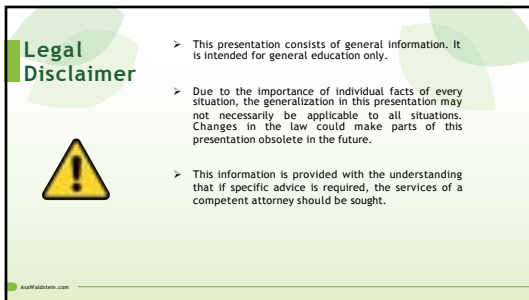


 Supplement Advisory Group
MICROBIOME
 MASTERING THE MARKET
 These Folks Can Really Shut You Down
 Asa Waldstein
 Principal, Supplement Advisory Group

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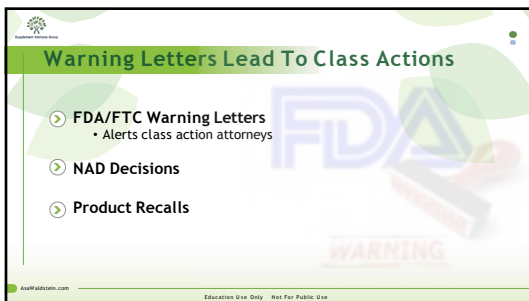
Legal Disclaimer



- This presentation consists of general information. It is intended for general education only.
- Due to the importance of individual facts of every situation, the generalization in this presentation may not necessarily be applicable to all situations. Changes in the law could make parts of this presentation obsolete in the future.
- This information is provided with the understanding that if specific advice is required, the services of a competent attorney should be sought.

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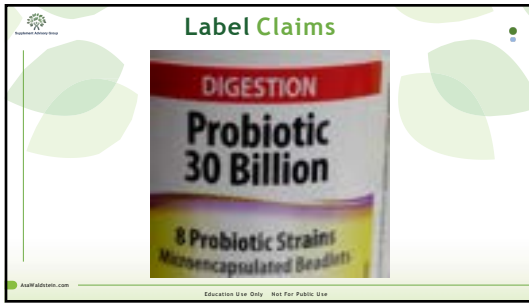


Warning Letters Lead To Class Actions

- **FDA/FTC Warning Letters**
 - Alerts class action attorneys
- **NAD Decisions**
- **Product Recalls**

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Imagery In Marketing

ABC Probiotic keeps me feeling great! -Allison from Eugene

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Imagery In Marketing

The Power of Science- Strengthening Evidence

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Clinically Proven = Highest regulatory scrutiny

NAD Challenge Case: "Culturelle" Probiotic

The advertiser argued that the express claims "most proven effective," "most clinically proven effective," and "RTI proven effective" convey the message that its probiotic ingredient had been the subject of the highest number of studies showing clinical efficacy over a range of conditions. To support this message, the advertiser provided a numerical count of studies, sourced from the PubMed clinical studies repository, based on "positive outcomes" and "positive primary outcomes."

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Better Than Drugs Statements

FDA Warning Letter: JLM Nutritionals, Inc. dba JLM Nutrition—Super Naturals Health

On your blog "Natural IBS Treatment Versus Prescription Treatment For IBS Symptoms" page:

"On 04/25/16, Jordyn in Los Angeles wrote: ... I have been suffering for about a year now with IBS-D. ... I was then diagnosed with IBS-D. I had no idea that IBS could be so debilitating. ... Luckily I found IBS Formula! I have been off my medications and on this formula for a month. An entire month of no issues, no stomach pains, no missed days of work."

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"IBS" Symptomatic Support = Claim

FDA Warning Letter: JLM Nutritionals, Inc. dba JLM Nutrition—Super Naturals Health

On your product description page:

"Designed to relieve Irritable Bowel Syndrome symptoms including diarrhea and constipation"

"Relieved ... abdominal pain"


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"Healthy" Lawsuit

The HeartFoodz GoenBelly Probiotic JuiceDrinks Class Action Lawsuit is *Arizpe Reynaldia v. HeartFoodz, Inc.*, Case No. 2:20-cv-01668-RTM-MSE in the U.S. District Court for the Southern District of California.



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The lawsuit alleges misleading marketing claims

"START YOUR GOODHEALTH GAME PLAN... Drink one 8 oz. glass of delicious GoodBelly a day for 12 days."

"Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles the rest of you does too."

"WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied more than 2 decades and has numerous research trials to show that it may help promote healthy digestion and overall wellness"

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Sustainability Claims

better for the environment

sustainable packaging

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**Other Costly Claims:
Plaintiff Attorney Lawsuits**

- ✓ "Free Of" Claims
- ✓ Made in the USA
- ✓ Website ADA Compliance
- ✓ All Natural

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Thank You

Let's Connect

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