



specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

5. Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

### DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. **“Competent and Reliable Evidence”** means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that (1) have been conducted and evaluated in an objective manner by qualified persons and (2) are generally accepted in the profession to yield accurate and reliable results.

B. **“Defendants”** means the Individual Defendant and the Corporate Defendant, individually, collectively, or in any combination.

1. **“Corporate Defendant”** means Wellco, Inc. and its successors and assigns.
2. **“Individual Defendant”** means George M. Moscone.

### ORDER

#### I. PROHIBITION AGAINST MISLEADING CLAIMS

IT IS ORDERED that Defendants, Defendants’ officers, agents, employees, and attorneys,

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promotion, offering for sale, sale, or distribution of any product, are permanently restrained and enjoined from making, or assisting others in making, expressly or by implication, including through the use of a product name, endorsement, depiction, or illustration, any representation, about:

A. the product's absolute or relative ratings or ranking, or the product's superiority to other products;

B. the channels, cable channels, subscription channels, favorite channels, premium channels, or clear channels users of the product can or will likely receive, including the number of such channels users can or will likely receive; or

C. any material aspect of the product's performance, efficacy, nature, or central characteristics,

unless the representation is non-misleading, including that, at the time such representation is made, Defendants possess and rely upon competent and reliable evidence that is sufficient in quality and quantity based on standards generally accepted in the relevant fields when considered in light of the entire body of relevant and reliable evidence, to substantiate that the representation is true.

## **II. PROHIBITION AGAINST FALSE CLAIMS**

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product, are permanently restrained and enjoined from making, or assisting others in making, any























