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Waiora Anti-Aging Supplement Is Just Water: Class Action

By **Scott Flaherty**

Law360, New York (January 26, 2012, 3:22 PM ET) -- A putative class of consumers on Wednesday hit supplement maker Waiora LLC with a suit in Florida federal court, alleging the company sold a mineral-enhanced anti-aging product that, in reality, contained little more than water.

Waiora's supplement, called Natural Cellular Defense or NCD, purported to contain a certain concentration of volcanic minerals called zeolites meant to support the immune system, remove toxins and metals from the body, and balance the body's pH levels, according to the suit.

But Waiora's NCD actually contained less than 10 percent of the minerals promised on the label from 2004 to September 2011, the complaint says, calling the deception "a negligent or intentionally fraudulent escapade of gross magnitude ... which robbed innocent people looking for ways to improve their health."

Waiora targeted "gravely ill" consumers and sold the supplement at more than \$50 per 15-milliliter bottle, the suit said.

In late 2010, a third-party test of NCD showed that the substance was almost entirely made up of water — instead of the 2,400 milligrams of zeolite advertised on the label, the bottles contained closer to 150 mg, the complaint alleges. Testing from a second independent lab completed in September showed an even lower concentration of dissolved minerals in each bottle of NCD, it says.

At least one member of the class confronted Waiora with these test results last year, but the company stood by its product, according to the complaint.

Yet around the same time, the suit says, Waiora stopped using its manufacturing partner, co-defendant ENO Research & Consulting Services LLC, and switched to a new manufacturer for the supplement.

Since the switch in October, Waiora has been selling NCD that has a different consistency, taste and color from the earlier version, the class claims.

Waiora's website gives a fine-print disclaimer explaining that the health claims about NCD have not been evaluated by the U.S. Food and Drug Administration and that the product is not intended to treat, cure or prevent any diseases.

But the company has claimed the supplement is an effective treatment for medical conditions like autism and cancer, the complaint alleges, singling out co-defendant Rik Dietsch, the company's scientific adviser, for making false claims about NCD, including that

it is patented and has undergone more than a dozen clinical trials.

"Dietsch has mastered the art of explaining nonsense or 'junk' science, and has mastery over complex-sounding but substantively empty scientific lingo," the complaint said.

The suit accuses Waiora of fraud and negligence, saying it, along with its manufacturing and research partners and those companies' officers, had a duty to ensure the amount of zeolites on the label matched the bottle's contents.

Representatives for Waiora could not immediately be reached for comment Thursday. Counsel for the class declined to comment beyond what was in the complaint.

The class is represented by Nolan K. Klein of the Law Offices of Nolan Klein PA and James P. Gitkin of Salpeter Gitkin LLP.

Counsel information for Waiora was not immediately available.

The case is Penney et al. v. Waiora LLC et al., case number 9:12-cv-80064, in the U.S. District Court for the Southern District of Florida.

--Editing by Elizabeth Bowen.

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