

EXHIBIT 10

**Plaintiff's Amended Motion for Preliminary Approval
of Class Action Settlement**

**Loomis v. Slenderstone - Docket
Report**

**U.S. District Court
Southern District of California (San Diego)
CIVIL DOCKET FOR CASE #: 3:19-cv-00854-MMA-KSC**

Loomis v. Slendertone Distribution, Inc.
Assigned to: Judge Michael M. Anello
Referred to: Magistrate Judge Karen S. Crawford
Cause: 28:1332fr Diversity-Fraud

Date Filed: 05/07/2019
Date Terminated: 03/09/2021
Jury Demand: Plaintiff
Nature of Suit: 370 Other Fraud
Jurisdiction: Diversity

Plaintiff

Jane Loomis

*on behalf of herself, all others similarly
situated, and the general public*

represented by **Jack Fitzgerald**
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V.

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Date Filed	#	Docket Text
05/07/2019	<u>1</u>	<p>COMPLAINT with Jury Demand against Slendertone Distribution, Inc. (Filing fee \$ 400 receipt number 0974-12458088.), filed by Jane Loomis. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> CLRA Venue Affidavit)</p> <p>The new case number is 3:19-cv-00854-MMA-KSC. Judge Michael M. Anello and Magistrate Judge Karen S. Crawford are assigned to the case. (Fitzgerald, Jack)(smd) Modified on 5/7/2019 to correct defendant's name. NEF regenerated. (als). (jao). (Entered: 05/07/2019)</p>
05/07/2019	<u>2</u>	<p>Summons Issued. Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1. (smd) (Entered: 05/07/2019)</p>

05/07/2019	3	Amended Summons Issued. Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1. (als) (Entered: 05/07/2019)
05/07/2019	4	NOTICE of Appearance by Trevor Matthew Flynn on behalf of Jane Loomis (Flynn, Trevor)Attorney Trevor Matthew Flynn added to party Jane Loomis(pty:pla) (rmc). (Entered: 05/07/2019)
05/13/2019	5	SUMMONS Returned Executed by Jane Loomis. Slendertone Distribution, Inc. served. (Flynn, Trevor) (rmc). (Entered: 05/13/2019)
05/20/2019	6	Joint MOTION for Extension of Time to File Answer by Slendertone Distribution, Inc.. (Alarcon, Paul)Attorney Paul Augusto Alarcon added to party Slendertone Distribution, Inc.(pty:dft) (rmc). (Entered: 05/20/2019)
05/21/2019	7	ORDER Granting 6 Joint Motion for Extension of Time to File Responsive Pleading. Upon due consideration, and good cause appearing, the Court grants the parties' motion. Defendant must file a responsive pleading on or before 7/12/2019. Signed by Judge Michael M. Anello on 5/21/2019. (rmc) (Entered: 05/21/2019)
07/12/2019	8	MOTION to Dismiss <i>Class Action Complaint</i> by Slendertone Distribution, Inc.. (Attachments: # 1 Request for Judicial Notice, # 2 Declaration of Michael J. Nohilly in Support of Motion to Dismiss the Class Action Complaint of Plaintiff Jane Loomis, # 3 Exhibit 1 to Declaration of Michael J. Nohilly, # 4 Declaration of Christopher C. Hossellman in Support of Motion to Dismiss the Class Action Complaint of Plaintiff Jane Loomis, # 5 Exhibit 1 to Declaration of Christopher Hossellman, # 6 Exhibit 2 to Declaration of Christopher Hossellman, # 7 Exhibit 3 to Declaration of Christopher Hossellman, # 8 Exhibit 4 to Declaration of Christopher Hossellman)(Hossellman, Christopher) Modified to correct event on 7/12/2019 (rmc). (Entered: 07/12/2019)
07/26/2019	9	Joint MOTION to Continue <i>Hearing Date on Defendant's Motion to Dismiss</i> by Jane Loomis. (Attachments: # 1 Proof of Service)(Flynn, Trevor) (rmc). (Entered: 07/26/2019)
07/26/2019	10	ORDER granting Joint Motion to Continue Hearing Date on Defendant's Motion to Dismiss Plaintiff's Complaint [Doc. No. 9]. Motion Hearing continued to 9/9/2019 02:30 PM before Judge Michael M. Anello. Signed by Judge Michael M. Anello on 7/26/2019. (jrm) (jao). (Entered: 07/26/2019)
08/07/2019	11	NOTICE of Appearance by Christopher Hossellman on behalf of Slendertone Distribution, Inc. (Hossellman, Christopher)Attorney Christopher Hossellman added to party Slendertone Distribution, Inc.(pty:dft) (rmc). (Entered: 08/07/2019)
08/08/2019	12	NOTICE of Appearance of <i>Gary A. Wolensky</i> by Gary A Wolensky on behalf of Slendertone Distribution, Inc. (Wolensky, Gary)Attorney Gary A Wolensky added to party Slendertone Distribution, Inc.(pty:dft) (rmc). (Entered: 08/08/2019)
08/19/2019	13	RESPONSE in Opposition re 8 MOTION to Dismiss for Failure to State a Claim filed by Jane Loomis. (Attachments: # 1 Declaration of Trevor Flynn, # 2 Exhibit 1 to Flynn Declaration, # 3 Exhibit 2 to Flynn Declaration)(Flynn, Trevor) (rmc). (Entered: 08/19/2019)
08/19/2019	14	CERTIFICATE OF SERVICE by Jane Loomis re 13 Response in Opposition to Motion, (Flynn, Trevor) (rmc). (Entered: 08/19/2019)
08/30/2019	15	REPLY to Response to 8 MOTION to Dismiss for Failure to State a Claim filed by Slendertone Distribution, Inc.. (Wolensky, Gary) QC mail sent re event, filing account not matching signature (rmc). (Entered: 08/30/2019)
09/03/2019	16	<u>Minute Order Taking Motion Under Submission</u> :Defendant's 8 MOTION to Dismiss is

		currently set for hearing on September 9, 2019. The Court finds this matter suitable for determination on the papers and without oral argument pursuant to Civil Local Rule 7.1.d.1. Accordingly, no appearances are required and the hearing shall be taken off calendar. SO ORDERED by Judge Michael M. Anello on September 3, 2019.(no document attached) (mxt) (Entered: 09/03/2019)
11/06/2019	17	ORDER Granting in Part and Denying in Part 8 Defendant's Motion to Dismiss. The Court grants Defendant's motion to dismiss as to Plaintiff's breach of implied warranty claim and CLRA claims under California Civil Code §§ 1770(a)(7), 1770(a)(16) and denies Defendant's motion to dismiss as to Plaintiff's UCL and FAL claims, CLRA claims under California Civil Code §§ 1770(a)(5), 1770(a)(9), and breach of express warranty claims. Plaintiff may file an amended complaint that cures the deficiencies identified herein with respect to her request for injunctive relief and CLRA claims under California Civil Code §§ 1770(a)(7), 1770(a)(16) on or before 11/22/2019. Signed by Judge Michael M. Anello on 11/4/2019. (tcf) (Entered: 11/06/2019)
12/06/2019	18	ANSWER to 1 Complaint, with Jury Demand by Slendertone Distribution, Inc. (Hossellman, Christopher) (tcf). (Entered: 12/06/2019)
12/10/2019	19	NOTICE AND ORDER for Early Neutral Evaluation Conference; Rule 26 Compliance; and Case Management Conference. An Early Neutral Evaluation is set for 1/23/2020 at 2:00 PM before Magistrate Judge Karen S. Crawford. A Case Management Conference is set for 1/23/2020 02:00 PM before Magistrate Judge Karen S. Crawford. The Joint Discovery Plan shall be filed on the CM/ECF system and lodged by email to efile_crawford@casd.uscourts.gov, on or before January 16, 2020. Signed by Magistrate Judge Karen S. Crawford on 12/10/2019. (tcf) (Entered: 12/10/2019)
12/16/2019	20	Joint MOTION to Continue <i>the Early Neutral Evaluation, or, in the Alternative, to Excuse Lead Trial Counsel for Slendertone from Attending</i> by Slendertone Distribution, Inc.. (Attachments: # 1 Declaration of Christopher Hossellman in Support of Joint Motion to Continue the Early Neutral Evaluation, or, in the Alternative, to Excuse Lead Trial Counsel for Slendertone from Attending)(Hossellman, Christopher) (mme). (Entered: 12/16/2019)
12/16/2019	21	ORDER Granting 20 Joint Motion and Resetting Early Neutral Evaluation Conference, Rule 26 Compliance, and Case Management Conference. Joint Discovery Plan now due 2/20/2020 Case Management Conference reset for 2/27/2020 02:00 PM before Magistrate Judge Karen S. Crawford. Early Neutral Evaluation reset for 2/27/2020 02:00 PM before Magistrate Judge Karen S. Crawford. Signed by Magistrate Judge Karen S. Crawford on 12/16/2019. (mme) (Entered: 12/17/2019)
12/20/2019	22	NOTICE of Party With Financial Interest by Slendertone Distribution, Inc. . Identifying Corporate Parent Bio-Medical Research Ltd. for Slendertone Distribution, Inc. (Hossellman, Christopher) (tcf). (Entered: 12/20/2019)
02/20/2020	23	JOINT DISCOVERY PLAN by Jane Loomis (Flynn, Trevor) (tcf). (Entered: 02/20/2020)
02/20/2020	24	Joint MOTION for Protective Order by Jane Loomis. (Flynn, Trevor) (tcf). (Main Document 24 replaced on 2/20/2020) (tcf). (Entered: 02/20/2020)
02/20/2020	25	NOTICE of Appearance of <i>Colton Parks</i> by Colton Parks on behalf of Slendertone Distribution, Inc. (Parks, Colton)Attorney Colton Parks added to party Slendertone Distribution, Inc.(pty:dft) (tcf). (Entered: 02/20/2020)
02/20/2020	26	Joint MOTION to Excuse Appearance of Lead Trial Counsel Gary Wolensky at Early Neutral Evaluation Conference, <i>or, in the Alternative, to Continue the Early Neutral Evaluation</i> by Slendertone Distribution, Inc. (Hossellman, Christopher) (tcf). (Entered: 02/20/2020)

02/20/2020	27	NOTICE of Appearance by Melanie Rae Persinger on behalf of Jane Loomis (Persinger, Melanie)Attorney Melanie Rae Persinger added to party Jane Loomis(pty:pla) (tcf). (Entered: 02/20/2020)
02/20/2020	28	Notice of Document Discrepancies and Order Thereon by Magistrate Judge Karen S. Crawford Rejecting re 24 Joint MOTION for Protective Order , from Plaintiff Jane Loomis. Non-compliance with local rule(s), ECF 2(h): Includes a proposed order or requires judges signature, ECF 2(a),(g): Docket entry does not accurately reflect the document filed. IT IS HEREBY ORDERED: The document is rejected. It is ordered that the Clerk STRIKE the document from the record, and serve a copy of this order on all parties. Signed by chambers of Magistrate Judge Karen S. Crawford. (tcf) (Additional attachment(s) added on 2/20/2020: # 1 Stricken Document) (tcf). (Entered: 02/20/2020)
02/20/2020	29	Joint MOTION for Protective Order <i>Entry</i> by Jane Loomis. (Flynn, Trevor) (tcf). (Entered: 02/20/2020)
02/20/2020	30	ORDER granting 26 Joint Motion to Excuse Appearance. With good cause appearing, Gary A. Wolensky, Esq. is excused from attending the Early Neutral Evaluation Conference on 2/27/2020. Signed by Magistrate Judge Karen S. Crawford on 2/20/2020. (no document attached) (kxb) (Entered: 02/20/2020)
02/20/2020	31	ORDER Granting 29 Joint Motion and Entering Protective Order. Signed by Magistrate Judge Karen S. Crawford on 2/20/2020. (tcf) (Entered: 02/21/2020)
02/27/2020	32	Minute Entry for proceedings held before Magistrate Judge Karen S. Crawford: An Early Neutral Evaluation Conference and a Case Management Conference were held on 2/27/2020. The case did not settle. Scheduling order to issue.(no document attached) (plh) (Entered: 03/02/2020)
03/02/2020	33	SCHEDULING ORDER through Motion for Class Certification: A telephonic Case Management Conference is set for 6/5/2020 at 9:30 AM before Magistrate Judge Karen S. Crawford. Plaintiff's motion for class certification must be filed no later than 11/13/2020. Signed by Magistrate Judge Karen S. Crawford on 3/2/2020. (tcf) (Entered: 03/02/2020)
05/13/2020	34	Joint MOTION to Amend/Correct 33 Scheduling Order, <i>to Continue Discovery Deadlines</i> by Slendertone Distribution, Inc. (Attachments: # 1 Declaration of Christopher Hossellman in Support of Joint Motion to Amend the Scheduling Order to Continue Discovery Deadlines)(Hossellman, Christopher) (tcf). (Entered: 05/13/2020)
05/18/2020	35	ORDER Granting 34 Joint Motion to Amend the Scheduling Order to Continue Discovery Deadlines. The telephonic Case Management Conference is continued to 9/4/2020 at 9:30 AM before Magistrate Judge Karen S. Crawford. Signed by Magistrate Judge Karen S. Crawford on 5/18/2020. (tcf) (Entered: 05/18/2020)
08/31/2020	36	NOTICE of Settlement by Jane Loomis (Flynn, Trevor) (tcf). (Entered: 08/31/2020)
09/01/2020	37	Minute Entry regarding Notice of Settlement: The parties report a settlement agreement has been reached in this matter. The Court will hold a telephonic status conference on September 4, 2020 at 9:30 a.m. To participate in the status conference, counsel should call 1-877-873-8017 and dial access code 2924630. (Status Conference set for 9/4/2020 at 09:30 AM before Magistrate Judge Karen S. Crawford.)(no document attached) (src) (Entered: 09/01/2020)
09/04/2020		Minute Entry for proceedings held before Magistrate Judge Karen S. Crawford: Status Conference re Notice of Settlement held on 9/4/2020.(Plaintiff Attorney Trevor Flynn). (Defendant Attorney Christopher Hosselman, Colton Parks). (no document attached) (src) (Entered: 09/04/2020)

09/04/2020	38	ORDER regarding Plaintiff's Motion for Preliminary Approval of Settlement. The parties report a settlement has been reached in this matter. Doc. No. 36. It is hereby ORDERED that Plaintiff shall file her Motion for Preliminary Approval of Settlement on or before September 30, 2020. SO ORDERED. Signed by Magistrate Judge Karen S. Crawford on 9/4/20.(no document attached) (src) (Entered: 09/04/2020)
09/30/2020	39	MOTION for Settlement <i>Preliminary Approval of Class Settlement</i> by Jane Loomis. (Attachments: # 1 Declaration of Jack Fitzgerald, # 2 Ex. 1 to Fitzgerald Decl., # 3 Ex. 2 to Fitzgerald Decl., # 4 Ex. 3 to Fitzgerald Decl., # 5 Ex. 4 to Fitzgerald Decl., # 6 Declaration of William W. Wickersham, # 7 Ex. 1 to Wickersham Decl., # 8 Ex. 2 to Wickersham Decl., # 9 Ex. 3 to Wickersham Decl., # 10 Ex. 4 to Wickersham Decl., # 11 Ex. 5 to Wickersham Decl.)(Fitzgerald, Jack) (tcf). (Entered: 09/30/2020)
10/05/2020	40	NOTICE of Joinder by Slendertone Distribution, Inc. re 39 MOTION for Settlement <i>Preliminary Approval of Class Settlement</i> (Attachments: # 1 Declaration of Christopher Hossellman in Support of Joinder to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, # 2 Exhibit A to Declaration of Christopher Hossellman in Support of Joinder to Plaintiffs' Motion for Preliminary Approval of Class Action Settlement) (Hossellman, Christopher) (tcf). (Entered: 10/05/2020)
10/28/2020	41	<u>Minute Order Taking Motion Under Submission</u> : Plaintiff's 39 MOTION for Preliminary Approval of Class Settlement is currently set for hearing on November 2, 2020. The Court finds this matter suitable for determination on the papers and without oral argument pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7.1.d.1. Accordingly, no appearances are required, and the hearing is taken off calendar. SO ORDERED by Judge Michael M. Anello on October 28, 2020. (no document attached) (mxt) (Entered: 10/28/2020)
12/01/2020	42	ORDER Granting 39 Plaintiff's Unopposed Motion for Preliminary Approval of Class Settlement. A hearing (the "Final Approval Hearing") has been reserved on 3/8/2021 at 2:30 PM in Courtroom 3D before Judge Michael M. Anello. Signed by Judge Michael M. Anello on 12/1/2020. (tcf) (Entered: 12/01/2020)
01/19/2021	43	MOTION for Settlement <i>Final Approval of Class Action Settlement</i> by Jane Loomis. (Attachments: # 1 Declaration of Jack Fitzgerald, # 2 Declaration of Dana Boub, # 3 Exhibit A to Declaration of Dana Boub, # 4 Declaration of Jane Loomis)(Fitzgerald, Jack) (tcf). (Entered: 01/19/2021)
02/22/2021	44	ORDER Converting Settlement Final Approval Hearing into a Telephonic Hearing and Notice of Dial-In Instructions. Signed by Judge Michael M. Anello on 2/22/2021. (tcf) (Entered: 02/22/2021)
03/01/2021	45	SUPPLEMENTAL DOCUMENT by Jane Loomis re 43 MOTION for Settlement <i>Final Approval of Class Action Settlement Supplemental Declaration of Trevor Flynn Regarding Final Accounting of Claims Administrator</i> . (Flynn, Trevor) (tcf). (Entered: 03/01/2021)
03/04/2021	46	NOTICE AND ORDER Providing Tentative Ruling re 43 Motion for Final Approval of Class Settlement, Attorneys' Fees and Costs, and Service Award. Signed by Judge Michael M. Anello on 3/3/2021. (tcf) (Entered: 03/04/2021)
03/08/2021	47	Minute Entry for proceedings held before Judge Michael M. Anello (appeared in courtroom): Telephonic Final Approval Hearing and Motion Hearing held on 3/8/2021 re Motion for Final Approval of Class Action Settlement filed by Jane Loomis (ECF No. 43). The Court affirmed its tentative ruling with a written order to follow. (Appeared by Telephone: Court Reporter Juliet Eichenlaub; Plaintiff Attorney Trevor Matthew Flynn; Defendant Attorney Colton Parks). (no document attached) (ajs) (Entered: 03/08/2021)
03/09/2021	48	ORDER Granting 43 Motion for Final Approval of Class Settlement, Attorneys' Fees and

		Costs, and Service Award. Signed by Judge Michael M. Anello on 3/8/2021. (tcf) (Entered: 03/09/2021)
03/09/2021	49	CLERK'S JUDGMENT. IT IS SO ORDERED AND ADJUDGED that the Court grants Plaintiff's motion for final approval of the class settlement, attorneys' fees and costs, and a class representative service award. The Court certifies the Settlement Class for the purposes of the Settlement. The Court approves the Settlement as fair, reasonable, and adequate pursuant to FederalRule of Civil Procedure 23(e). The Court orders the parties to undertake the obligations set forth in the Settlement Agreement that arise out of this Order. The Court awards to Class Counsel attorneys' fees in the amount of \$59,060.20 and costs in the amount of \$939.80. The Court further awards to Plaintiff a service award for work performed as the class representative in the amount of \$10,000. (tcf) (Entered: 03/09/2021)

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