

EXHIBIT A

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Attorneys for Plaintiff and the Class

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Calvin Beutler, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

HEIDI FRANCO, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

PROBAR, LLC. and DOES 1-25, Inclusive,

Defendants.

Case No.: 37-2013-00065099-CU-MT-CTL

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

I. INTRODUCTION

PROBAR, LLC. (“Defendant” or “ProBar”) manufactures, markets, and sells PROBAR Protein Bars and advertises and markets the protein bars as follows: “PROBAR is the innovator and leader in convenient, on-the-go, all natural foods. We source the finest all natural, real, wholesome, and organic ingredients from responsible growers to create food that is simply delicious and always Simply Real.” ProBar goes out of its way to advertise its products, including its protein bars, as healthy. In order to propagate its healthy claims, ProBar lists “evaporated cane juice” as an ingredient in its protein bars. “Sugar” is not found on the ingredient list of ProBar’s protein bars. Nowhere does ProBar explain to consumers that “evaporated cane juice” is (1) not juice and (2) “evaporated cane

1 juice” in its common and usual name is sugar. By so doing, ProBar is able to deceive consumers,
2 including Plaintiff, regarding the health claims made by ProBar.

3 Defendant’s misrepresentations regarding the protein bars were designed to, and did, deceive
4 Plaintiff and others similarly situated (collectively the “Class”) with regard to the ingredients and
5 health claims of the protein bars. Plaintiff and members of the Class relied on Defendant’s
6 misrepresentations and would not have paid as much, if at all, for the protein bars but for Defendant’s
7 misrepresentations.

8 Plaintiff brings this class action lawsuit to enjoin the ongoing deception of thousands of
9 California consumers by Defendant, and to recover the money taken by this unlawful practice.

10 **THE PARTIES**

11 **A. Plaintiff.**

12 1. Plaintiff is, and at all times relevant hereto, was an individual residing in San Diego
13 County, California. Plaintiff purchased protein bars made by Defendant earlier this year in San Diego
14 County, California. Prior to purchasing Defendant’s protein bars, Plaintiff reviewed and relied upon
15 Defendant’s advertising and ingredients as detailed above. Plaintiff relied on Defendant’s
16 representations regarding the ingredients of Defendant’s protein bars, as detailed herein, and but for
17 those representations, Plaintiff would not have purchased or paid as much for the protein bars.

18 **B. Defendant.**

19 Plaintiff is informed and believes, and upon such information and belief alleges:

20 2. Defendant, PROBAR, LLC (“ProBar” or “Defendant”) is a limited liability company
21 organized and existing under the laws of the state of Utah, with a principal place of business located at
22 4752 West California Avenue, Salt Lake City, Utah 84104. Defendant offers the protein bars for sale
23 through various channels, including the internet and retailers throughout the nation, including the State
24 of California. Defendant, directly and through its agents, has substantial contacts with and receives
25 substantial benefits and income from and through the State of California. Defendant is the owner and
26 distributor of the protein bars and is the company that created and/or authorized the false, misleading,
27 and deceptive advertisements and packaging for the protein bars.

28 ///

3. Plaintiff does not know the true names or capacities of the persons or entities sued herein as DOES 1 to 25, inclusive, and therefore sues such defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the DOE defendants is in some manner legally responsible for the damages suffered by Plaintiff and the members of the class as alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of these defendants when they have been ascertained, along with appropriate charging allegations, as may be necessary.

4. At all times mentioned herein, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership, and common enterprise, and acted within the course and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

5. At all times mentioned herein, the acts and omissions of Defendants, and each of them, contributed to the various acts and omissions of each and all of the other Defendants in proximately causing the injuries and damages as alleged herein.

6. At all times mentioned herein, Defendants, and each of them, ratified each and every act or omission complained of herein. At all times mentioned herein, Defendants, and each of them, aided and abetted the acts and omissions of each and all of the other Defendants in proximately causing the damages as alleged herein.

III. JURISDICTION AND VENUE

7. This Court has jurisdiction over all causes of action asserted herein.

8. Venue is proper in this Court because Plaintiff purchased the product in this County and because Defendant has received substantial compensation from sales in this County. Specifically, Defendant knowingly engages in activities directed at consumers in this County, and Defendant obtains substantial benefits from its scheme perpetrated in this County. Plaintiff has filed concurrently herewith the declaration of venue required by Civil Code Section 1780(d) and is attached hereto as Exhibit One.

9. Defendant and other out-of-state participants can be brought before this Court pursuant to California's "long-arm" jurisdictional statute.

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IV. FACTS

10. Defendant manufactures, markets, and sells the protein bars. These protein bars are marketed as healthy meal replacement options or on-the-go food. In the ingredient list for the protein bars, Defendant lists “evaporated cane juice” as an ingredient. Defendant does not list “sugar” or any other commonly known sweetener. Nowhere on the product or in the ingredient list does Defendant explain that “evaporated cane juice” is not actually juice and is actually sugar.

11. The Food and Drug Administration (“FDA”) has warned manufacturers and advertisers not to use the term “evaporated cane juice” because: (1) it is false and misleading; (2) the term violates a number of labeling regulations requiring products to be labeled with the usual and common names of ingredients and to accurately describe those ingredients; and (3) “evaporated cane juice” is not juice.

12. Accurate labeling is required in order to help consumers make informed choices and not be misled. As detailed herein, Defendant has made, and continues to make, false and deceptive claims in violation of federal and California laws that govern labeling claims.

13. California and federal laws are identical and regulate the labeling of food. The Federal Food Drug & Cosmetic Act (“FDCA”) was adopted by California through the Sherman Food Drug & Cosmetic Law, California Health & Safety Code § 109875, et seq. (“Sherman Law”). Under FDCA 403(a), food is “misbranded” when “its labeling is false or misleading in any particular,” and/or if it does not contain required information on its labeling. 21 U.S.C. § 343(a).

14. According to the FDCA, if any claim made on the labeling of a product is false or misleading, the food product is misbranded, and no other labeling statement can cure misleading statement(s). “Misleading” is judged in reference to “the ignorant, the unthinking and the credulous who, when making a purchase, do not stop to analyze.” *United States v. El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (9th Cir. 1951).

15. Ingredients, such as “evaporated cane juice”, are not to be listed by names which suggest that the ingredients are anything other than sugar or syrup because it fails to reveal the basic nature of the food and its properties as required by 21 C.F.R. § 102.5. By listing “evaporated cane juice” as an ingredient of its protein bars, Defendant has violated federal and California labeling regulations.

1 16. The FDA has decreed that “evaporated cane juice” is not the common or usual name of
2 any type of sweetener, including sugar. Sugar is defined in 21 C.F.R. §101.4(b)(20) and 21 C.F.R.
3 §184.1854, as the usual or common name for the crystallization from sugar cane or sugar beet juice
4 that has been extracted by pressing or diffusion, then clarified and evaporated. 21 C.F.R. §168.130
5 defines cane syrup.

6 17. Sugar cane products must be described by their usual or common name, sugar or cane
7 syrup. 21 C.F.R. §101.4; 21 C.F.R. §184.1854; and 21 C.F.R. §168.1340.

8 18. The FDA has directed that sweeteners should not be listed by names that suggest that
9 the ingredients are juice. The FDA considers such listing as “false and misleading” under section
10 403(a)(1) of the FDCA (21 U.S.C. 343(a)(1)) because listing in this manner does not reveal the basic
11 nature of the food and its properties as required by 21 C.F.R. § 102.5. Despite these requirements,
12 Defendant has made, and continues to make false and misleading representations regarding its protein
13 bars in violation of both federal and California laws regarding appropriate and legal labeling.

14 19. Under both federal and California law, Defendant’s misbranded protein bars cannot be
15 manufactured, advertised, distributed, or sold. Defendant’s deceptive and false labeling stems from its
16 desire to label its foods with perceived healthy characteristics. Such deceptive and false labeling
17 drives sales of the protein bars, and did in fact deceive Plaintiff and California consumers.

18 20. Defendant’s misrepresentations regarding the protein bars were designed to, and did,
19 lead Plaintiff and others similarly situated (collectively the “Class”) to believe that the protein bars
20 were of a quality that they are not and did not contain ingredients which, in fact, are found in the
21 protein bars. Plaintiff and members of the Class relied on Defendant’s misrepresentations and would
22 not have paid as much, if at all, for the protein bars but for Defendant’s misrepresentations.

23 21. Defendant sells the protein bars for approximately \$3 per protein bar based on the
24 preceding false advertising claims. As a result, Defendant has wrongfully taken millions of dollars
25 from California consumers.

26 22. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing deception of thousands
27 of California consumers by Defendant, and to recover the funds taken by this unlawful practice.

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V. CLASS ACTION ALLEGATIONS

23. Plaintiff brings this class action for damages and other monetary relief on behalf of the following class:

All persons located within California who purchased ProBar protein bars labeled with “evaporated cane juice” at any time during the four years preceding the filing of this Complaint (the “Class”).

24. Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns and individuals bound by any prior settlement involving the protein bars. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

25. The proposed Class is so numerous that individual joinder of all its members is impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes that the total number of Class members is at least in the hundreds of thousands and members of the Class are numerous and geographically dispersed across California. While the exact number and identities of the Class members are unknown at this time, such information can be ascertained through appropriate investigation and discovery. The disposition of the claims of the Class members in a single class action will provide substantial benefits to all parties and to the Court.

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

- a. Whether Defendant’s protein bars are labeled with “evaporated cane juice”;
- b. Whether Defendant has falsely represented that the protein bars have benefits which they do not have;
- c. Whether Defendant knew that its ingredient claims were false;
- d. Whether Defendant’s conduct constitutes breach of express warranty;

- e. Whether Defendant's conduct constitutes breach of the implied warranty of fitness for a particular purpose;
- f. Whether Defendant's conduct constitutes negligent misrepresentation;
- g. Whether Defendant's conduct constitutes a violation of the Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);
- h. Whether Defendant's conduct constitutes a violation of California's false advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);
- i. Whether Defendant's conduct constitutes an unfair, unlawful, and/or fraudulent business practice in violation of California's unfair competition law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);
- j. Whether Plaintiff and Class members are entitled to compensatory damages, and if so, the nature of such damages;
- k. Whether Plaintiff and Class members are entitled to restitutionary relief; and
- l. Whether Plaintiff and Class members are entitled to injunctive relief.

27. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class have been similarly affected by Defendant's common course of conduct since they all relied on Defendant's representations concerning the ingredients of the protein bars and purchased the protein bars based on those representations.

28. Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff has retained counsel with substantial experience in handling complex class action litigation. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class and have the financial resources to do so. Plaintiff has retained a law firm who is widely recognized as one of the most successful and effective class action litigators in California, and whose victories have been publicized on CNN, Fox News, MSNBC, and nearly every major California newspaper. The firm has also been certified as lead class counsel in similar class actions.

29. Plaintiff and the members of the Class suffered, and will continue to suffer, harm as a result of Defendant's unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the present controversy. Individual joinder of all

members of the class is impracticable. Even if individual class members had the resources to pursue individual litigation, it would be unduly burdensome to the courts in which the individual litigation would proceed. Individual litigation magnifies the delay and expense to all parties in the court system of resolving the controversies engendered by Defendant's common course of conduct. The class action device allows a single court to provide the benefits of unitary adjudication, judicial economy, and the fair and efficient handling of all class members' claims in a single forum. The conduct of this action as a class action conserves the resources of the parties and of the judicial system and protects the rights of the class members. Furthermore, for many, if not most, a class action is the only feasible mechanism that allows an opportunity for legal redress and justice.

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

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION

(By Plaintiff and on Behalf of the Class Against Defendant)

31. Plaintiff incorporates by this reference the allegations contained in the paragraphs above as if fully set forth herein.

32. During the Class Period, Defendant's misrepresented the ingredients of the protein bars to consumers through the advertising, marketing, and sale of the protein bars.

33. Defendant's misrepresentations regarding the protein bars ingredients were false and misleading because "evaporated cane juice" is not juice.

34. Defendant's misrepresentations regarding the labeling of the ingredients were material because a reasonable consumer would attach importance to them in determining whether to purchase and consume the protein bars.

35. Defendant's material misrepresentations regarding the protein bars are false and made without reasonable grounds for believing them to be true.

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36. Defendant made material misrepresentations regarding the ingredients of the protein bars with the intent to induce Plaintiff and Class members to purchase and consume the protein bars.

37. Plaintiff and Class members reasonably relied on Defendant's material misrepresentations in choosing to purchase and consume the protein bars.

38. As a direct and proximate result of Defendant's conduct, Plaintiff and Class members have incurred damages in an amount to be proven at trial. Plaintiff and Class members are not seeking damages arising out of personal injuries.

SECOND CAUSE OF ACTION

VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT

(CAL. CIV. CODE §§ 1750, ET SEQ.)

(By Plaintiff and on Behalf of the Class Against Defendant)

39. Plaintiff incorporates by this reference the allegations contained in the paragraphs above as if fully set forth herein.

40. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff purchased the protein bars in reliance on Defendant's labeling of the protein bars.

41. Defendant has engaged in and continues to engage in business practices in violation of California Civil Code §§ 1750, *et seq.* (the “Consumers Legal Remedies Act”) by making false and unsubstantiated representations concerning the ingredients of the protein bars. These business practices are misleading and/or likely to mislead consumers and should be enjoined.

42. Defendant has engaged in deceptive acts or practices intended to result in the sale of the protein bars in violation of Civil Code § 1770. Defendant knew and/or should have known that its representations of fact concerning the ingredients of the protein bars were material and likely to mislead the public. Defendant affirmatively misrepresented that the protein bars had certain benefits, which they do not have.

43. Defendant's conduct alleged herein violates the Consumers Legal Remedies Act, including but not limited to, the following provisions: (1) using deceptive representations in connection with goods or services in violation of Civil Code § 1770(a)(4); (2) representing that goods

or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have in violation of Civil Code § 1770(a)(5); and/or (3) advertising goods or services with intent not to sell them as advertised in violation of Civil Code § 1770(a)(9). As a direct and proximate result of Defendant's conduct, as set forth herein, Defendant has received ill-gotten gains and/or profits, including but not limited to, money. Therefore, Defendant has been unjustly enriched.

44. There is no other adequate remedy at law, and Plaintiff and Class members will suffer irreparable harm unless Defendant's conduct is enjoined.

45. Concurrently herewith, Plaintiff's counsel mailed to Defendant, by certified mail, return receipt requested, the written notice required by Civil Code Section 1782(a) on August 30, 2013. A Copy of the letter is attached hereto as Exhibit Two. Should Defendant fail to respond with appropriate corrective action(s) within thirty days, Plaintiff will amend to seek damages under the California Consumer Legal Remedies Act.

46. The declaration of venue required by Civil Code § 1780(d) is attached hereto as Exhibit One.

47. Defendant's wrongful business practices constituted, and constitute, a continuing course of conduct in violation of the Consumers Legal Remedies Act since Defendant is still representing that their product has characteristics, uses, benefits, and abilities which are false and misleading, and have injured Plaintiff and the Class.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW

(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)

(By Plaintiff and on Behalf of the Class Against Defendant)

48. Plaintiff incorporates by this reference the allegations contained in the paragraphs above as if fully set forth herein.

49. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff purchased the protein bars in reliance on Defendant's marketing claims as outlined herein.

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1 50. Defendant has engaged in false advertising as it has disseminated false and/or
2 misleading representations about the protein bars.

3 51. Defendant knew or should have known by exercising reasonable care that its
4 representations were false and/or misleading. During the Class Period, Defendant engaged in false
5 advertising in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by misrepresenting in its
6 advertising and marketing of the protein bars to Plaintiff, Class members, and the consuming public
7 the ingredients of its protein bars.

8 52. Each of the aforementioned representations alleged in this Complaint was false and
9 misleading regarding the ingredients of the protein bars.

10 53. By disseminating and publishing these assertions in connection with the sale of the
11 protein bars, Defendant has engaged in and continues to engage in false advertising in violation of
12 Bus. & Prof. Code §§ 17500, *et seq.*

13 54. As a direct and proximate result of Defendant's conduct, as set forth herein, Defendant
14 has received ill-gotten gains and/or profits, including but not limited to, money. Therefore, Defendant
15 has been unjustly enriched. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff requests restitution
16 and restitutionary disgorgement for all sums obtained in violation of Cal. Bus. & Prof. Code §§ 17500,
17 *et seq.*

18 55. Plaintiff seeks injunctive relief, restitution, and restitutionary disgorgement of
19 Defendant's ill-gotten gains as specifically provided in Cal. Bus. & Prof. Code § 17535.

20 56. Plaintiff and Class members seek to enjoin Defendant from engaging in these wrongful
21 practices, as alleged herein, in the future. There is no other adequate remedy at law and if an
22 injunction is not ordered, Plaintiff and the Class will suffer irreparable harm and/or injury.

23 **FOURTH CAUSE OF ACTION**

24 **UNLAWFUL, FRAUDULENT & UNFAIR BUSINESS PRACTICES**

25 **(CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.)**

26 **(By Plaintiff and on Behalf of the Class Against Defendant)**

27 57. Plaintiff incorporates by this reference the allegations contained in the paragraphs
28 above as if fully set forth herein.

1 58. Plaintiff has standing to pursue this cause of action because Plaintiff has suffered injury
2 in fact and has lost money as a result of Defendant's actions as set forth herein. Specifically, Plaintiff
3 purchased the protein bars in reliance on Defendant's marketing claims as outlined herein.

4 59. Defendant's actions as alleged in this Complaint constitute an unfair or deceptive
5 business practice within the meaning of California Business and Professions Code §§ 17200, *et seq.*,
6 in that Defendant's actions are unfair, unlawful, and fraudulent, and because Defendant has made
7 unfair, deceptive, untrue, or misleading statements in advertising media, including the Internet, within
8 the meaning of California Business and Professions Code §§ 17200, *et seq.*

9 60. Defendant knew or should have known by exercising reasonable care that its
10 representations were false and/or misleading. During the Class Period, Defendant engaged in unfair,
11 unlawful, and fraudulent business practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*,
12 by misrepresenting in its advertising and marketing of the protein bars to Plaintiff, Class members,
13 and the consuming public.

14 61. Each of the aforementioned representations alleged in this Complaint was false and
15 misleading regarding the ingredients of the protein bars.

16 62. Defendant's business practices, as alleged herein, are unfair because they offend
17 established public policy and/or are immoral, unethical, oppressive, unscrupulous, and/or substantially
18 injurious to consumers in that consumers are misled by the claims made with respect to the protein
19 bars as set forth herein.

20 63. Defendant's business practices, as alleged herein, are unlawful because they violate the
21 Consumers Legal Remedies Act and False Advertising Law.

22 64. Defendant's business practices, as alleged herein, are fraudulent because they are likely
23 to, and did, deceive customers—including Plaintiff and members of the Class—into believing that the
24 protein bars have characteristics and benefits they in fact do not have.

25 65. Defendant's wrongful business practices constituted, and constitute, a continuing
26 course of conduct of unfair competition since Defendant are marketing and selling their protein bars in
27 a manner likely to deceive the public.

28 ///

66. As a direct and proximate result of Defendant's wrongful business practices in violation of Business and Professions Code §§ 17200, *et seq.*, Plaintiff and members of the Class have suffered economic injury by losing money as a result of purchasing the protein bars. Plaintiff and members of the Class would not have purchased or would have paid less for the protein bars had they known that they were not as represented.

67. Pursuant to Business and Professions Code § 17203, Plaintiff and the Class seek an order of this Court enjoining Defendant 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 Defendant to make full restitution of all moneys it wrongfully obtained from Plaintiff and the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and members of the Class request that the Court enter an order or judgment against Defendant, and each of them, as follows:

1. For an order certifying the Class, appointing Plaintiff and his counsel to represent the Class, and notice to the Class to be paid by Defendant;
2. For damages suffered by Plaintiff and Class members;
3. For restitution to Plaintiff and Class members of all monies wrongfully obtained by Defendant;
4. For an injunction ordering Defendant to cease and desist from engaging in the unfair, unlawful, and/or fraudulent practices alleged in the Complaint;
5. For both pre-judgment and post-judgment interest at the maximum allowable rate on any amounts awarded;
6. For Plaintiff's costs of the proceedings herein;
7. For reasonable attorneys' fees as allowed by statute; and
8. For any and all such other and further relief that this Court may deem just and proper.

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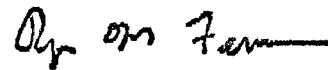
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of all claims and causes of action so triable in this lawsuit.

Dated: August 30, 2013

NEWPORT TRIAL GROUP
A Professional Corporation

By: 
Ryan M. Ferrell

Attorney for Plaintiff and the Class

Exhibit 1

1 I, Heidi Franco, declare as follows:

2 1. I am a Plaintiff in this action, and am a citizen of the State of California. I have
3 personal knowledge of the facts herein and, if called as a witness, I could and would testify
4 competently thereto.

5
6 2. The Complaint in this action, filed concurrently with this Declaration, is filed in the
7 proper place for trial under Civil Code Section 1780(d) in that San Diego County is a county in which
8 Defendants are doing business.

9
10 I declare under penalty of perjury under the laws of the State of California that the foregoing is
11 true and correct.

12
13 
14 Heidi Franco

Exhibit 2

NEWPORT
TRIAL GROUP
A Professional Corporation

895 Dove Street, Suite 425
Newport Beach, CA 92660
Phone (949) 706-6464
Fax (949) 706-6469
www.trialnewport.com

August 30, 2013

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

PROBAR, LLC
4752 W. California Avenue
Salt Lake City, Utah 84104

Attn: Chief Executive Officer

Re: Violations of California Consumer Protection Laws and Breach of Warranty

Dear Madame or Sir:

I am writing on behalf of Heidi Franco, as well as a class of similarly situated persons, to advise you that we believe you are violating the California Consumer Legal Remedies Act.

You market and sell protein bars that list “evaporated cane juice” as an ingredient. Listing “evaporated cane juice” instead of “sugar” or another sweetener allows PROBAR, LLC to deceive consumers into believing that the products do not contain sugar, when in fact, they do. Further, listing “evaporated cane juice” instead of “sugar” or another sweetener allows the company to deceive consumers into believing that the products do not contain sugar and are more healthy than they actually are.

We believe that your marketing, advertising, and distribution of the protein bars violates the California Consumer Legal Remedies Act by falsely representing that the products has characteristics, uses and benefits which they does not have. We further believe that the aforementioned representations regarding the purported benefits, qualities and characteristics of the protein bars constitutes: (1) breach of

August 30, 2013

Page 2

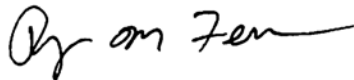
express warranty; (2) breach of implied warranty of fitness for a particular purpose; (3) negligent misrepresentation; (4) violation of California's False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et seq.*); and (5) violation of California's Unfair Competition Law (Cal. Bus. & Prof. Code § 17200 *et seq.*).

We respectfully request that you agree to: irrevocably stop all false and misleading advertising and labeling of the protein bars and provide all consumers who have purchased the product(s) with a full refund.

Given that our primary goal is to enjoin the false advertising claims, we will agree to take no further action in this matter if you will agree to conform your conduct to the requirements and prohibitions of the California Consumer Legal Remedies Act.

Very truly yours,

NEWPORT TRIAL GROUP
A Professional Corporation

A handwritten signature in black ink, appearing to read "Ryan M. Ferrell".

Ryan M. Ferrell

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Ryan M. Ferrell, Bar No. 258037 NEWPORT TRIAL GROUP 4100 Newport Place Drive, Suite 800 Newport Beach, CA 92660 TELEPHONE NO.: (949) 706-6464 FAX NO.: (949) 706-6469 ATTORNEY FOR (Name): Plaintiff and the Class		FOR COURT USE ONLY ELECTRONICALLY FILED Superior Court of California, County of San Diego 08/30/2013 at 02:07:20 PM Clerk of the Superior Court By Calvin Beutler, Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 W. Broadway, Room 225 MAILING ADDRESS: CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Hall of Justice			
CASE NAME: Franco v. Probar, LLC; et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE 37-2013-00065099-CU-MT-CTL JUDGE: Judge Ronald L. Styn DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
e. <input checked="" type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|---|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Four
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 30, 2013
 Ryan M. Ferrell, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

PROBAR, LLC. and DOES 1-25, Inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

HEIDI FRANCO, individually, and on behalf of all others similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

08/30/2013 at 02:07:20 PM

Clerk of the Superior Court
By Calvin Beutler, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): San Diego County Superior Court
330 W. Broadway, Room 225
San Diego, CA 92101

CASE NUMBER:
(Núm) 37-2013-00085099-CU-MT-CTL

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Newport Trial Group, APC 4100 Newport Place, Suite 800, Newport Beach, CA 92660, (949) 706-6464

DATE: 08/30/2013
(Fecha)

Clerk, by C. Beutler, Deputy
(Secretario) C. Beutler (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):



EXHIBIT B

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO	
STREET ADDRESS: 330 W Broadway	
MAILING ADDRESS: 330 W Broadway	
CITY AND ZIP CODE: San Diego, CA 92101-3827	
BRANCH NAME: Central	
TELEPHONE NUMBER: (619) 450-7062	
PLAINTIFF(S) / PETITIONER(S): Heidi Franco	
DEFENDANT(S) / RESPONDENT(S): ProBar LLC	
HEIDI FRANCO VS. PROBAR LLC [E-FILE]	
NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE on MANDATORY eFILE CASE	CASE NUMBER: 37-2013-00065099-CU-MT-CTL

CASE ASSIGNMENT

Judge: Ronald L. Styn

Department: C-62

COMPLAINT/PETITION FILED: 08/30/2013

TYPE OF HEARING SCHEDULED	DATE	TIME	DEPT	JUDGE
Civil Case Management Conference	01/31/2014	10:00 am	C-62	Ronald L. Styn

A case management statement must be completed by counsel for all parties or self-represented litigants and timely filed with the court at least 15 days prior to the initial case management conference. (San Diego Local Rules, Division II, CRC Rule 3.725).

All counsel of record or parties in pro per shall appear at the Case Management Conference, be familiar with the case, and be fully prepared to participate effectively in the hearing, including discussions of ADR* options.

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT), THE ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION FORM (SDSC FORM #CIV-730), A STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (SDSC FORM #CIV-359), AND OTHER DOCUMENTS AS SET OUT IN SDSC LOCAL RULE 2.1.5.

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil cases consist of all civil cases except: small claims proceedings, civil petitions, unlawful detainer proceedings, probate, guardianship, conservatorship, juvenile, parking citation appeals, and family law proceedings.

COMPLAINTS: Complaints and all other documents listed in SDSC Local Rule 2.1.5 must be served on all named defendants, and a Certificate of Service (SDSC form #CIV-345) filed within 60 days of filing.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than 15 day extension which must be in writing and filed with the Court.) (SDSC Local Rule 2.1.6)

JURY FEES: In order to preserve the right to a jury trial, each party demanding a jury trial shall pay an advance jury fee in the amount of one hundred fifty dollars (\$150) for each party on or before the date scheduled for the initial case management conference in the action.

MANDATORY eFILE: Case assigned to mandatory eFile program per CRC 3.400-3.403 and SDSC Rule 2.4.11. All documents must be eFiled at www.onelegal.com. Refer to General Order 010313 at www.sdcourt.ca.gov for guidelines and procedures.

*ALTERNATIVE DISPUTE RESOLUTION (ADR): THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO TRIAL, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. PARTIES MAY FILE THE ATTACHED STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (SDSC FORM #CIV-359).

EXHIBIT C

Attorney or Party without Attorney: SCOTT J. FERRELL, ESQ., Bar #202091 NEWPORT TRIAL GROUP, APC 4100 NEWPORT PLACE SUITE 800 NEWPORT BEACH, CA 92660 Telephone No: 949-706-6464 FAX No: (949) 706-6469				For Court Use Only ELECTRONICALLY FILED Superior Court of California, County of San Diego 10/01/2013 at 09:41:00 AM Clerk of the Superior Court By E-Filing, Deputy Clerk	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: SAN DIEGO COUNTY SUPERIOR COURT, CENTRAL COURTHOUSE					
Plaintiff: HEIDI FRANCO Defendant: PROBAR, LLC					
PROOF OF SERVICE SUMMONS & COMPLAINT		Hearing Date:	Time:	Dept/Div:	Case Number: 37-2013-00065099-CU-MT-CTL

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE ON MANDATORY EFILE CASE; GENERAL ORDER OF THE PRESIDING DEPARTMENT; ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION; STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (BLANK).

3. a. Party served: PROBAR, LLC

4. Address where the party was served: 4752 West California Avenue
#B1000
SALT LAKE CITY, UT 84104

5. I served the party:

b. by substituted service. On: Mon., Sep. 16, 2013 at: 3:25PM by leaving the copies with or in the presence of:
Jason Rollins, Controller

(1) **(Business)** a Person in charge at least 18 years of age apparently in charge of the office or usual place of business of the person served. I informed him or her of the general nature of the papers.

(4) A declaration of mailing is attached.

6. The "Notice to the Person Served" (on the Summons) was completed as follows:
on behalf of: PROBAR, LLC
Other: a limited liability company.

7. Person Who Served Papers:

a. SUSAN COLLINS

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. **The Fee for Service was:** \$250.00

e. I am: Not a Registered California Process Server



1511 West Beverly Blvd.
Los Angeles, CA 90026
Telephone (213) 250-9111
Fax (213) 250-1197
www.firstlegalnetwork.com

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Tue, Sep. 24, 2013

Susan Collins

Attorney or Party without Attorney: SCOTT J. FERRELL, ESQ., Bar #202091 NEWPORT TRIAL GROUP, APC 4100 NEWPORT PLACE SUITE 800 NEWPORT BEACH, CA 92660 Telephone No: 949-706-6464 FAX No: (949) 706-6469				For Court Use Only	
Attorney for: Plaintiff					
Insert name of Court, and Judicial District and Branch Court: SAN DIEGO COUNTY SUPERIOR COURT, CENTRAL COURTHOUSE					
Plaintiff: HEIDI FRANCO Defendant: PROBAR, LLC					
PROOF OF SERVICE By Mail		Hearing Date:	Time:	Dept/Div:	Case Number: 37-2013-00065099-CU-MT-CTL

- I am over the age of 18 and not a party to this action. I am employed in the county where the mailing occurred.
- I served copies of the SUMMONS; COMPLAINT; CIVIL CASE COVER SHEET; NOTICE OF CASE ASSIGNMENT AND CASE MANAGEMENT CONFERENCE ON MANDATORY EFILE CASE; GENERAL ORDER OF THE PRESIDING DEPARTMENT; ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION; STIPULATION TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (BLANK).
- By placing a true copy of each document in the United States mail, in a sealed envelope by **First Class** mail with postage prepaid as follows:

a. Date of Mailing: Tue., Sep. 17, 2013
 b. Place of Mailing: SANTA ANA, CA 92701
 c. Addressed as follows: PROBAR, LLC
 4752 West California Avenue
 #B1000
 SALT LAKE CITY, UT 84104

- I am readily familiar with the business practice for collection and processing of correspondence as deposited with the U.S. Postal Service on Tue., Sep. 17, 2013 in the ordinary course of business.

5. *Person Serving:*

a. RON KUYER
 b. FIRST LEGAL SUPPORT SERVICES
 301 CIVIC CENTER DRIVE WEST
 SANTA ANA, CA 92701
 c. 714-541-1110

Recoverable Cost Per CCP 1033.5(a)(4)(B)

- d. *The Fee for Service was:* \$250.00
 e. I am: (3) registered California process server
 (i) Independent Contractor
 (ii) *Registration No.:* 2529
 (iii) *County:* Orange
 (iv) *Expiration Date:* Mon, Dec. 08, 2014

- I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Tue, Sep. 24, 2013

