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Bruised Users Claim Cellulite-Fighting Stick Doesn't Work

By **Kat Greene**

Law360, Los Angeles (January 24, 2018, 9:41 PM EST) -- The seller of a pronged massage stick called the FasciaBlaster was hit with a proposed class action in California federal court Tuesday accusing her of violating federal and state laws by advertising "spurious health benefits" of the tool that allegedly caused heavy bruising but no reduction of cellulite.

A group of consumers led by Sharon Dalton said they bought FasciaBlasters because they believed seller Ashley Black's claims that the massager could help reduce cellulite, joint pain and other ailments, according to the suit. The tool not only fell short on those claims, but also caused them injuries including extensive bruising, according to the complaint.



Photos allegedly from Ashley Black's website claim bruising is normal, despite medical indications to the contrary, according to the plaintiffs.

The claims Black makes on her website and in other marketing, including on social media sites like Facebook, are false and unsupportable, the consumers alleged. For one thing, the suit said, there's no science to support the idea that pressing a spiked massager into one's skin will reduce cellulite, a nonmedical term for fatty deposits that appear on thighs and other places on the body.

"Advertising the spurious health benefits when, in fact, the FasciaBlaster does not convey those benefits constitutes a course of unfair conduct," under California's unfair competition law, Dalton said. "The conduct of the Defendants harms the interests of consumers and market competition. There is no valid justification for Defendants' conduct."

But Black's claims are also dangerous, Dalton said. Black is encouraging users of her device to grind into the fascia — tissue that encases muscles, organs, blood vessels and everything else under the skin — potentially setting users up for problems beyond bruising, according to the suit.

"In addition to the dangers of actually rupturing fascia, users risk significant 'collateral' damage to skin, organs, nerves, lymph glands, muscles, blood vessels, bones and other structures," Dalton said.

Black advises customers to press hard with the massage tool on areas where they want to "break up" places they believe their fascia needs to be released, according to the claims. The pressing causes bruising, but Black assures customers that the marks are normal and that they're even signs the tissue under the skin is recovering, according to the suit.

Those claims, Dalton said, aren't supported by scientific evidence.

Dalton seeks to represent a class of all consumers who bought the FasciaBlaster anywhere in the U.S., and also seeks certification of subclasses of consumers in California, Nevada, Louisiana, Arizona, Florida and Mississippi.

The Dalton case is at least the second proposed class action against Black and her companies, court records show. Earlier this month, Black removed to federal court a suit bearing similar claims that had been filed in California Superior Court in October, according to the docket in that case.

The earlier suit, lodged by a group of consumers led by Emily Elson, contains claims of false advertising, strict product liability, negligence, reckless misconduct, defamation and intentional infliction of emotional distress.

The defamation claim in that case goes to statements made by Black and her companies on social media accounts claiming that members who complained about the product were committing crimes, sleeping with journalists to get publicity for their stories about the FasciaBlaster, or "mentally deranged liars and criminals," according to that suit.

One woman said her personal business account had gotten bad reviews on Yelp from people who weren't even customers after Black "incited" fans to disparage her, according to the complaint.

Meanwhile, **last summer** Black's company ADB Interests LLC accused a study group participant of defamation after she allegedly made negative Facebook comments about the FasciaBlaster. The woman had signed a consent agreement with a nondisclosure provision before participating in the study, Black said in that case.

But then the study participant took to Facebook to claim, "without proof, that the use of the FasciaBlaster can cause nausea, vomiting, extreme weight loss and destruction of the body's connective tissue," Black said in the suit, and "alleging a connection between the FasciaBlaster and skin detachment and collagen breakdown."

Black's company ADB Interests LLC said in a statement that the suit was part of a harassment campaign against Black.

"We believe this cookie cutter lawsuit is growing out of a larger cyberstalking campaign against Ms. Black. ... Studies and countless women attest that the FasciaBlaster changes lives for the better. We look forward to an expedient dismissal of this case and an end to the cyber harassment," the company said in a statement Wednesday.

Representatives for the consumers didn't immediately respond to requests for comment on Wednesday.

The Dalton plaintiffs are represented by David R. Shoop and Thomas S. Alch of Shoop APLC, Jason P. Sultzer, Adam Gonnelli and Jeremy Francis of The Sultzer Law Group PC, Bonner C. Walsh of Walsh PLLC, and Jeffrey Brown of Leeds Brown Law PC.

The Elson plaintiffs are represented by Perrin F. Disner.

The Ashley Black entities are represented in the Elson suit by Craig L. Winterman of Herzfeld & Rubin LLP.

Further counsel information for the parties couldn't be immediately determined.

The suits are Sharon Dalton et al. v. Ashley Black Co. et al., case number 2:18-cv-00582, and Emily Elson et al. v. Ashley Black et al., case number 2:18-cv-00116, both in the U.S. District Court for the Central District of California.

--Additional reporting by Michelle Casady. Editing by Breda Lund.

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