

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)
)
SMARTSCIENCE LABORATORIES, INC.)
a corporation, and	DOCKET NO. C-3980)
)
GENE C. WEITZ,)
individually and as an officer)
of the corporation.)
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COMPLAINT

The Federal Trade Commission, having reason to believe that SmartScience Laboratories, Inc., a corporation, and Gene C. Weitz, individually and as an officer of the corporation ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent SmartScience Laboratories, Inc. ("SmartScience") is a Florida corporation with its principal office or place of business at 2327 Destiny Way, Odessa, Florida 33556. SmartScience was formerly known as Eden Laboratories, Inc.
2. Respondent Gene Weitz is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of the corporation, including the acts or practices alleged in this complaint. His principal office or place of business is the same as that of SmartScience.
3. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including JointFlex Pain Relieving Cream ("JointFlex"). JointFlex is a "drug" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act. According to the JointFlex label, camphor (3.1%) is the product's active ingredient. The product also contains chondroitin sulfate and glucosamine sulfate which the label identifies as inactive ingredients.
4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
5. Respondents have disseminated or have caused to be disseminated advertisements for JointFlex, including but not necessarily limited

to the attached Exhibits A through E. These advertisements contain the following statements and depictions:

- A. **"After two crushed vertebrae followed by painful arthritis, I never thought I'd get rid of the pain, until I used *JointFlex*. The results were amazing!"**

[Picture of smiling consumer].

Men and women of all ages are amazed at the relief they are experiencing from a revolutionary new pain relief cream called *JointFlex*. . . . Not only are they getting rid of nagging pain, they're enjoying the activities they love so much. According to a recent survey, a staggering **95 %** said, ***JointFlex*** helped reduce their pain, often where other pain relief products failed."

(Exhibit A--Newspaper ad run in USA Today, Dallas Morning News, Washington Post and others)

- B. **"Is Pain Spoiling Your Fun in Life? Do What These People Did!"**

. . . .
Men and women of all ages are amazed at the relief they are experiencing from a revolutionary new pain relief cream called *JointFlex* ***

Nutrient Enriched with Glucosamine & Chondroitin Sulfate
. . . .

Why put up with pain when these people got rid of theirs so easily?

Theresa Carmen, an insurance broker swears by *JointFlex*. I used crutches because of a herniated disk in my back. After using *JointFlex*, I am now able to walk without crutches! I was really, REALLY surprised when I got relief in 5 minutes. It's amazing".

Tried Pain Relief Creams With Little Results?

Don Huffer, a man from Florida, said: "None of the other name brand products I tried helped, only *JointFlex* worked." An 80-pound header fell on Don's head and crushed two vertebrae. Soon afterwards, very painful arthritis set in. This is what he did. "I got two steroid injections that cost \$1,000 each at the hospital. That helped the pain some but I didn't want more injections because of the possible side effects. Then I tried *JointFlex*. To my utter amazement, the pain stopped! It was like a light went on in my life!"

. . . .

New technology makes the ingredients more effective in relieving pain!

What makes *JointFlex* different from other pain relief creams? No other pain relieving cream utilizes the fast penetrating, patent pending **FUSOME DELIVERY SYSTEM**, and also contains the much publicized, all natural ingredients, **GLUCOSAMINE & CHONDROITIN SULFATE**.

A Revolutionary New Product to help Stop Pain

JointFlex combines the nutrients, glucosamine and chondroitin sulfate, with it's patent pending, Fusome Delivery System and makes the combination into a non-greasy cream that can be applied directly to painful areas. The results are astounding!"

* * * *

Which symptoms do you want to eliminate?

- C Arthritis Pain
- C Simple Backache
- C Muscle Sprains
- C Tendonitis
- C Neck Pain
- C Shoulder Pain
- C Knee and Leg Pain
- C Muscle Cramps
- C Muscle Strains
- C Bruises and more

(Exhibit B--Newspaper ad run in USA Today, New York Post, Los Angeles Times, Chicago Tribune, Washington Post, and others)

C. Effective at Reducing Pain for People of all Ages!

Sixteen year old Melissa Cirello couldn't walk because she injured her back cheer leading. After only a few applications of *JointFlex* she said: "The pain went away completely. I could start cheer leading again!"

. . . .

Do Your Favorite Activity Without Pain!

Catherine Lambert played 18 holes of golf every week until her knees hurt so badly she had to stop.

"I started using *JointFlex* and the swelling went down. I felt relief. Soon I was back to playing two rounds of golf a week. My friends said, "What happened to you? Did you have surgery?["] I told them no. I started using *JointFlex* and now I have no pain on most days!["]

(Exhibit C--Internet ad on www.jointflex.com)

D. **ahhh!**

. . .More Pain Relief!

GUARANTEED!

Nutrient Enriched with Glucosamine & Chondroitin Sulfate

. . . .

What makes **JointFlex** different from other pain relief creams? No other pain relieving cream utilizes the fast penetrating, patent pending Fusome Delivery System and also contains the all natural nutrients, **glucosamine and chondroitin sulfata**. This new technology makes the ingredients more effective in relieving pain.

(Exhibit D--Magazine ad
newspaper ad carried by
Newsweek, Prevention)

E. **"Why Continue to Live with Pain?**

JointFlex

Pain Relieving Cream . . .

**utilizes breakthrough delivery system technology to
provide more pain relief than competitive brands!
Guaranteed!"**

(Exhibit E--Brochure distributed
with product)

6. Through the statements and depictions described in Paragraph 5, respondents have represented, expressly or by implication, that:

- a. JointFlex eliminates significant pain due to disabling joint conditions, crushed vertebrae, arthritis, herniated disk, and other conditions;
- b. JointFlex provides more pain relief than other over-the-counter pain creams; and
- c. Testimonials from consumers appearing in the advertisements for JointFlex represent the typical or ordinary experiences of members of the public who use the product.

7. Through the statements and depictions described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 6 at the time the representations were made.

8. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 6 at the time the representations were made. Therefore,

the representation set forth in Paragraph 7 was, and is, false or misleading.

9. Through the statements and depictions described in Paragraph 5, respondents have represented, expressly or by implication, that the glucosamine sulfate and chondroitin sulfate in JointFlex contribute to pain relief when applied topically.

10. Through the statements and depictions described in Paragraph 5, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 9 at the time the representation was made.

11. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 9 at the time the representation was made. Among other reasons, respondents do not possess competent and reliable evidence that the glucosamine sulfate and chondroitin sulfate in JointFlex, a topically applied cream, penetrate the skin sufficiently to induce a pharmacological effect. Therefore, the representation set forth in Paragraph 10 was, and is, false or misleading.

12. Through the statements and depictions described in Paragraph 5, respondents have represented, expressly or by implication, that:

- a. A competent and reliable survey of JointFlex users shows that ninety-five percent experienced reduction or elimination of pain due to use of JointFlex;
- b. Ninety-five percent of JointFlex users who responded to a survey said that JointFlex helped reduce their pain; and
- c. As characterized in JointFlex advertising, certain testimonials, including but not limited to those of Melissa Cirello and Catherine Lambert, represent the actual experience of those individuals.

13. In truth and in fact:

- a. No competent and reliable survey of JointFlex users shows that ninety-five percent experienced reduction or elimination of pain due to use of JointFlex. The survey respondents relied on was not competent and reliable, because, among other reasons, responding consumers were not randomly selected. In addition, there was no assurance that any pain reduction the responding consumers reported was due to use of the product.
- b. It is not the case that ninety-five percent of JointFlex users who responded to a survey said that JointFlex helped reduce their pain. The ninety-five percent figure reflects responses to the question, "do you feel that the

product helped your symptoms," not a question about pain relief, and the surveys also inquired into relief from stiffness, swelling, redness, and protuberances.

- c. As characterized in JointFlex advertising, certain testimonials, including but not limited to those of Melissa Cirello and Catherine Lambert, do not represent the actual experience of those individuals, because, among other reasons, Ms. Cirello's injury did not stop her from walking and Ms. Lambert's arthritis did not stop her from playing golf.

Therefore, the representations set forth in Paragraph 12 were, and are, false or misleading.

14. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this second day of November, 2000, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: