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7 Attorneys for Plaintiff
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 **THE TAWNSAURA GROUP, LLC,**

12 Plaintiff,

13 vs.

14 **OPTIMUM NUTRITION, INC.,**

15 Defendant

Case No. **SACV 12 - 02002 JST (MLGx)**

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

2012 NOV 15 AM 11:23
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA
BY _____

FILED

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BY FAX

1 Plaintiff The Tawnsaura Group, LLC ("Plaintiff") hereby alleges for its
 2 Complaint against Optimum Nutrition, Inc. ("Defendant"), on personal knowledge as to
 3 its own activities and on information and belief as to the activities of others, as follows:

4 **I. THE PARTIES**

5 1. Plaintiff is a limited liability company organized and existing under the
 6 laws of Nevada, with a registered office at 50 West Liberty Street, Suite 1100, Reno,
 7 Nevada 89501.

8 2. Plaintiff is the owner and assignee of United States Patent No. 5,874,471
 9 ("the '471 patent") titled "Orthomolecular Medical Use of L-Citrulline for
 10 Vasoprotection, Relaxative Smooth Muscle Tone and Cell Protection," and United
 11 States Patent No. 6,028,107 ("the '107 patent") titled "Orthomolecular Medical Use of
 12 L-Citrulline for Vasoprotection, Relaxative Smooth Muscle Tone and Cell Protection,"
 13 and Plaintiff licenses the '471 patent and the '107 patent to more than one third-party
 14 and is in negotiations to license the patents to numerous other parties.

15 3. Upon information and belief, Defendant Optimum Nutrition, Inc. is a
 16 corporation organized and existing under the laws of Illinois with a principal place of
 17 business at 700 Commerce Street in Aurora, Illinois, 60504.

18 **II. JURISDICTION AND VENUE**

19 4. This is an action for patent infringement arising under the patent laws of
 20 the United States, Title 35 of the United States Code. Accordingly, this Court has
 21 subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

22 5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

23 6. This Court has personal jurisdiction over Defendant. Defendant, directly
 24 or through intermediaries (including distributors, retailers, and others), ships,
 25 distributes, offers for sale, sells, and advertises its nutritional supplement products in
 26 the United States, the State of California, and the Central District of California,
 27 including the products "Essential AmiN.O. Energy," "Essential AmiN.O. Energy
 28 Chewables," and "Platinum Hydrobuilder." Defendant has purposefully and

1 voluntarily placed these products into the stream of commerce with the expectation that
2 they will be purchased in the Central District of California.

3 **III. THE DEFENDANT'S INFRINGING PRODUCTS**

4 7. The label and/or advertisements for Defendant's product Essential
5 AmiN.O. Energy state that the product contains, inter alia, the ingredient "Micronized
6 Citrulline" to "promote nitric oxide production throughout training."

7 8. The label and/or advertisements for Defendant's product Essential
8 AmiN.O. Energy Chewables state that the product contains, inter alia, the ingredient
9 "L-Citrulline" and helps "get you going with a fast-acting boost of alertness and
10 energy." Essential AmiN.O. Energy Chewables also contains Vitamin C.

11 9. The label and/or advertisements for Defendant's product Platinum
12 Hydrobuilder state that the product contains, inter alia, the ingredient "Micronized L-
13 Citrulline," and is an "all-in-one muscle constructor."

14 10. As set forth herein, these products infringe the claimed methods of the
15 '471 patent and the '107 patent, and are therefore referred to herein as "the products
16 that infringe the claimed methods."

17 **IV. THE DEFENDANT'S INFRINGEMENTS**

18 11. Defendant's employees, agents, representatives and other persons
19 sponsored by or who endorse Defendant and Defendant's products in advertising and
20 marketing activities, have taken, used, and orally administered the products that
21 infringe the claimed methods which have the effect, without limitation, of increasing
22 the plasma level of arginine in the persons taking the products from a low or normal
23 fasting level to a level which is up to three times an average overnight fasting level and
24 increasing the plasma concentration of arginine in the persons taking the products from
25 a low or normal fasting concentration to a level which is up to three times an average
26 overnight fasting arginine level of about 90 mu.mole per liter of plasma. These persons
27 included persons who, without limitation, were in good health, were in a condition of
28 increased or continuing brain or neural activities, or were in a condition of increased or

1 continuing muscular activities. Defendant has encouraged and/or is aware of these
2 persons' oral administration of the products that infringe the claimed methods for these
3 purposes, and these persons are acting under Defendant's direction and control.
4 Therefore, Defendant practices the methods as set forth in the '471 patent and the '107
5 patent and is a direct infringer of the patents.

6 12. End-users of Defendant's products that infringe the claimed methods are
7 also direct infringers of the '471 patent and the '107 patent, because they have taken,
8 used, and orally administered the products that infringe the claimed methods which
9 have the effect, without limitation, of increasing the plasma level of arginine in the
10 persons taking the products from a low or normal fasting level to a level which is up to
11 three times an average overnight fasting level and/or increasing the plasma
12 concentration of arginine in the persons taking the products from a low or normal
13 fasting concentration to a level which is up to three times an average overnight fasting
14 arginine level of about 90 mu.mole per liter of plasma. These persons included persons
15 who, without limitation, were in good health, were in a condition of increased or
16 continuing brain or neural activities, or were in a condition of increased or continuing
17 muscular activities. Therefore, they practice the methods as set forth in the '471 patent
18 and the '107 patent.

19 13. By way of example and without limitation, an end-user of Essential
20 AmiN.O. Energy Chewables called "robertoboy" posted a review regarding his use of
21 the product on http://reviews.bodybuilding.com/Optimum/Essential_AmiNO_Energy
22 _Chewables, writing, "Best pump of my life." This is just one of many end-users of the
23 infringing products who has practiced the methods as set forth in the '471 patent and
24 the '107 patent and is a direct infringer of the patents.

25 14. Plaintiff believes facts to be ascertained during discovery in this matter
26 will demonstrate that Defendant's labels and advertising for the products that infringe
27 the claimed methods explain the elements and essential elements of the methods
28 disclosed in the '471 patent and the '107 patent to end-users and encourage, urge, and

1 induce the products' end-users to purchase and orally administer the products to
2 practice those methods, and end-users do practice those methods, and that Defendant
3 has therefore specifically intended to cause these end-users to directly infringe the
4 claimed methods of the patents, and has urged them to do so. Plaintiff intends to amend
5 this complaint at the appropriate time to include more specific allegations pertaining to
6 these facts.

7 15. Defendant's products that infringe the claimed methods are not suitable for
8 non-infringing uses, and none of Defendant's labels or advertisements for the products
9 disclose any uses for the products nor for the citrulline in those products that do not
10 infringe upon the methods disclosed in the '471 patent and the '107 patent. The
11 inclusion of the citrulline content in the products are, in fact, material to practicing the
12 methods disclosed in the '471 patent and the '107 patent.

13 16. Plaintiff believes facts to be ascertained during discovery in this matter
14 will demonstrate that Defendant has knowledge that its products that infringe the
15 claimed methods are especially adapted by end-users of the products for the practicing
16 of the methods disclosed in the '471 patent and '107 patent, and, indeed, Defendant
17 encourages, urges, and induces the products' end-users to purchase and orally
18 administer the products to practice those methods, and has done so in the past. Plaintiff
19 intends to amend this complaint at the appropriate time to include more specific
20 allegations pertaining to these facts.

21 17. Plaintiff believes facts to be ascertained during discovery in this matter
22 will demonstrate that Defendant has intentionally and knowingly induced, encouraged,
23 and urged end-users of the products that infringe the claimed methods to purchase and
24 orally administer the products for the purpose, without limitation, of increasing the
25 plasma level of arginine in the persons taking the products from a low or normal fasting
26 level to a level which is up to three times an average overnight fasting level and
27 increasing the plasma concentration of arginine in the persons taking the products from
28 a low or normal fasting concentration to a level which is up to three times an average

1 overnight fasting arginine level of about 90 μ mole per liter of plasma, including by
2 end-users who, without limitation, were in good health, were in a condition of increased
3 or continuing brain or neural activities, or were in a condition of increased or
4 continuing muscular activities. Plaintiff intends to amend this complaint at the
5 appropriate time to include more specific allegations pertaining to these facts.

6 18. Plaintiff believes facts to be ascertained during discovery in this matter
7 will demonstrate that Defendant had actual, first-hand knowledge of the '471 patent and
8 the '107 patent as early as the time Defendant launched each of the products that
9 infringe the claimed methods in the marketplace. By way of example and without
10 limitation, Plaintiff believes such facts to be ascertained will include the fact that
11 Defendant employs and engages sophisticated, experienced legal counsel with expertise
12 in patent law, and that Defendant, through its counsel, conducts or should conduct due
13 diligence on the potential for Defendant's products to infringe on patents and knew or
14 should have known that the products that infringe the claimed methods actually infringe
15 or could infringe on the '471 patent and '107 patent, but Defendant decided to infringe
16 the patents anyway or ignored the risk of infringement. By way of further example and
17 without limitation, Plaintiff believes such facts to be ascertained will include the fact
18 that Defendant became aware of the '471 patent and '107 patent following the filing of
19 lawsuits by Plaintiff against Defendant's competitors arising out of infringements by
20 those competitors of the patents. Plaintiff intends to amend this complaint at the
21 appropriate time to include more specific allegations pertaining to these facts.

22 19. In the alternative, Plaintiff believes facts to be ascertained during
23 discovery in this matter will demonstrate that Defendant subjectively believed at the
24 time Defendant launched each of the products that infringe the claimed methods in the
25 marketplace that there is or was a high probability of the fact that patents existed that
26 covered the use of citrulline as in the products and that Defendant took deliberate
27 actions to avoid confirming that fact, including not conducting due diligence as to
28 potential patent infringements, and that Defendant therefore willfully blinded itself to

1 the infringing nature of its sales of the products that infringe the claimed methods.
2 Plaintiff intends to amend this complaint at the appropriate time to include more
3 specific allegations pertaining to these facts.

4 20. At a minimum, Defendant will become aware of the '471 patent and the
5 '107 patent at the time of the filing and service of this Complaint, yet Defendant will
6 likely not cease its own direct infringement, nor what Plaintiff believes is Defendant's
7 indirect infringement by contributory infringement or inducement of infringements by
8 end-users, despite such knowledge. Plaintiff intends to amend this complaint at the
9 appropriate time to include more specific allegations pertaining to these post-filing
10 activities, based on facts to be ascertained during discovery in this matter.

11 21. The earliest exact date Defendant obtained knowledge of the '471 patent
12 and the '107 patent is within the exclusive possession and control of Defendant.
13 However, Plaintiff believes facts to be ascertained during discovery in this matter will
14 demonstrate that Defendant specifically induces end-users to use its products, and
15 particularly the citrulline component in the products, to "promote nitric oxide
16 production throughout training," provide them with "alertness and energy," and help
17 construct their muscles, and Defendant knows and intends that end-users achieve those
18 objectives by practicing the methods as set forth in the '471 and '107 patents. Plaintiff
19 believes facts to be ascertained during discovery in this matter will demonstrate that
20 this is why Defendant includes citrulline in its products – for the purposes of improving
21 of the health of end-users to increase the plasma level of arginine in end-users to a level
22 from a low or normal fasting level to a level which is up to three times an average
23 overnight fasting level, and improving the health of end-users to increase the plasma
24 concentration of arginine in the subject to a level from a low or normal fasting
25 concentration to a level which is up to three times an average overnight fasting arginine
26 level of about 90 μmole per liter of plasma – and Defendant knows that end-users
27 purchase and ingest the products, and particularly the citrulline content of the products,
28

1 for those purposes. Plaintiff intends to amend this complaint at the appropriate time to
2 include more specific allegations pertaining to these facts.

3 **V. FIRST CAUSE OF ACTION**

4 **Infringement of U.S. Patent No. 5,874,471**

5 22. Plaintiff repeats and re-alleges the allegations of the foregoing paragraphs
6 of this Complaint as if fully set forth herein.

7 23. Defendant has in the past and still is literally and directly infringing or
8 directly infringing under the doctrine of equivalents one or more claims of the '471
9 patent by making, using, selling, and offering for sale nutritional supplements
10 embodying the patented invention, and will continue to do so unless enjoined by this
11 Court.

12 24. The claims of the '471 patent infringed by Defendant include claims 1, 2,
13 20, 21, and 28.

14 25. Examples of Defendant's direct infringement includes, without limitation,
15 the fact that Defendant's employees, agents, representatives and other persons
16 sponsored by or who endorse Defendant and Defendant's products in advertising and
17 marketing activities, have taken, used, and orally administered the products that
18 infringe the claimed methods which have the effect, without limitation, of increasing
19 the plasma level of arginine in the persons taking the products from a low or normal
20 fasting level to a level which is up to three times an average overnight fasting level.
21 These persons included persons who, without limitation, were in good health, were in a
22 condition of increased or continuing brain or neural activities, or were in a condition of
23 increased or continuing muscular activities. Defendant has encouraged and/or is aware
24 of these persons' oral administration of the products that infringe the claimed methods
25 for these purposes, these persons are acting under Defendant's direction and control,
26 and therefore Defendant is directly practicing the methods set forth in the '471 patent.

27 26. Plaintiff believes facts to be ascertained during discovery in this matter
28 will demonstrate that Defendant is also literally and indirectly or indirectly infringing

1 under the doctrine of equivalents, through contributory and/or induced infringement,
2 one or more claims of the '471 patent. Plaintiff intends to amend this First Cause of
3 Action at the appropriate time once more specific facts pertaining to Defendant's acts
4 of indirect infringement are ascertained.

5 27. Defendant's activities have been without express or implied license by
6 Plaintiff.

7 28. Plaintiff believes facts to be ascertained during discovery in this matter
8 will demonstrate that the infringement by Defendant has been and continues to be
9 willful, and Plaintiff intends to amend this First Cause of Action at the appropriate time
10 once more specific facts pertaining to Defendant's willful acts of infringement are
11 ascertained.

12 29. As a result of Defendant's acts of infringement, Plaintiff has suffered and
13 will continue to suffer damages in an amount to be proved at trial.

14 30. As a result of Defendant's acts of infringement, Plaintiff has been and will
15 continue to be irreparably harmed by Defendant's infringements, which will continue
16 unless Defendant is enjoined by this Court.

17 31. Plaintiff believes facts to be ascertained during discovery in this matter
18 will demonstrate that Defendant's past infringement and/or continuing infringement has
19 been deliberate and willful, and that this case is therefore an exceptional case, which
20 warrants an award of treble damages and attorneys' fees in accordance with 35 U.S.C. §
21 285. Plaintiff intends to amend this First Cause of Action at the appropriate time once
22 more specific facts pertaining to Defendant's deliberate and willful acts of infringement
23 are ascertained.

24 VI. SECOND CAUSE OF ACTION

25 Infringement of U.S. Patent No. 6,028,107

26 32. Plaintiff repeats and re-alleges the allegations of the foregoing paragraphs
27 of this Complaint as if fully set forth herein.
28

1 33. Defendant has in the past and still is literally and directly infringing or
2 directly infringing under the doctrine of equivalents one or more claims of the '107
3 patent by making, using, selling, and offering for sale nutritional supplements
4 embodying the patented invention, and will continue to do so unless enjoined by this
5 Court.

6 34. The claims of the '107 patent infringed by Defendant include claims 1, 2,
7 15, and 16 with all three products, and, additionally, claim 19 with Essential AmiN.O.
8 Energy Chewables.

9 35. Plaintiff believes facts to be ascertained during discovery in this matter
10 will demonstrate that Defendant is also literally and indirectly or indirectly infringing
11 under the doctrine of equivalents, through contributory and/or induced infringement,
12 one or more claims of the '107 patent. Plaintiff intends to amend this Second Cause of
13 Action at the appropriate time once more specific facts pertaining to Defendant's acts
14 of indirect infringement are ascertained.

15 36. Examples of Defendant's direct infringement includes, without limitation,
16 the fact that Defendant's employees, agents, representatives and other persons
17 sponsored by or who endorse Defendant and Defendant's products in advertising and
18 marketing activities, have taken, used, and orally administered the products that
19 infringe the claimed methods which have the effect, without limitation, of increasing
20 the plasma concentration of arginine in the persons taking the products from a low or
21 normal fasting concentration to a level which is up to three times an average overnight
22 fasting arginine level of about 90 μmole per liter of plasma. These persons included
23 persons who, without limitation, were in good health, were in a condition of increased
24 or continuing brain or neural activities, or were in a condition of increased or
25 continuing muscular activities. Defendant has encouraged and/or is aware of these
26 persons' oral administration of the products that infringe the claimed methods for these
27 purposes, these persons are acting under Defendant's direction and control, and
28 therefore Defendant is directly practicing the methods set forth in the '107 patent.

1 37. Defendant's activities have been without express or implied license by
2 Plaintiff.

3 38. Plaintiff believes facts to be ascertained during discovery in this matter
4 will demonstrate that the infringement by Defendant has been and continues to be
5 willful, and Plaintiff intends to amend this Second Cause of Action at the appropriate
6 time once more specific facts pertaining to Defendant's willful acts of infringement are
7 ascertained.

8 39. As a result of Defendant's acts of infringement, Plaintiff has suffered and
9 will continue to suffer damages in an amount to be proved at trial.

10 40. As a result of Defendant's acts of infringement, Plaintiff has been and will
11 continue to be irreparably harmed by Defendant's infringements, which will continue
12 unless Defendant is enjoined by this Court.

13 41. Plaintiff believes facts to be ascertained during discovery in this matter
14 will demonstrate that Defendant's past infringement and/or continuing infringement has
15 been deliberate and willful, and that this case is therefore an exceptional case, which
16 warrants an award of treble damages and attorneys' fees in accordance with 35 U.S.C. §
17 285. Plaintiff intends to amend this Second Cause of Action at the appropriate time
18 once more specific facts pertaining to Defendant's deliberate and willful acts of
19 infringement are ascertained.

20 **VII. PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for entry of judgment against Defendant as
22 follows:

23 1. A declaration that Defendant has infringed the '471 patent and the '107
24 patent under 35 U.S.C. §§ 271 *et seq.*;

25 2. That injunctions, preliminary and permanent, be issued by this Court
26 restraining Defendant, its respective officers, agents, servants, directors, and employees,
27 and all persons in active concert or participation with each, from directly infringing the
28 '471 patent and the '107 patent;

1 3. That Defendant be required to provide to Plaintiff an accounting of all
2 gains, profits, and advantages derived by Defendant's infringement of the '471 patent
3 and the '107 patent, and that Plaintiff be awarded damages adequate to compensate
4 Plaintiff for the wrongful infringing acts by Defendant, in accordance with 35 U.S.C. §
5 284;

6 4. That, at the appropriate time after more specific facts pertaining to
7 Defendant's acts of indirect, willful, and deliberate infringement are ascertained and
8 this Complaint is amended to include such facts: (a) injunctions, preliminary and
9 permanent, be issued by this Court restraining Defendant, its respective officers, agents,
10 servants, directors, and employees, and all persons in active concert or participation
11 with each, from indirectly infringing the '471 patent and the '107 patent; (b) Defendant
12 be required to provide to Plaintiff an accounting of all gains, profits, and advantages
13 derived by Defendant's indirect infringement of the '471 patent and the '107 patent; (c)
14 Plaintiff be awarded damages adequate to compensate Plaintiff for the wrongful
15 infringing acts by Defendant, in accordance with 35 U.S.C. § 284; and (d) the damages
16 awarded to Plaintiff with regard to the '471 patent and the '107 patent be increased up
17 to three times, in view of Defendant's willful infringement, in accordance with 35
18 U.S.C. § 284;

19 5. That, at the appropriate time after more specific facts pertaining to
20 Defendant's acts of willful and deliberate infringement are ascertained and this
21 Complaint is amended to include such facts, this case be declared to be exceptional in
22 favor of Plaintiff under 35 U.S.C. § 285, and that Plaintiff be awarded its reasonable
23 attorneys' fees and other expenses incurred in connection with this action;

24 6. That Plaintiff be awarded its interest and costs of suit incurred in this
25 action;

26 7. Compensatory damages;

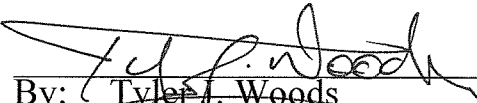
27 8. Punitive damages; and

28 9. That Plaintiff be awarded such other and further relief as this Court may

1 deem just and proper.

2
3 Respectfully submitted,
4 NEWPORT TRIAL GROUP
5 A Professional Corporation

6 Dated: November 14, 2012

7 
8 By: Tyler J. Woods
9 Attorneys for Plaintiff
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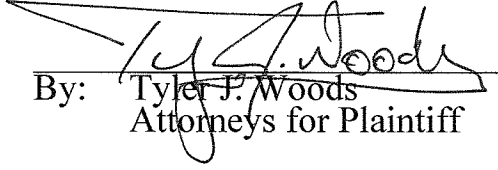
DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a jury trial for all issues in this case that properly are subject to a jury trial.

Respectfully submitted,

NEWPORT TRIAL GROUP
A Professional Corporation

Dated: November 14, 2012

By: 
Tyler J. Woods
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV12- 2002 JST (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☐ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address: NEWPORT TRIAL GROUP
 Tyler J. Woods (State Bar No. 232464)
 Richard H. Hikida (State Bar No. 196149)
 Scott J. Ferrell (State Bar No. 202091)
 895 Dove Street, Ste 425, Newport Beach, CA 92660

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

THE TAWNSAURA GROUP, LLC,

PLAINTIFF(S)

v.

OPTIMUM NUTRITION, INC.

DEFENDANT(S).

CASE NUMBER

SACV 12 - 02002 JST (MLGx)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 11/15/2012

By: Denise VO
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address: NEWPORT TRIAL GROUP
 Tyler J. Woods (State Bar No. 232464)
 Richard H. Hikida (State Bar No. 196149)
 Scott J. Ferrell (State Bar No. 202091)
 895 Dove Street, Ste 425, Newport Beach, CA 92660

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

THE TAWNSAURA GROUP, LLC,

PLAINTIFF(S)

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OPTIMUM NUTRITION, INC.

DEFENDANT(S).

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TO: DEFENDANT(S):

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Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: 11/15/2012

By: DENISE VO

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETI (a) PLAINTIFFS (Check box if you are representing yourself ☐)
THE TAWNSAURA GROUP, LLC,DEFENDANTS
OPTIMUM NUTRITION, INC.(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
NEWPORT TRIAL GROUP, 895 Dove Street, Suite 425, Newport Beach, CA 92660
Tel: (949) 706-6464 Fax (949) 706-6469

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

MONEY DEMANDED IN COMPLAINT: \$ TBD

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

35 USC §§271, et seq; 35 USC §§284; 35 USC §§285

VII. NATURE OF SUIT (Place an X in one box only.)

| OTHER STATUTES | CONTRACT | TORTS | TORTS | PRISONER | LABOR |
|--|--|---|--|--|---|
| <input type="checkbox"/> 400 State Reapportionment | <input type="checkbox"/> 110 Insurance | PERSONAL INJURY | PERSONAL PROPERTY | PETITIONS | <input type="checkbox"/> 710 Fair Labor Standards Act |
| <input type="checkbox"/> 410 Antitrust | <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 370 Other Fraud | <input type="checkbox"/> 510 Motions to Vacate Sentence | <input type="checkbox"/> 720 Labor/Mgmt. Relations |
| <input type="checkbox"/> 430 Banks and Banking | <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 371 Truth in Lending | <input type="checkbox"/> 530 General Habeas Corpus | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act |
| <input type="checkbox"/> 450 Commerce/ICC Rates/etc. | <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 380 Other Personal Property Damage | <input type="checkbox"/> 535 Death Penalty | <input type="checkbox"/> 740 Railway Labor Act |
| <input type="checkbox"/> 460 Deportation | <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 330 Fed. Employers' Liability | <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 540 Mandamus/Other | <input type="checkbox"/> 790 Other Labor Litigation |
| <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations | <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 340 Marine | BANKRUPTCY | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act |
| <input type="checkbox"/> 480 Consumer Credit | <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 555 Prison Condition | PROPERTY RIGHTS |
| <input type="checkbox"/> 490 Cable/Sat TV | <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | FORFEITURE / PENALTY | <input type="checkbox"/> 820 Copyrights |
| <input type="checkbox"/> 810 Selective Service | <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | CIVIL RIGHTS | <input type="checkbox"/> 610 Agriculture | <input checked="" type="checkbox"/> 830 Patent |
| <input type="checkbox"/> 850 Securities/Commodities/Exchange | <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 620 Other Food & Drug | <input type="checkbox"/> 840 Trademark |
| <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 | <input type="checkbox"/> 195 Contract Product Liability | <input type="checkbox"/> 362 Personal Injury-Med Malpractice | <input type="checkbox"/> 442 Employment | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | SOCIAL SECURITY |
| <input type="checkbox"/> 890 Other Statutory Actions | <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 365 Personal Injury-Product Liability | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 630 Liquor Laws | <input type="checkbox"/> 861 HIA (1395ff) |
| <input type="checkbox"/> 891 Agricultural Act | REAL PROPERTY | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <input type="checkbox"/> 444 Welfare | <input type="checkbox"/> 640 R.R. & Truck | <input type="checkbox"/> 862 Black Lung (923) |
| <input type="checkbox"/> 892 Economic Stabilization Act | <input type="checkbox"/> 210 Land Condemnation | IMMIGRATION | <input type="checkbox"/> 445 American with Disabilities - Employment | <input type="checkbox"/> 650 Airline Regs | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) |
| <input type="checkbox"/> 893 Environmental Matters | <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 462 Naturalization Application | <input type="checkbox"/> 446 American with Disabilities - Other | <input type="checkbox"/> 660 Occupational Safety /Health | <input type="checkbox"/> 864 SSID Title XVI |
| <input type="checkbox"/> 894 Energy Allocation Act | <input type="checkbox"/> 230 Rent Lease & Ejectment | <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 865 RSI (405(g)) |
| <input type="checkbox"/> 895 Freedom of Info. Act | <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 465 Other Immigration Actions | | | FEDERAL TAX SUITS |
| <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | <input type="checkbox"/> 245 Tort Product Liability | | | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) |
| <input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 290 All Other Real Property | | | | <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |

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AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | THE TAWNSAURA GROUP, LLC - Washoe County, Nevada |

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| | OPTIMUM NUTRITION, INC. - Kane County, IL |

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Plaintiff's Claim - Orange County, CA | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): [Signature] Date November 14, 2012

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |