a county in which the Defendant has advertised and conducted business and is a county in which at least one of parties resides.

THE PARTIES

4. The Attorney General is charged with enforcing the CFA. The Director is charged with administering the CFA on behalf of the Attorney General. By this action, the Attorney General and the Director seek injunctive and other relief for violations of the CFA, pursuant to N.J.S.A. 56:8-8, 8-11, 8-13 and 8-19, against Defendant for engaging in unfair and deceptive acts or practices in connection with the advertising, marketing, and sale of their rocker-bottom footwear products.

5. The Defendant is incorporated in Delaware, with its principal place of business in Manhattan Beach, California. The Defendant has marketed, distributed, and sold shoe products to consumers throughout the United States, including New Jersey. Defendant is a publicly traded corporation.

GENERAL ALLEGATIONS

6. The Defendant has made health-related claims in the marketing, packaging, advertising, offering, and selling of its line of rocker-bottom shoe products including Shape-ups, Tone-ups, and the Skechers Resistance Runner that were not substantiated by competent and reliable scientific evidence at the time the claims were made.

7. The Defendant has asserted that its rocker-bottom shoe products cause one to lose weight, burn calories, improve one's circulation, fight cellulite, firm, tone or strengthen thigh, buttock, and back muscles without adequate support.

SPECIFIC ALLEGATIONS

8. Rocker-bottom shoes are shoes that are designed to be unstable when worn. Unlike traditional shoes, rocker-bottom shoes contain a deeper, curved midsole that purports to simulate walking on sand, the kinematics of long-distance, barefoot runners.

9. In 2008, following the commercial success with rocker-bottom shoes of a smaller competitor Masai Barefoot Technology ("MBT"), Defendant launched its own line of rocker-bottom footwear products nationwide.

10. Skechers' version of a rocker-bottom shoe is made of firm and compressible polyurethane and is much lighter and more flexible than the MBT version.

11. Skechers sells its line of rocker-bottom shoes to consumers in New Jersey through its websites (myshapeups.com and skechers.com), through its own brick-and-mortar retail stores, and through third party retailers like Famous Footwear, Footlocker, and others.

12. From the product launch until the present, Skechers rocker-bottom shoes have sold at various retail prices, but have most often been sold for between \$110 and \$120.

13. In the course of marketing its rocker-bottom shoe lines including in advertisements such as Exhibit A to this Complaint, Skechers has asserted a wide-range of purported benefits, including that its products:

- Create or promote weight loss;
- Burn more calories;
- Firm buttock muscles;
- Reduce or fight cellulite;
- Improve blood circulation;
- Firm calf muscles;
- Reduce joint stress;
- Tone and firm thigh muscles;
- Tighten abdominal muscles;
- Strengthen back muscles;
- Improve sleep; and
- Reduce stress

when it did not have competent and reliable scientific evidence to substantiate the claims at the time that they were made.

14. Skechers has marketed its rocker-bottom footwear products to both men and women, but has focused most of its marketing efforts on 20-30 something fitness conscious or fitness aspiring women.

15. In marketing to women, Skechers has especially highlighted the purported ability of its rocker-bottom shoes to cause weight loss and firm buttock muscles as shown in Exhibit B to this Complaint.

16. The Defendant misled consumers, including those in New Jersey, as to matters of fact in its advertisements, product labeling, and marketing materials about its rocker-bottom shoe products.

COUNT I

VIOLATION OF THE CFA BY DEFENDANT (UNCONSCIONABLE COMMERCIAL PRACTICES)

17. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 16 as if more fully set forth herein.

18. The CFA, N.J.S.A. 56:8-2, prohibits:

The act use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or knowing[] concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise. . .

19. All of the acts and practices engaged in and employed by Defendant as alleged herein, are unconscionable commercial practices in violation of the CFA, namely Defendant violated the CFA by making health benefit or other claims without competent and reliable scientific evidence to substantiate them.

20. Each unconscionable commercial practice by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendant:

- (a) Finding that the acts and omissions of Defendant constitute unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq.;
- (b) Permanently enjoining Defendant and its owners, officers, directors, shareholders, members, founders, managers, agents, servants, employees, representatives, corporations, independent contractors, subsidiaries, affiliates, successors, assigns, and all other entities or persons directly under its control, to cease and desist from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., including, but not limited to, the acts and practices alleged in the Complaint;
- (c) Directing the assessment of restitution amounts against Defendant to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Assessing the maximum statutory civil penalties against Defendant for each and every violation of the CFA, in accordance with the CFA, N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Defendant for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19;
- (f) Granting such other relief as the interests of justice may require.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Patricia Schiripo
Patricia Schiripo
Deputy Attorney General

Dated: May 16, 2012
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the CFA, N.J.S.A. 56:8-1 et seq., is not the subject of any other action pending in any other court of this State. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Patricia Schiripo
Patricia Schiripo
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: May 16, 2012
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(c).

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Patricia Schiripo
Patricia Schiripo
Deputy Attorney General
Consumer Fraud Prosecution Section

Dated: May 16, 2012
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

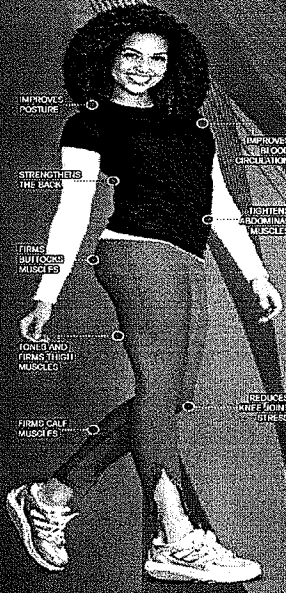
Pursuant to R. 4:25-4, Deputy Attorney General Patricia Schiripo is hereby designated as trial counsel on behalf of Plaintiffs in this action.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: Patricia Schiripo
Patricia Schiripo
Deputy Attorney General
Consumer Fraud Prosecution Section

EXHIBIT A

SKECHERS
Fitness Group
Shape-ups
SHAPE UP WHILE YOU WALK



SHAPE-UPS - METABOLIZE

\$100



SHAPE-UPS - STRENGTH

Patent Pending

Get in Shape Without Setting Foot in a Gym.

- Designed to:**
- Promote weight loss
 - Tone muscles
 - Improve posture
 - Reduce stress on knees and ankles



SHAPE-UPS

\$110



SHAPE-UPS

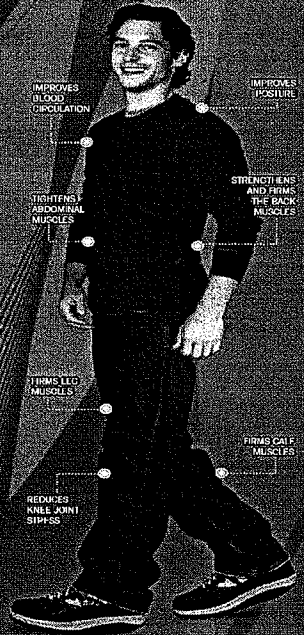
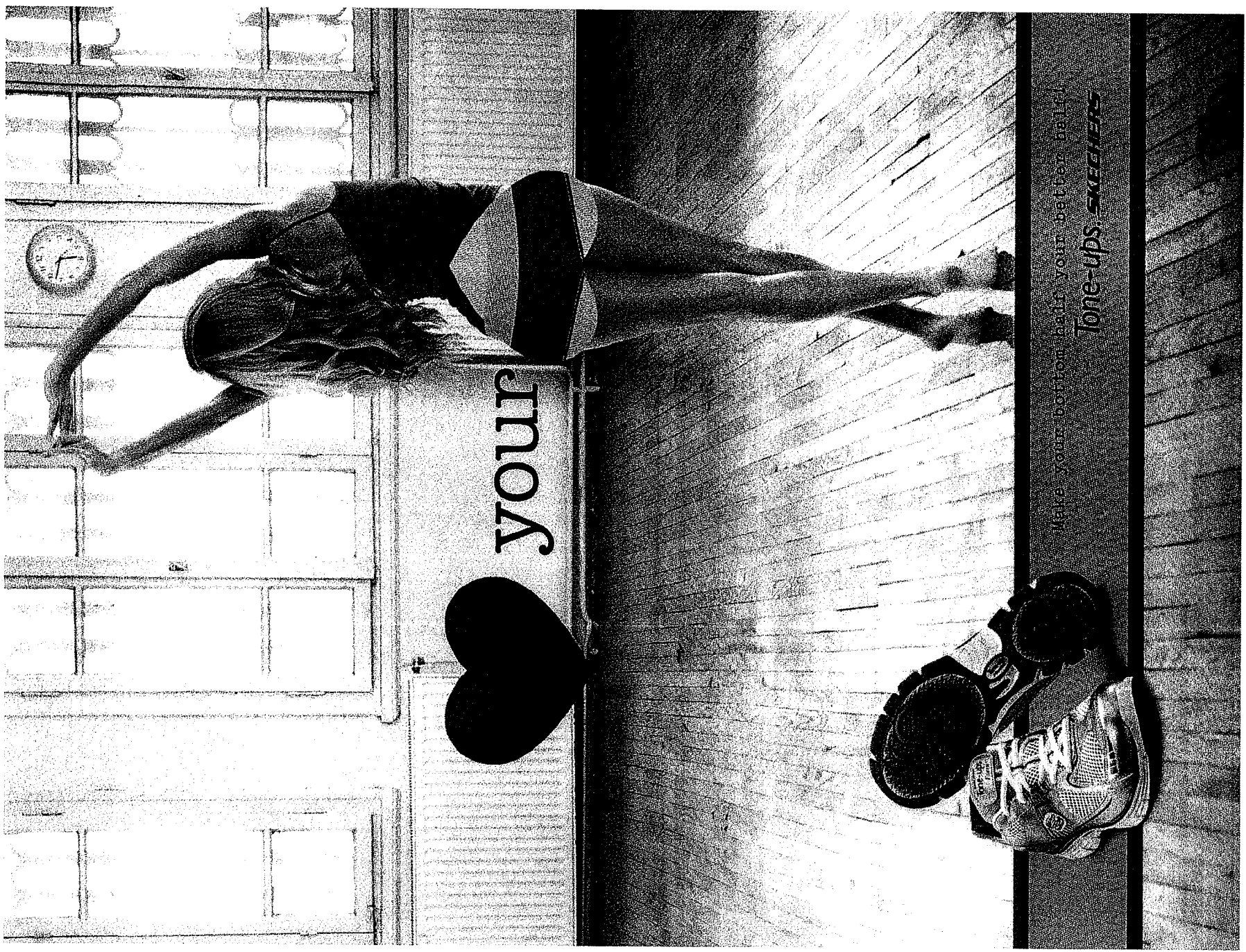


EXHIBIT B



your



Make your bottom and your better half
Tone-ups. SKECHERS