ESTTA Tracking number: **ESTTA570448**

Filing date: **11/12/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171281
Party	Defendant Jarrow Formulas, Inc.
Correspondence Address	DAVID EWEN MCCARTER & ENGLISH LLP CITYPLACE I, 185 ASYLUM STREET HARTFORD, CT 06103 UNITED STATES mgiarratana@mccarter.com, dewen@mccarter.com, jwhitney@mccarter.com, hartforddocketing@mccarter.com, sschlesinger@mccarter.com
Submission	Other Motions/Papers
Filer's Name	David Ewen, Esq.
Filer's e-mail	dewen@mccarter.com
Signature	/David Ewen/
Date	11/12/2013
Attachments	Notice of Reliance (final) (11.12.2013).PDF(26711 bytes) 97728.265 Exhibit A.PDF(550104 bytes) 97728.265 Exhibit B.PDF(427429 bytes) 97728.265 Exhibit B-1.pdf.PDF(649856 bytes) 97728.265 Exhibit C.PDF(433440 bytes) 97728.265 Exhibit D.PDF(2242876 bytes) 97728.265 Exhibit E.PDF(368177 bytes) 97728.265 Exhibit F.PDF(3674398 bytes) 97728.265 Exhibit G.PDF(587699 bytes) 97728.265 Exhibit H.PDF(406396 bytes) 97728.265 Exhibit I.PDF(108865 bytes) 97728.265 Exhibit J.pdf.PDF(513522 bytes) 97728.265 Exhibit K.pdf.PDF(530741 bytes) 97728.265 Exhibit L.pdf.PDF(152046 bytes) 97728.265 Exhibit M.pdf.PDF(425913 bytes) 97728.265 Exhibit N.pdf.PDF(212864 bytes) 97728.265 Exhibit N-1.pdf.PDF(1395715 bytes) 97728.265 Exhibit O.PDF(301429 bytes) 97728.265 Exhibit P.PDF(189388 bytes) 97728.265 Exhibit Q.PDF(151617 bytes) 97728.265 Exhibit R.PDF(51685 bytes) 97728.265 Exhibit S.PDF(171446 bytes) 97728.265 Exhibit T.PDF(429371 bytes) 97728.265 Exhibit U.PDF(4567161 bytes) Exhibit V (1).PDF(4198598 bytes) Exhibit V (2).PDF(4968941 bytes) Exhibit V (3)(1).PDF(4582921 bytes) Exhibit V (3)(2).PDF(1642461 bytes) 97728.265 Exhibit W.pdf.PDF(214423 bytes) 97728.265 Exhibit X.pdf.PDF(115463 bytes) 97728.265 Exhibit Y.pdf.PDF(117535 bytes) 97728.265 Exhibit Z.pdf.PDF(133023 bytes) 97728.265 Exhibit AA.pdf.PDF(345652 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Jarrow Formulas, Inc.,	)	
	)	Opposition No.: 91171281 (parent)
Opposer,	)	Opposition No.: 91194226 (child)
	)	
v.	)	
	)	Application No. 78/626,152
PomWonderful, LLC,	)	Mark: POM
	)	
Applicant.	)	Application No. 78/626,155
	)	Mark: POM (stylized)
	)	

JARROW FORMULAS INC.'S FIRST NOTICE OF RELIANCE

Pursuant to 37 C.F.R. § 2.122(e) and TBMP § 704.08(b), Jarrow Formulas Inc. ("JFI"), the opposer of the above-captioned applications of PomWonderful, LLC ("PW") in U.S. Trademark Opposition No. 91194226 (the "Proceeding"), hereby gives notice that it will or may rely on the following materials which are relevant to the issues presented in the Proceeding, copies of which are attached to this Notice.

Applicant PW's Discovery Responses

1. Attached hereto as Exhibit A is a true and correct copy of PW's "Responses and Objections to Applicant's First Set of Interrogatories," dated May 29, 2009. The responses attached as Exhibit A are offered pursuant to 37 C.F.R. § 2.120(j)(3)(i).

Printed Publications and Official Records

2. Attached as Exhibits B-I are true and correct copies of Internet printouts offered pursuant to 37 C.F.R. § 2.122(e) and *Safer, Inc. v. OMS Investments, Inc.*, 94 U.S.P.Q.2d 1031 (T.T.A.B. 2010) (hereafter, "*Safer v. OMS*"). The materials attached as Exhibits B-I, more fully

described below, use the terms "pom" and "pomegranate" interchangeably and evidence that the term "pom" is used as an abbreviation or truncation of the word "pomegranate," and therefore are relevant as evidence of the descriptiveness of the term "pom" for products that contain pomegranate:

a. "Pomegranate 'Angel Red' 5 gal – Pomegranate Trees," accessed on November 12, 2013, and available at http://www.bayflora.com/pomar5.html. *See* Exhibit B.

b. "How to Peel a Pom – Global Post," accessed on November 12, 2013, and available at http://everydaylife.globalpost.com/peel-pom-27046.html. *See* Exhibit B-1.

c. "Pomegranate will not bear fruit, flowers only. – Fruit & Orchards From – Garden Web," accessed on November 12, 2013, and available at http://forums2.gardenweb.com/forums/load/fruit/msg04192310429.html. *See* Exhibit C.

d. "Little Bit Funky: how to eat a pomegranate," accessed on November 12, 2013, and available at http://www.littlebitfunky.com/2011/11/how-to-eat-pomegranate.html. *See* Exhibit D.

e. "How to Grow Pomegranates From Cuttings | Home Guides | SF Gate," accessed on November 12, 2013, and available at http://homeguides.sfgate.com/grow-pomegranates-cuttings-67452.html. *See* Exhibit E.

f. "How To Eat a Pomegranate | Iowa Girl Eats," accessed on November 11, 2013, and available at http://iowagirleats.com/2012/01/25/how-to-eat-a-pomegranate/. *See* Exhibit F.

g. "How to Open a Pomegranate – Canning With Kids," accessed on November 12, 2013, and available at http://canningwithkids.com/blog/2010/11/how-to-open-a-pomegranate.html. *See* Exhibit G.

h. "Tree of Life Semi Sweet Pom Wntree of Life Semi Sweet Pomegranate Wine," accessed on November 12, 2013, and available at http://www.snooth.com/wine/tree-of-life-semi-sweet-pom-wntree-of-life-semi-sweet-pomegranate-wine-nv/. *See* Exhibit H.

i. "pomegranate cafe | Indulgently Healthy Cafe," accessed on November 12, 2013, and available at http://pomegranatecafe.wordpress.com. *See* Exhibit I.

3. Attached as Exhibits J–N-1 are true and correct copies of Internet printouts offered pursuant to 37 C.F.R. § 2.122(e) and *Safer v. OMS*. These materials, more fully described below, evidence that consumers will recognize that the term "POM Wonderful" describes products containing pomegranates, or "poms" of the "wonderful" variety:

a. "Wonderful Pomegranate Research," accessed on November 12, 2013, and available at http://wonderfulpomegranateresearch.com. *See* Exhibit J.

b. "Wonderful Pomegranate Tree from GrowOrganic.com," accessed on November 12, 2013, and available at http://www.groworganic.com/pomegranate-wonderful-standard-2-3-potted.html. *See* Exhibit K.

c. "Wonderful Pomegranate Tree," accessed on November 12, 2013, and available at http://www.naturehills.com/pomegranate-wonderful?utm_source=bing&utm_medium=cpc&utm_campaign=TreesBushesFruiting. *See* Exhibit L.

d. "How to Grow a Wonderful Pomegranate Tree," accessed on November 12, 2013, and available at http://homeguides.sfgate.com/grow-wonderful-pomegranate-tree-55827.html. *See* Exhibit M.

e. "Wonderful Pomegranate-PUNGR00BR0024FT at The Home Depot," accessed on November 12, 2013, and available at http://www.homedepot.com/p/Unbranded-Wonderful-Pomegranate-PUNGR00BR0024FT/202038904. *See* Exhibit N.

f. "POM Wonderful – Orchard Tour," accessed on November 12, 2013, and available at http://www.pomwonderful.com/pomegranate-orchard-tour/. *See* Exhibit N-1.

4. Attached as Exhibits O-V are true and correct copies of Internet printouts offered pursuant to 37 C.F.R. § 2.122(e) and *Safer, Inc. v. OMS Investments, Inc.*, 94 U.S.P.Q.2d 1031, __ (T.T.A.B. 2010). These materials, more fully described below, are relevant as evidence that the heart used in PW's POM (stylized) mark (Serial No. 78/626,155) merely describes that the goods support cardiovascular function and/or heart health:

a. "Pomegranate Juice Fights Heart Disease, Study Says," accessed on November 12, 2013, and available at http://news.nationalgeographic.com/news/2005/03/0322_050322_pomegranates.html. *See* Exhibit O.

b. "Powerful Benefits of the Pomegranate," accessed on November 12, 2013, and available at http://www.drfurman.com/library/article19.aspx. *See* Exhibit P.

c. "Health benefit of pomegranate juice on prostate cancer and the heart – Harvard Health Publications," accessed on November 12, 2013, and available at http://www.health.harvard.edu/press_releases/health-benefit-of-pomegranate-juice. *See* Exhibit Q.

d. "Pomegranate juice: a heart-healthy fruit juice. [Nutr Rev. 2009] – PubMed – NCBI," accessed on November 12, 2013, and available at http://www.ncbi.nlm.nih.gov/pubmed/19146506. *See* Exhibit R.

e. "Pomegranate: Powerful Protection for Aging Arteries—and Much More – Life Extension," accessed on November 12, 2013, and available at http://www.lef.org/magazine/mag2007/may2007_report_pomegranate_01.htm. *See* Exhibit S.

f. "Pomegranate | University of Maryland Medical Center," accessed on November 12, 2013, and available at http://umm.edu/health/medical/altmed/herb/pomegranate. *See* Exhibit T.

g. Opinion of the Federal Trade Commission, *In the Matter of Pom Wonderful LLC, et al.*, Docket No. 9344 (Jan. 10, 2013), accessed on November 12, 2013, and publicly available for download at http://www.ftc.gov/os/adjpro/d9344. *See* Exhibit U.

h. Appendix B to the Opinion of the Federal Trade Commission, *In the Matter of Pom Wonderful LLC, et al.*, Docket No. 9344 (Jan. 10, 2013), accessed on November 12, 2013, and publicly available for download at http://www.ftc.gov/os/adjpro/d9344. *See* Exhibit V.

5. Attached as Exhibits W-Z are true and correct copies of printouts of information from the electronic database records of the USPTO concerning third-party "POM-formative marks," and are submitted pursuant to 37 C.F.R. § 2.122(d)(1):

a. U.S. Trademark Application Serial No. 77/355734. *See* Exhibit W.

b. U.S. Trademark Application Serial No. 77/044401. *See* Exhibit X.

c. U.S. Trademark Application Serial No. 78/898206. *See* Exhibit Y.

d. U.S. Trademark Application Serial No. 78/898351. *See* Exhibit Z.

6. Attached as Exhibit AA is a true and correct copy of an Internet printout, "100% All Natural Pomegranate Extract," accessed on November 11, 2013, available at http://www.pomextract.com/index.php, offered pursuant to 37 C.F.R. § 2.122(e) and *Safer v. OMS*. This exhibit is relevant as evidence of third-party usage of a "POM-formative" mark for products containing pomegranate.

Dated: November 12, 2013

MCCARTER & ENGLISH, LLP

/s/ David Ewen

Mark D. Giarratana, Esq.
David Ewen, Esq.
CityPlace I
185 Asylum Street
Hartford, CT 06103
(860) 275-6719 Telephone
(860) 724-3397 Facsimile
mgiarratana@mccarter.com
dewen@mccarter.com

Attorneys for Jarrow Formulas, Inc.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on November 12, 2013, a true and correct copy of the foregoing **JARROW FORMULAS, INC.'S FIRST NOTICE OF RELIANCE** was filed with the Trademark Trial and Appeal Board electronically via the ESTTA system, and was served via first class mail upon counsel for PomWonderful, LLC at the following address:

Danielle M. Criona, Esq.
ROLL LAW GROUP P.C.
11444 West Olympic Blvd.
Los Angeles, California 90064

/s/ David Ewen
David Ewen

Exhibit A

to JFI's Notice of Reliance

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

POMWONDERFUL LLC, Opposer, v. JARROW FORMULAS, INC., Applicant.	)	OPPOSITION NO. 91171287

RESPONSES AND OBJECTIONS TO
APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, PomWonderful LLC (hereinafter "Opposer") provides the following responses and objections to Applicant's First Set of Interrogatories to Opposer. The following responses are made without waiving, or intending to waive, any objection as to relevancy, privilege, or admissibility of any information provided in answer to these interrogatories, and any subsequent proceeding or at the trial of this opposition or any other action. A partial answer to any interrogatory which has been objected to, in whole or in part, is not intended to be a waiver of the objection.

Opposer has made reasonable inquiries and investigations concerning information currently available to it and its responses are based on that information. Because Opposer's investigations are continuing, Opposer provides these responses without prejudice to its right to amend or supplement responses based upon facts discovered during the course of this opposition proceeding.

T-2109

General Objections

1. Opposer objects to Applicant's First Set of Interrogatories to Opposer to the extent that it seeks to impose obligations on Opposer beyond, or inconsistent with, those set forth in the Federal Rules of Civil Procedure or the Trademark Rules of Practice.

2. Opposer objects to Applicant's First Set of Interrogatories to Opposer to the extent to which it seeks the disclosure of information comprising attorney work product or shielded from discovery by the attorney-client privilege.

3. Opposer objects to Applicant's First Set of Interrogatories to Opposer to the extent to which it is vague, overly broad, unduly burdensome, and/or seeks the disclosure of information that is not relevant, material, or reasonably calculated to lead to the discovery of relevant, material, or admissible evidence.

4. Opposer objects to Applicant's First Set of Interrogatories to Opposer to the extent that it seeks confidential, trade secret, proprietary, financial or commercially sensitive information, the disclosure of which could result in substantial competitive injury to Opposer or a breach by Opposer of an obligation to a third party to maintain such information as confidential. Opposer will disclose, as appropriate, relevant and responsive information in accordance with a Protective Order agreed-to by the Parties and entered by the Board to govern the production and disclosure of such confidential information.

Each of these general objections is incorporated into and made a part of each of Opposer's responses to Applicant's separate interrogatories. Subject to the foregoing objections, Opposer responds as follows:

INTERROGATORY NO. 1:

State the type of business in which Opposer is engaged, and identify any subsidiaries, parent companies or related companies which use Opposer's POM Marks or any other name or mark in which the term POM appears.

ANSWER:

Opposer objects to Interrogatory No. 1 as vague as to the meaning of "type of business." Opposer further objects to this interrogatory as overly broad and seeking information that is not relevant material, or reasonably calculated to lead to the discovery of relevant, material, or admissible evidence to the extent that it is not limited to use of Opposer's POM Marks in the United States. Subject to and without waiving any objection or privilege, Opposer states that it is engaged in the marketing and sale of fresh pomegranates, pomegranate juice, and products comprised of pomegranate juice and pomegranate extracts, such as juice and other drinks and dietary supplements. Opposer further states that none of Opposer's subsidiaries, parent or related companies use Opposer's POM Marks or any other name or mark in which the term POM appears in the United States.

INTERROGATORY NO. 2:

Identify the person(s) most knowledgeable about the selection, adoption, use and application for registration of Opposer's POM Marks and identify all documents which are relevant to Opposer's selection, adoption and use of those Marks.

ANSWER:

Opposer objects to Interrogatory No. 2 as overly broad and unduly burdensome to the extent that it requests the identity of "all documents" and to the extent that it seeks the identity of a person that is not associated with Opposer. Subject to and without waiving any objection or

privilege, Opposer identifies Matthew Tupper, President and Chief Operating Officer of PomWonderful LLC, c/o Loeb & Loeb LLP, 321 North Clark Street, Suite 2300, Chicago, Illlinois, 60654, and directs Applicant to the documents produced in response to Request No. 1.

INTERROGATORY NO. 3:

Identify the person(s) most knowledgeable about the goods, and the sales and advertising of the goods, for which Opposer's POM Marks are being, have been or are intended to be associated.

ANSWER:

Opposer objects to Interrogatory No. 3 as overly broad and unduly burdensome to the extent that it seeks the identity of a person not associated with Opposer and to the extent that it seeks confidential, trade, secret, proprietary, financial or commercially sensitive information, the disclosure of which could result in substantial competitive injury to Opposer or a breach by Opposer of an obligation to a third party to maintain such information as confidential. Subject to and without waiving any objection or privilege, Opposer identifies Matthew Tupper, President and Chief Operating Officer of PomWonderful LLC, c/o Loeb & Loeb LLP, 321 North Clark Street, Suite 2300, Chicago, Illinois, 60654.

INTERROGATORY NO. 4:

With respect to each of the products on which Opposer has used its POM Marks, state whether Opposer has used its Marks in commerce in the United States and, if so, indicate the date on which the mark was first used in commerce in the United States, and identify all documents evidencing and/or relating to use of Opposer's POM Marks in connection with each product.

ANSWER:

Opposer objects to Interrogatory No. 4 as unduly burdensome to the extent that it seeks information that is as accessible to Applicant as it is to Opposer on the United States Patent and Trademark Office's online database, overly broad and unduly burdensome to the extent that it seeks the production of "all documents," and vague since the interrogatory is limited to products on which Opposer has used its POM Marks, but then asks Opposer to state whether it has used the marks. Subject to and without waiving any objection or privilege, Opposer states that it has used several of Opposer's POM Marks in commerce in the United States and directs Applicant to the documents produced in response to Request Nos. 5, 10, 21 and 23.

INTERROGATORY NO. 5:

State whether Opposer has ever conducted or had conducted a trademark, service mark or word search with respect to Opposer's POM Marks, and if so, identify all documents relating or referring to each such search.

ANSWER:

Opposer objects to Interrogatory No. 5 as overly broad and unduly burdensome to the extent that it seeks the identification of "all documents relating to" the subject matter of the interrogatory and as vague as to the meaning of "word search." Opposer further objects to this interrogatory to the extent that it seeks the disclosure of information comprising attorney work product or shielded from discovery by the attorney-client privilege. Subject to and without waiving any objection or privilege, Opposer states that it has conducted trademark clearance searches with respect to some of Opposer's POM Marks and directs Applicant to the documents produced in response to Request No. 4.

INTERROGATORY NO. 6:

State whether Opposer's use of its POM Marks in commerce in the United States has ever been discontinued for any period of time since its initial use and, if so, provide the following:

(a) the date and duration of each such discontinuance;

(b) the reasons for such discontinuance; and

(c) the identity of all documents that refer or relate to each such discontinuance.

ANSWER:

Opposer objects to Interrogatory No. 6 to the extent that it seeks the disclosure of confidential, trade secret, proprietary, financial or commercially sensitive information, the disclosure of which could result in substantial competitive injury to Opposer or a breach by Opposer of an obligation to a third party to maintain such information as confidential, or information comprising attorney work product or shielded from discovery by the attorney-client privilege. Opposer further objects to Interrogatory No. 6 as overly broad and unduly burdensome to the extent that it seeks the identity of "all documents" and as seeking information that is not relevant, material, or reasonably calculated to lead to the discovery of relevant, material, or admissible evidence to the extent that "discontinuation" of use means something other than legal abandonment, i.e., discontinuation with intent not to resume use. Subject to and without waiving any objection or privilege, Opposer states that, since the first use in commerce of any of Opposer's POM Marks, it has not legally abandoned use of any of its POM Marks.

INTERROGATORY NO. 7:

State in round numbers the approximate dollar amount of gross sales in connection with each product sold under Opposers POM Marks for each year beginning with the date of first use.

ANSWER:

Opposer objects to Interrogatory No. 7 as seeking confidential, trade secret, proprietary, financial or commercially sensitive information, the disclosure of which could result in substantial competitive injury to Opposer or a breach by Opposer of an obligation to a third party to maintain such information as confidential. Subject to and without waiving any objection or privilege, Opposer directs Applicant to the documents produced in response to Request No. 13.

INTERROGATORY NO. 8:

Identify all media forms in which Opposer's goods have been and/or are presently advertised or promoted in connection with its POM Marks.

ANSWER:

Opposer objects to Interrogatory No. 8 as vague as to the meaning of "media forms" and overly broad and unduly burdensome to the extent it seeks the identification of "all media forms." Subject to and without waiving any objection or privilege, Opposer states that Opposer's goods that have been and/or are presently advertised or promoted in connection with Opposer's POM Marks have been advertised and promoted primarily in print and online advertisements, billboards, public transportation advertisements, point of sale materials, and in solicited and unsolicited media mentions, and directs Applicant to the documents produced in response to Request Nos. 7, 8 and 9.

INTERROGATORY NO. 9:

State in round numbers the approximate dollar amount Opposer has expended in connection with each medium identified in response to Interrogatory No. 8 for each year beginning with the date of first use of the Opposer's POM Marks in connection with such product up to the present.

ANSWER:

Opposer objects to Interrogatory No. 9 as overly broad and unduly burdensome to the extent it seeks advertising expenditures form the date of first use of each POM Mark to the present. Opposer further objects to Interrogatory No. 9 as seeking confidential, trade secret, proprietary, financial or commercially sensitive information, the disclosure of which could result in substantial competitive injury to Opposer or a breach by Opposer of an obligation to a third party to maintain such information as confidential. Subject to and without waiving any objection or privilege, Opposer will disclose relevant and responsive information in accordance with a Protective Order agreed-to by the Parties and entered by the Board to govern the production and disclosure of such confidential information sufficient to disclose Opposer's annual advertising expenditures for its POM products from 2005 to the present.

INTERROGATORY NO. 10:

Describe the manner in which Opposer's products offered under its POM Marks are advertised or promoted to customers and to prospective customers in the United States.

ANSWER:

Opposer objects to Interrogatory No. 10 as vague as to the meaning of "manner." Subject to and without waiving any objection or privilege, Opposer directs Applicant to its answer to Interrogatory No. 8 and to the documents produced in response to Request Nos. 7, 8 and 9.

INTERROGATORY NO. 11:

Describe the channels of trade in the United States through which Opposer's products are sold under its POM Marks.

ANSWER:

Subject to and without waiving any objection or privilege, the channels of trade through which Opposer's products are offered under or in connection with Opposer's POM Marks include wholesale, retail and Internet.

INTERROGATORY NO. 12:

Identify every trade show or meeting of any type where Opposer has displayed, advertised and/or promoted its products in association with Opposer's POM Marks and for each:

a. state the years Opposer attended each such show or meeting; and

b. identify all documents relating to or referring to each such show or meeting identified in this interrogatory.

ANSWER:

Opposer objects to Interrogatory No. 12 as overly broad and unduly burdensome to the extent it is not temporally limited, that it requests Opposer to identify "every" trade show or meeting, and that it requests "all documents" relating to such trade shows or meetings. Opposer further objects to this interrogatory as seeking information that is not relevant, material, or reasonably calculated to lead to the discovery of relevant, material, or admissible evidence. Subject to and without waiving any objections of privileges, Opposer will produce documents sufficient to identify any trade shows where advertiser has displayed, advertising and/or promoted its POM products from 2005 to the present.

INTERROGATORY NO. 13:

Identify representative samples of advertisements, labels, brochures, catalogs, packages or other physical indicia employed by Opposer in the use of its POM Marks for each of the products listed in Opposer's registrations involved herein.

ANSWER:

Opposer objects to Interrogatory No. 13 as vague as to the meaning of "Opposer's registrations involved herein." Subject to and without waiving any objection or privilege, Opposer directs Applicant to the documents produced in response to Request Nos. 5, 6, 7, 8, 9, 10 and 11.

INTERROGATORY NO. 14:

Identify all classes of customers of Opposer who purchase a product in the United States bearing Opposer's POM Marks.

ANSWER:

Opposer objects to Interrogatory No. 14 as vague as to the meaning of "classes of customers." Subject to and without waiving any objection or privilege, Opposer states that its products offered or sold under or in connection with Opposer's POM Marks are marketed and sold to the general public and to businesses.

INTERROGATORY NO. 15:

Identify all communications, whether written or oral, evidencing any confusion, suspicion, belief or doubt, or lack thereof, concerning Opposer's POM Marks or goods sold thereunder.

ANSWER:

Opposer objects to Interrogatory No. 15 as overbroad and unduly burdensome to the extent that it seeks the disclosure of "all communications" regarding confusion, suspicion, belief or doubt concerning Opposer's POM Marks or goods sold thereunder and any other entity, product, services, etc. Opposer further objects to Interrogatory No. 15 as seeking the disclosure of information that is not relevant, material, or reasonably calculated to lead to the discovery of

relevant, material, or admissible evidence since it is not limited to incidents involving Opposer and Applicant's marks. Subject to and without waiving any objection or privilege, Opposer directs Applicant to the documents produced in response to Request Nos. 26 and 27.

INTERROGATORY NO. 16:

Describe the level of sophistication of the purchasers of the goods offered under Opposer's POM Marks and the level of care exercised by prospective purchasers in purchasing such goods.

ANSWER:

Opposer objects to Interrogatory No. 16 as asking Opposer to make legal conclusions regarding purchaser sophistication and level of care in purchasing goods offered under Opposer's POM Marks. Subject to and without waiving any objection or privilege, Opposer states that its goods offered under Opposer's POM marks are marketed to the general public, in retail stores and online, are relatively inexpensive, and, with respect to its juice products, are sold in ready-to-drink form.

INTERROGATORY NO. 17:

State whether Opposer has conducted or obtained any survey, investigation, or study relating to any issue in these Opposition Proceedings and identify all documents relating to or referring to each such survey, investigation, or study.

ANSWER:

Opposer objects to Interrogatory No. 17 as overly broad and unduly burdensome to the extent that it seeks the identification of "all documents" and vague as to the meaning of "any issue in these Opposition Proceedings." Opposer further objects to Interrogatory No. 17 to the extent that it seeks the disclosure of information protected from disclosure by the attorney-client

privilege or the attorney work product doctrine. Subject to and without waiving any objection or privilege, Opposer states that it has not conducted any formal survey, investigation, or study relating to the claims or defenses in these Opposition Proceedings, but it may do so in the future. Opposer will supplement its response to this Interrogatory No. 17 if and when it does conduct such formal survey, investigation or study.

INTERROGATORY NO. 18:

Identify all persons who participated in any way in the preparation of the answers or responses to these interrogatories separately by interrogatory.

ANSWER:

Opposer objects to Interrogatory No. 18 as unduly burdensome to the extent that it asks for the identity of all persons who participated in the preparation of the answers to these interrogatories separately by interrogatory and not limited to persons associated with Opposer. Subject to and without waiving any objection or privilege, Opposer identifies Andrew Asch, Senior Counsel, Litigation, Roll International Corporation, c/o Loeb & Loeb, LLP, 321 North Clark Street, Suite 2300, Chicago, Illinois, 60654 as the only person associated with Opposer, other than Opposer's outside counsel, that participated in the preparation of the answers to these interrogatories.

INTERROGATORY NO. 19:

Identify each person which Opposer expects or intends to call as a witness to present evidence in these Opposition Proceedings, including, but not limited to expert witnesses.

ANSWER:

Opposer states that it has not yet identified the persons, including expert witnesses, who it expects to call as a witness to present evidence in these Opposition Proceedings. In accordance

with the Federal Rules and the Trademark Rules of Practice, Opposer will supplement its response to Interrogatory No. 19 if and when it identifies such persons.

Dated: May 29, 2009

LOEB & LOEB LLP

By: _____

Douglas N. Masters
Sharon A. Ceresnie
321 North Clark Street, Suite 2300
Chicago, Illinois 60654
Tel: (312) 464-3100
Fax: (312) 464-3111

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Sharon A. Ceresnie, hereby certify that a copy of these **OBJECTIONS AND RESPONSES TO APPLICANT'S FIRST SET OF INTERROGATORIES TO OPPOSER** have been served upon:

MARK D. GIARRATANA, ESQ.
MCCARTER & ENGLISH, LLP
185 ASYLUM STREET, CITYPLACE I
HARTFORD, CT 06103-3495
UNITED STATES

first class mail, postage prepaid, on this 29th day of May, 2009.

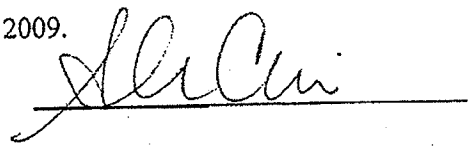


Exhibit B

to JFI's Notice of Reliance

Home
Olive Trees
Citrus Trees
Fig Trees
Pomegranate Trees
Jujube Trees
Japanese Pepper Tree
Toona Tree
Pineapple Guava
Magnolia Vine
Chilean Guava
Chinese Hawthorn Tree
Mushrooms
Seed Kits
Organic Herbal Wreaths
Michael Michaud Table Art
Testimonials
FAQs
Contact Us

Show Order
Privacy Policy
Search
Y! SHOPPING

BAY FLORA

Pomegranate 'Angel Red' 5 gal

Punica granatum. The roots of these 'Angel Red' poms fill the 5 gal containers. Their top branches were pruned back hard last year to promote root growth and they have filled out nicely over the 2013 growing season. TEMPORARILY OUT OF STOCK.

pomar5 **$62.50**

Olive Trees . Citrus Trees . Seed Kits . Organic Herbal Wreaths .
Fig Trees . Pomegranates . Jujube Trees. Chilean Guava .
Japanese Pepper Tree. Toona Tree. Chinese Hawthorn Tree. Magnolia Vine. Mushrooms .
Tableware . F.A.Q. . Home

SHARE

Home
Olive Trees
Citrus Trees
Fig Trees
Pomegranate Trees
Jujube Trees
Japanese Pepper Tree
Toona Tree
Pineapple Guava
Magnolia Vine
Chilean Guava
Chinese Hawthorn Tree
Mushrooms
Seed Kits
Organic Herbal Wreaths
Michael Michaud Table Art
Testimonials
FAQs
Contact Us

Show Order
Privacy Policy
Search
Y! SHOPPING

BAY FLORA

Contact Us

For questions about your order, click here.

For more information on our fundraising program, click here.

For general questions, click here.

We will respond to emails within 24 hours.

You can fax Bay Flora at (888) 549-2969.

Our mailing address is 1563 Solano Avenue, #428, Berkeley, CA 94707. Please use this address for returns and correspondence. We do not have a retail location.

Our phone number is (510) 705-1012. You will likely get voice mail because we are usually out in the growing grounds. We recommend emailing us instead.

We look forward to hearing from you!

Olive Trees . Citrus Trees . Seed Kits . Organic Herbal Wreaths .
Fig Trees . Pomegranates . Jujube Trees. Chilean Guava .
Japanese Pepper Tree. Toona Tree. Chinese Hawthorn Tree. Magnolia Vine. Mushrooms .
Tableware . F.A.Q. . Home

SHARE

Exhibit B-1

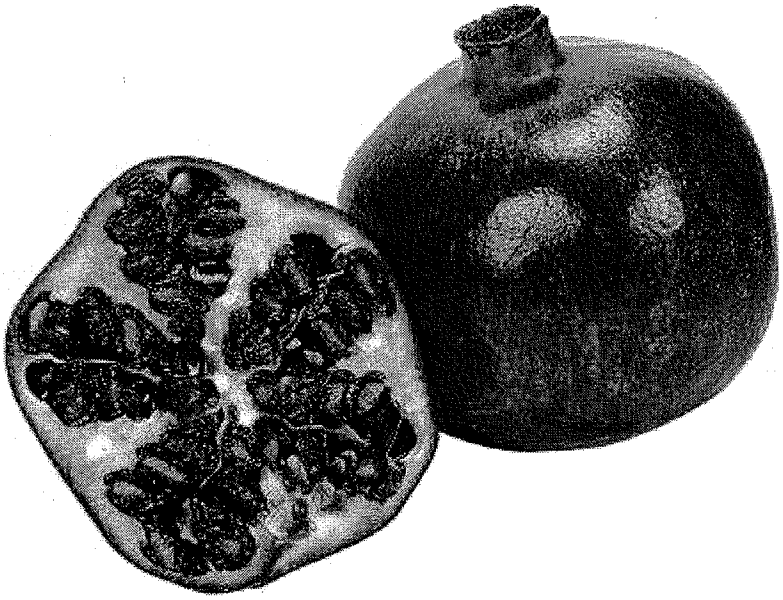
to JFI's Notice of Reliance

Crate&Barrel

The Shape of Entertaining
Couture Soup Spoon
Shop Now

How to Peel a Pom

by Jenny Harrington, Demand Media



Poms are separated into chambers that contain many individual, edible arils.

Related Articles

A Substitute for Grated Lemon Peel
Ways to Use Candied Orange Peel
Substitutes for Lemon or Orange Peel
How to Make a Lime Peel Garnish
How to Boil Eggs So They Are Not Hard to Peel

How to Ensure That a Boiled Egg Will Peel Nicely

Poms, or pomegranates, contain ruby-red, juicy seeds called arils. These tart seeds pack a nutritional and flavorful punch, suitable for juicing, eating fresh, or adding to your favorite desserts or sauces. Poms don't peel easily like other fruits and the juice can easily stain your hands, clothing and work surface. Don't let this keep you from enjoying a fresh pomegranate, however. Wear gloves and an apron and use the proper peeling method to minimize staining.

Sponsored Link

1 Tip to Lose Belly Fat

Cut pounds of stomach fat every week by using this 1 weird old tip.
promo.puregce.com

Step 1

Fill a large mixing bowl with cool water and place it near a non-wood cutting board. Pom juice stains wood cutting boards, so use plastic or a cutting board made from another material that resists staining.

Items you will need

- Cutting board
- Knife
- Bowl
- Spoon
- Colander

Step 2

Lay the pomegranate on its side and slice of the crown, or the pointed end, of the fruit, revealing the seeds inside. Score the rind with the tip of the knife, as though you were cutting the pom into six slices, but don't cut into the seeds inside.

Step 3

Submerge the entire pomegranate in the bowl of water. Pull it apart into segments along the score lines.

Step 4

Work the seed arils loose from the peel with your fingertips, separating them from the pulp and keeping them submerged. The seeds sink to the bottom and the pulp rises to the top of the water.

Step 5

Remove the rinds from the bowl and then skim the pulp from the water surface. Stir the seeds so any trapped pulp can rise, and then skim again. Drain the remaining seeds in a colander before use.

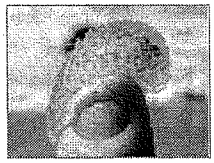
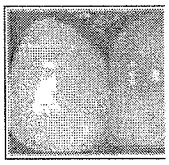
Sponsored Links

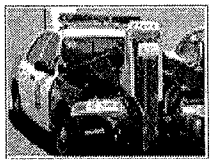
Fashion & Beauty Help
Get Help From Real People Over Live Video With Helpouts by Google.
helpouts.google.com

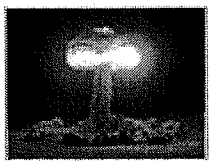
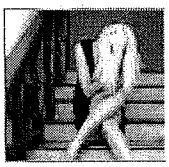
1 Tip To Lose Belly Fat
Cut pounds of stomach fat every week by using this 1 weird old tip.
MiracleGarciniaCambogia.com

How to Patent an Idea?
Learn Everything About Patenting. Request Free Invention Patent Kit.
www.InventionIdeas.org

Rent To Own Homes $355/mo
Bad Credit OK, No Down Payment. Instant Access To Rent To Own Homes
www.GoRentToOwn.com


Eat THIS, Never Diet Again...
See why millions are praising this as the "Holy Grail" of weight loss



New Rule in
: If You Pay For Car Insurance You Better Read This...


1 Tip To Survive Government Collapse
Protect Your Family With This Complete Survival Plan. Act Now!


Tip

Store pom seeds in a sealed container in the refrigerator for up to a week.

References

Le Cordon Bleu: Pomegranate -- Three Uses for the Super Fruit (http://www.chefs.edu/Student-Life/Culinary-Central/July-2010/Pomegranate---3-Uses-For-The-Super-Fruit)
University of Florida Extension: Pomegranate Fruit Uses, Recipes and Storage (http://www.crec.ifas.ufl.edu/extension/pomegranates/recipes.shtml)

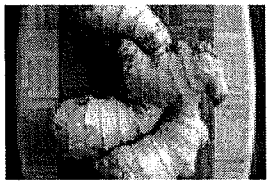
About the Author

Jenny Harrington has been a freelance writer since 2006. Her published articles have appeared in various print and online publications. Previously, she owned her own business, selling handmade items online, wholesale and at crafts fairs. Harrington's specialties include small business information, crafting, decorating and gardening.

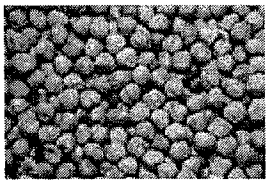
Photo Credits

Zedcor Wholly Owned/PhotoObjects.net/Getty Images

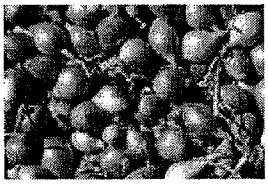
Popular Articles



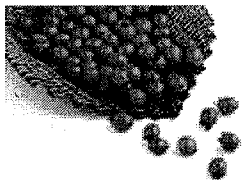
Can You Eat Ginger Peel?



How to Blanch & Peel Hazelnuts



How to Peel a Boiler Onion



How to Blanch, Peel, & Freeze Whole Tomatoes

Sponsored Link

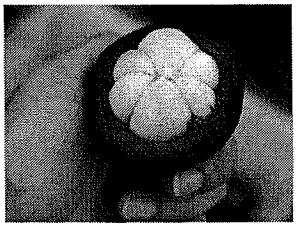
ITT Tech - Official Site

Associate, Bachelor Degree Programs Browse Programs Now & Learn More.

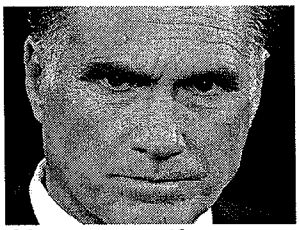
www.ITT-Tech.edu

Popular Offers ADVERTISEMENT

Rumor has it this stock might explode. Can you turn $5,000 into $500,000?



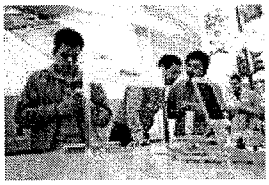
Shocking weight loss discovery for women 45+



Obamacare: If you really knew what was coming, you'd be as angry as I am.

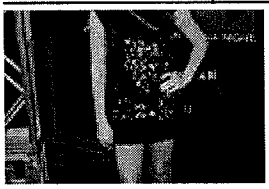
Here are 25 of the hottest cheerleaders on NFL sidelines.

More Articles



How to Save Your Contacts on Your SIM Card to Put Into a New iPhone

What Are Steampunk Fashions?



Clothing Ideas for Nightclubs

Different Ways to Wear a Pixie Cut

Everyday Life Index

WORLD NEWS HOME | EVERYDAY LIFE | WIRES | PHOTOS | ARCHIVES | SYNDICATION | ADVERTISING | SITE MAP | CONTACT | TERMS

Copyright 2013 GlobalPost - International News

Exhibit C

to JFI's Notice of Reliance

Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

Posted by kumquat1 8b N Fla (My Page) on Thu, Apr 14, 11 at 19:23

We have sandy, dry, acid soil. Hot coastal location. Do I need to add lime? Chicken poop? More watering?

Follow-Up Postings:

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by theaceofspades 7 Long Island (My Page) on Thu, Apr 14, 11 at 22:05

One Green World hasn't been able to fruit some of the Poms they are selling.(read below the title in the link)

Which variety of pomegranate are you growing. I have several hardy poms planted that are just a year old.

Here is a link that might be useful: poms

Ads by Google

Pomegranate Trees $9.95+
White, Red & Sweet Types. US Grown. Top Quality & Fast Home Delivery.
www.WillisOrchards.com

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by hoosierquilt z10a/23 Vista Calif (My Page) on Thu, Apr 14, 11 at 23:10

Well, poms like not so much fertilizer, kind of thin, soil of just about any pH including rocky soil, full sun and occasional deep watering. They mature in about 3 to 5 years (and then bear fruit), and will produce more fruit with a cross-pollinizer, but are self-fruitful, technically. They don't like too much fuss and are essentially pest-free. Do you know what variety or varieties you have? Are you sure they are fruiting varieties or could you have an ornamental variety?

Patty S.

Here is a link that might be useful: CRFG: Pomegranate

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by copingwithclay Texas 8B (My Page) on Fri, Apr 15, 11 at 8:13

On Nov. 9, 2010, I attended a Houston-area meeting of the Gulf Coast Fruit Study Group, where pom expert Richard Ashton gave a pom presentation. My sketchy hand-written notes include his statement: "Some varieties can't handle high humidity in early Spring. These don't set fruit. These are desert fruit." The fruit set here on the dozen mature poms varies a lot from year to year, despite having loads of flowers each year.I have Mae, Cloud, and (not so) Wonderful.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by fabaceae_native (My Page) on Fri, Apr 15, 11 at 9:11

I doubt the humidity thing is as critical as the variety and age of the bush...

When I lived in Osaka, Japan, a very humid Zone 9 climate, I remember many large pomegranate bushes that would get loaded with fruit.

COMMUNITY
Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US
Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES
GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

Even the tiny "nana" pomegranate bonsai I keep on my windowsill sets the occasional fruit, although this was not the case the first year or two...

In my experience, pomegranates tend to flower most profusely after a dry spell or some other stressful period, and perhaps less so under constantly favorable conditions, in which case they favor green growth.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by hoosierquilt z10a/23 Vista Calif (My Page) on Fri, Apr 15, 11 at 10:41

Exactly, fabaceae. But, it could possibly also be due to very high humidity and a variety that does not tolerate such high humidity? Poms are a very interesting species - they have become very well adapted to the different areas they originated from, and have a widely varieable toleration for soils, moisture, temperature and other climate variations. Plus, being just about pest-free and providing a fruit that contains just about the highest amount of anti-oxidants of any fruit, they are a fruiting plant everyone should have in their garden! Maybe kumquat1 can let us know what variety she has, and then we can help them to figure out if this is a variety that will perform well in her area, or if it is jus due to being a wee bit on the young side.

Patty S.

Patty S.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by kumquat1 8b N Fla (My Page) on Fri, Apr 15, 11 at 19:35

Well, here is the long story: I bought a plant with a tag that had FW Pomegranate on it from a local nursery. After it flowered and flowered and never made fruit, I decided FW might have meant 'flowering', don't know. I moved off from it. Now my niece is having the same difficulty with one she bought at Home Depot labeled 'fruiting tree' (as opposed to "flowering tree"). I have always wanted one, and a co-worker dug up a whip for me. It is still alive after a month. Her tree is many years old of unknown variety. She said many seedlings have come up around her old tree, and the only one that fruits is

COMMUNITY
Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US
Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES
GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

the very top of one that has grown up over the roof and gets a lot of sun. Local nursery owner said today that gypsum would help it hold fruit.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by girlbug2 z9/10 Sunset zone 24 (My Page) on Sat, Apr 16, 11 at 10:06

Well kumquat I may be wrong about this but it sounds like you are saying that your coworker gave you a pom whip from a sprouted seedling? I thought poms were supposed to be propagated from cutings. That may be the problem right there. Who knows what you get with a seedling, not surprising if it's sterile. If you want to be absolutely sure you are getting something like the parent plant it is better to go with a cutting.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by kumquat1 8b N Fla (My Page) on Sat, Apr 16, 11 at 14:57

Thanks, I may go ahead and just buy one. What variety would be the best in humid, hot sandy area such as this?

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by kumquat1 8b N Fla (My Page) on Sat, Apr 16, 11 at 15:00

I want a full-size tree. Dwarf seems too small for me.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by theaceofspades 7 Long Island (My Page) on Sat, Apr 16, 11 at 17:06

Just Fruits and Exotics in Florida has poms in containers, see link.

COMMUNITY
Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US
Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES
GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

One Green world has fruiting poms bare root, a little less expensive.

Here is a link that might be useful: Just Fruits and Exotics

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by bonsaist Z6/ Bethlehem Pa (My Page) on Sun, Apr 17, 11 at 7:33

I grow Salavatski and Kazake here in Pennsylvania. The Salavatski started flowering in its 2nd year in the ground and set a crop, it has been bearing for the past 3 years and although it's humid in my area it's sets a crop. It also took cold temperatures below zero.
There are many varieties that will set many flowers and don't set a crop. Some of them are double flowering, will never bear.

Bass

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by kumquat1 8b N Fla (My Page) on Sun, Apr 17, 11 at 10:06

Ahhh, the one I abandoned was double-flowered.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by ashleybakes none (My Page) on Mon, Apr 2, 12 at 12:27

I planted a beautiful pomegranate tree 4 years ago from a reputable nursery, tagged "Wonderful" and the seller stated it would set fruit immediately. It never has, and the flowers are thick, ruffly, and carnation-like. Does anyone have a double-flowering pom that actually sets fruit? It has grown and thrived so well, I'm sick that we don't get fruit, but will replace it if we must.

COMMUNITY
Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US
Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES
GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by genevieve_h 7 (My Page) on Wed, May 29, 13 at 15:15

Is there any way to tell if your pom will ever bear fruit? I just moved into a house that has a beautiful pom in the side garden with TONS of flowers at the moment. I have no way to contact the previous owners and the neighbors are new so they know nothing about it either.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by HappyBallz 9A/B Valrico,Florida (My Page) on Wed, May 29, 13 at 20:20

I am experimenting myself with pomegranates here in Florida.
If you want many different varieties I would say try and order from these people:
http://greenseafarm.com/page.php?typ=13

I actually drove out to them since it was less than shipping cost for 9 varieties I wanted to try out.
Their prices are pretty good, they have tons of different varieties and they pretty cool to talk to. Seemed like good and interesting people.

I just bought them this winter so no results to report yet.

I also bought one from Lowe's that was labeled as "Wonderful".. this is it's second year in the ground. I had a developing flower couple of weeks ago but it either got git by a branch or just broke off itself. So no flowers for it either.

There are couple of other nurseries around Florida that have quiet a few varieties but I can't remember them off my head. They should be on the UF (University of Florida) pomegranate website.

RE: Pomegranate will not bear fruit, flowers only.

clip this post email this post what is this?
see most clipped and recent clippings

- Posted by Itheweatherman USDA 8b, Elevation 2 (My Page) on Thu, May 30, 13 at 0:23

COMMUNITY
Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US
Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES
GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

Kumquat1, your pom is having pollination issues.

You could fix this problem by hand pollinating each flower; I had this problem with my own heirloom pom tree--it won't produce fruit unless I hand pollinate every flower.

Or get another variety to ensure cross pollination.

Post a Follow-Up

Please Note: Only registered members are able to post messages to this forum.

If you are a member, please log in.

If you aren't yet a member, join now!

Return to the Fruit & Orchards Forum

Information about Posting

- You must be logged in to post a message. Once you are logged in, a posting window will appear at the bottom of the messages. If you are not a member, please register for an account.
- Posting is a two-step process. Once you have composed your message, you will be taken to the preview page. You will then have a chance to review your post, make changes and upload photos.
- After posting your message, you may need to refresh the forum page in order to see it.
- Before posting copyrighted material, please read about Copyright and Fair Use.
- We have a strict no-advertising policy!
- If you would like to practice posting or uploading photos, please visit our Test forum.
- If you need assistance, please Contact Us and we will be happy to help.

Learn more about in-text links on this page here

Ads by Google
Motorola™ Moto X
First Smartphone Designed By You. Assembled In The USA. Learn More.
www.Motorola.com/MotoX

iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

COMMUNITY

Join GardenWeb
Garden Forums
Home Forums
Exchanges & Trading
Member Pages

ABOUT US

Contact Us
Advertising
Terms of Service
Privacy Policy

SISTER SITES

GW Australia
GW Europe
Kitchen Gardener
NY Metro
Nature.net
That Home Site!
The Rosarian
Wild-Flowers

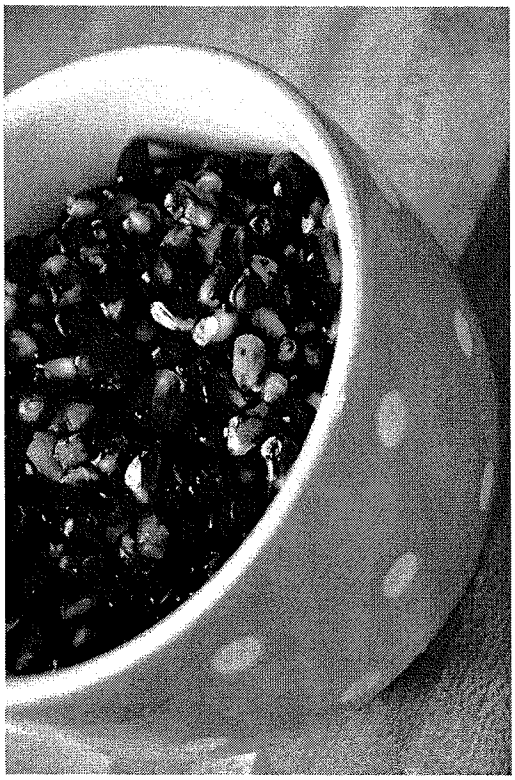
iVillage Home & Garden Network © 2013 GardenWeb. All rights reserved.

Exhibit D

to JFI's Notice of Reliance

BlogHer
Life well said

HOW TO EAT A POMEGRANATE



It's been brought to my attention that I have several friends who avoid pomegranates. Either because they don't know how to even start to eat them...or, well, mostly that.

And since they are in season now, they are beautiful and sweet and tasty (and closer to being than they usually are). And this will be the year you try one because I am going to do the most random post ever and teach you how to prepare a pomegranate for eating. :)

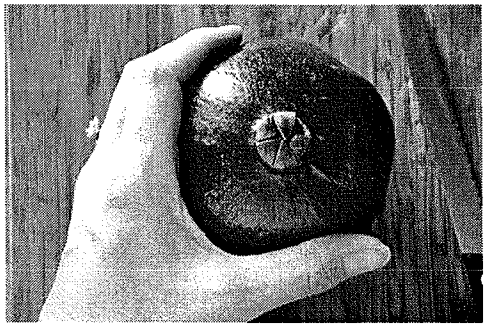
Look how pretty? Are you ready? You need a sharp knife to start.

LITTLE bit FUNKY

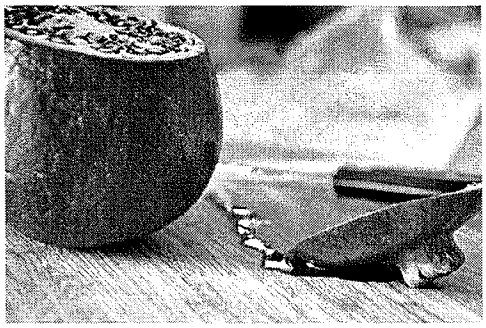
BlogHer Publishing Network

AdChoices | Advertise | Privacy

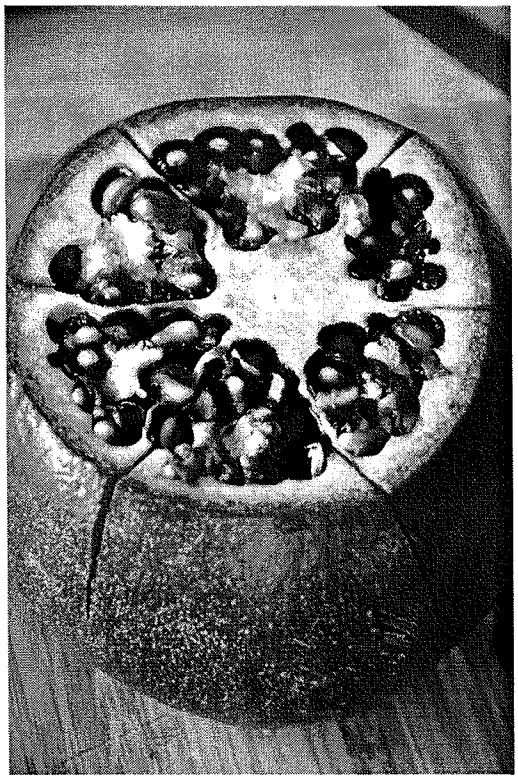
I MADE THE [A] LIST
featured on



Identify the crown of the pom. It looks like this ^



Cut off a half inch or so off the crown...not too much. Be careful it will squirt. I usually do this under a towel believe it or not. :)



Score the skin of the pom as shown above...not too deep, you are just trying to cut into the skin which is about 1/4in thick or so. You don't have to go the whole length of the pom...just down a couple of inches.

HOHOS for JESUS

LITTLE bit FUNKY SHOP

what I made for MONDAY

20 minute crafts

40 ideas activities for kids

post labels

- Aaron
- christmas
- crafty things
- decorating
- elf on the shelf
- etsy
- fall
- FAQ
- food
- getting quilty
- Jesus
- mom stuff
- moses
- spring
- summer fun
- toddler activities
- what i wish

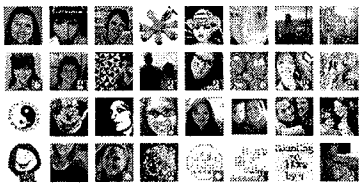
search

Search

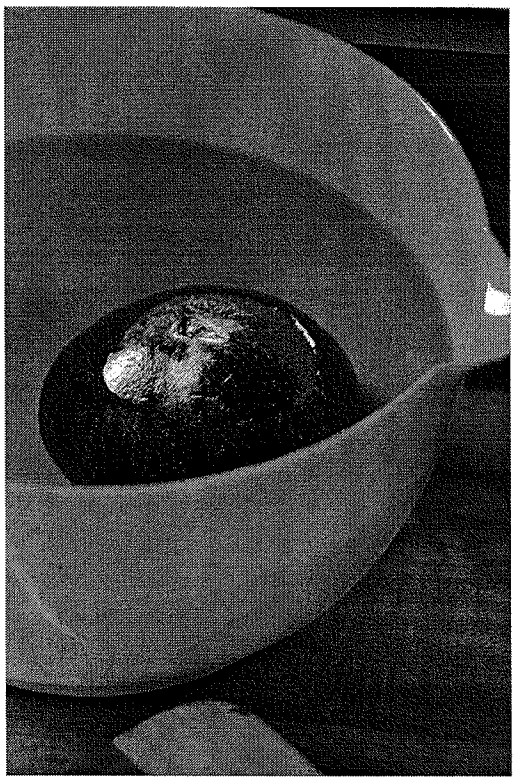
archives

SYNDICATED ON BlogHer

Join this site
with Google Friend Connect
Members (2829) More »

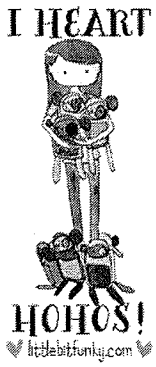


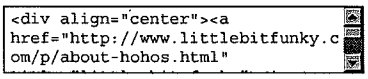
Already a member? Sign in



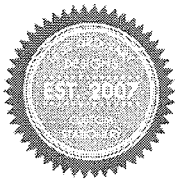
Then put it face down in a bowl of water and leave it there for 5-10 minutes.

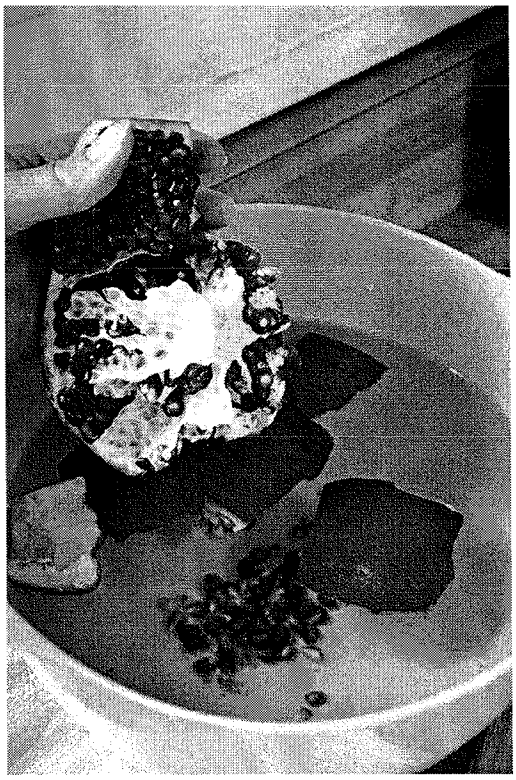
Now...even though this photo and the next few photos don't show it...DO THIS UNDER WATER. Gently start to peel the skin away from the little pods.





sponsors





Pull off a little section at a time and UNDER WATER gently nudge all the pods out of the white membraney stuff.

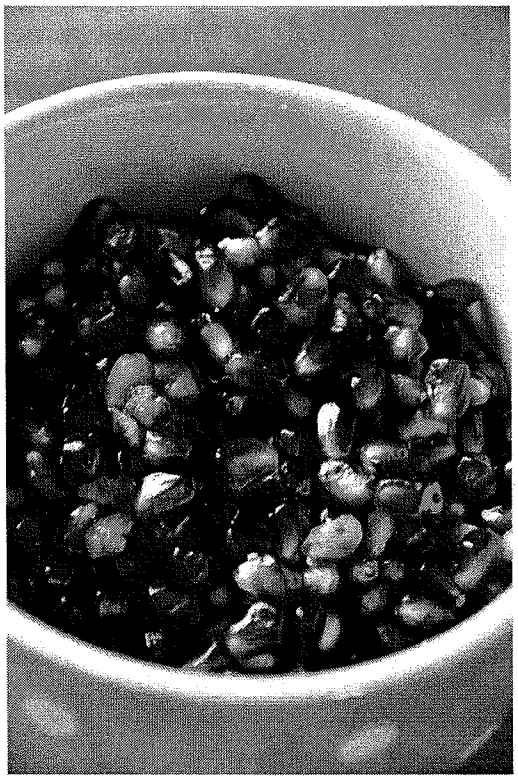
You can do this by gently scraping your thumb along the seeds and prying them out...UNDER WATER. :)

They will all come out pretty easily.

Then you will be left with this...the seeds sink and the membrane stuff floats.

Scoop out the membrane with a slotted spoon.

Dump the rest in a strainer and rinse.



Put in a bowl and chill. They taste the best nice and cold. And to me, taste like a nice mix of cranberry and cherry.

And it always makes me thankful for the variety the Lord provided us. Just think, had He chosen to, He could have had us live off of manna forever and ever, even in the garden at the beginning. But He chose to give us a myriad of wonderful things to try and taste. :) No man made concoction can touch the perfection of His fruits and provisions. :)

Enjoy trying something NEW!

PIN IT

on Monday, November 14, 2011

Labels: food

41 comments:

SarahinSC said...

You must have read my mind! I've always wanted to try a real pomegranate (as compared to pomegranate flavoring. Can't wait to buy on and try it out. Thanks!

November 14, 2011 at 8:26 PM

Jeanette said...

Thanks.....going to have to try my first one:-)

November 14, 2011 at 8:34 PM

ragamuffinbeauties said...

I LOVE that you wrote this post! Even more I LOVE, LOVE, LOVE your precious words of thanks! I always marvel at His goodness in the most random ways...good to know I'm not alone! :)

November 14, 2011 at 8:47 PM

cbryan said...

I just tried one recently for the first time. Peeling them is so much fun!

November 14, 2011 at 9:10 PM

Amy H. said...

YEAH!! Thank you so much sweet friend for showing us and giving us the nudge to try something new! I will be picking one up next time I am at the grocer.

xo

November 14, 2011 at 9:10 PM

Katie said...

I've heard this is the way to prep a pomegranate before, but had never seen photos. Thanks for sharing!!

November 14, 2011 at 9:43 PM

Sherrie said...

I wish I'd read this two days ago when I REPEATEDLY sprayed myself with pom juice for the first time. So pretty, so good!

November 14, 2011 at 11:35 PM

Melissa said...

I do the same thing. The under water trick is the key to pomegranate success! :)

My 19 month old ate an entire pomegranate the other day. It's her favorite.

November 14, 2011 at 11:49 PM

Kimminita said...

Thank you so SO much! I tried it once but gave up half way and threw the darn thing out the window. I have to give them a second chance (and myself) as I love the taste!

November 15, 2011 at 3:11 AM

Chance said...

I have always been so intimidated by not knowing how to eat a pom that I just pass them up UNTIL now! I am so going to buy one this week! I can't wait to give it a try!

November 15, 2011 at 7:41 AM

Happy Hodge Podge said...

LOL, I was just talking about this with a friend yesterday!!

November 15, 2011 at 10:22 AM

Bunnyslady said...

Thank you for doing this post. I always make such a mess when I eat pomegranates. They are my favorite! I hope you have a wonderful day. Keep up the great blogging.

November 16, 2011 at 8:55 AM

A Little Of A Lot said...

Great idea to peel it under water. My nice white kitchen sink generally ends up looking like I used it to clean up after a major crime scene. Thanks for posting this

November 16, 2011 at 9:51 AM

Kris said...

How did you know I just bought a 3-pack of these with no clue how to eat them?

Thank you so much!

November 18, 2011 at 9:17 PM

verabear said...

I've never seen or had pomegranate before. Just on beauty products really. I;m not sure it is available locally in the Philippines where I live.

Vera

November 20, 2011 at 9:54 AM

Tiffany said...

Thank you so much for this post! Since I now know what to do, I'll be adding them to my grocery list! Thank you! and thank the Lord!! =)

November 21, 2011 at 7:37 PM

Country Girl said...

Saw one of these in the store the other day and wished I knew how to eat it. Thanks for this! Found on Pinterest.

November 22, 2011 at 5:42 PM

Accessorize and Organize said...

this is so awesome!!! i featured you today!!! thanks for sharing :)
http://accessorizeandorganize.blogspot.com/2011/12/how-to-eat-pomegranate.html

December 10, 2011 at 8:45 AM

Joan said...

But how do you eat it? Do you eat the seeds or just bite out the juice and spit out the seeds?

January 3, 2012 at 9:53 PM

Jessica Eid said...

Joan - you eat the entire "ruby," seed and all. The seed adds a delightful crunch and does *wonders* for digestion. :) Enjoy! Pomegranates are my favorite. They are a gorgeous fruit and are just delicious.

January 10, 2012 at 8:23 AM

Kizz said...

I made a fool of myself trying to dissect a pom at a friend's house this summer. Just bought 2 and followed your steps, miraculous! Thanks for spreading the word.

January 22, 2012 at 5:37 PM

StudioJewel - lisa lehmann said...

thank you for posting. God is VERY good to us :)

January 22, 2012 at 11:19 PM

MarkAustin said...

http://www.youtube.com/watch?v=jJ7dk9nDR-k

June 20, 2012 at 4:23 PM

Fefali said...

I wish I had known this 6 years ago when I ate them by the bucket full while pregnant with my daghter. I just picked up 2 at the store and we are eating them (like this) tonight! Thank you!

November 20, 2012 at 6:48 PM

Fefali said...

I wish I had known this 6 years ago when I ate them by the bucket full while pregnant with my daghter. I just picked up 2 at the store and we are eating them (like this) tonight! Thank you!

November 20, 2012 at 6:49 PM

Laurie said...

I always sprinkle my fruit salads with pomegranate seeds...so delicious! I cheat and buy the seeds pre-packaged when I can. I saw someone on Chopped getting all the seeds out quickly just by banging on it!

November 21, 2012 at 11:18 AM

Al@PolkaDotsandPaisley said...

I peeled my first pomegranate the other night using these instructions and made some Chocolate Oatmeal Pomegranate Cookies. I've written about them and the post will be up in the next couple days. I linked back to this post as the instructions I used to get the pomegranate seeds. Thanks for the clear instructions.

November 22, 2012 at 9:59 PM

Oxy-d said...

Thank you! It helped me!

November 23, 2012 at 8:30 AM

Willie D. said...

I was watching chopped the other day and one of the ingredients was pomegranate. One of the chefs got all the seeds out just by cutting the pom in half and then hitting it with a spoon on the skin side. It was pretty awesome.

December 2, 2012 at 9:48 AM

tmack said...

Thank you for this little tutorial!
I found it via pinterest , and now as a blogger I know that it isn't from pinterest but just found from pinterest.

I also love that you used Ephesian 4:29 in your comment form. (could I use this idea?)

Teressa tjane.mackey@gmail.com
http://newbornmama.blogspot.com

December 6, 2012 at 11:10 PM

Amanda A said...

Thanks so much. I've avoided these tasty treats for years because I mangled one as a child. I just ate my first one in more than 15 years and it was amazing.
-Amanda

December 7, 2012 at 2:34 PM

Amanda A said...

Thanks so much. I have avoided these tasty treats because I mangled the first one I tried to eat as a child. I just enjoyed my first pomegranate. It was amazing.
-Amanda

December 7, 2012 at 2:35 PM

Maggy Julian said...

I just tried your method today of cleaning and preparing poms and have to say IT WORKED! I am so happy and clean! No pom juice sprayed me, the kitchen counter or walls for the first time. I am so grateful that you posted this.
Thank you, thank you!!!

December 19, 2012 at 6:43 PM

Cecilia Therese said...

I couldn't ever get why people never ate them. My parents have a pomegranate tree and as kids we'd try to see who could eat a whole one without getting juice all over your hands. Picking one that had already start to split was the key and the rest was slow patience while you ate each seed individually. You don't get sick that way either. I didn't learn the water method unil I was an adult. I tried it but it took all the

fun out of eating it.

December 23, 2012 at 11:00 PM

FrankieMatt said...

Thank you for posting this! I've always been intimidated by poms but reading your post gave me the confidence to try one! Keep encouraging us to try new things:)

December 28, 2012 at 1:58 PM

Sybrina said...

Hi! Growing up in CA we had a pomegranate tree in our backyard. My Dad showed us another way to get them open by lightly scoring around the equator of the pomegranate. Then, with a little pressure, use both hands to pry it open over a sink or bowl of water. Be sure to pry it open with the halves pointing away from you. If you do it this way, you will lose less seeds and won't stain your cutting board. Also, pomegranates make yummy jam!

December 28, 2012 at 11:58 PM

Sybrina said...

Hi! Growing up in CA we had a pomegranate tree in our backyard. My Dad showed us another way to get them open by lightly scoring around the equator of the pomegranate. Then, with a little pressure, use both hands to pry it open over a sink or bowl of water. Be sure to pry it open with the halves pointing away from you. If you do it this way, you will lose less seeds and won't stain your cutting board. Also, pomegranates make yummy jam!

December 28, 2012 at 11:59 PM

Mandy said...

Thank you for sharing this! Love pom's - just so messy!

January 16, 2013 at 10:36 PM

Ashley Ez said...

Oh man, when I was a kid we would throw them as hard as we could on the driveway and they would just pop open and spray seeds everywhere, but I guess eating off the ground isn't as "ok" when you are an adult. Ha.
Thanks for the tutorial!

January 16, 2013 at 11:09 PM

jeterfan said...

Its great adding it vanilla yogurt.

February 8, 2013 at 5:11 PM

Rob Žemaitis said...

Thanks so much for this post! I bought my first pomegranates ever today, and am ready to try them out! God Bless!

February 10, 2013 at 5:16 PM

Post a Comment

LINKS TO THIS POST

Create a Link

Newer Post Home Older Post

Subscribe to: Post Comments (Atom)

THIS IS A life made lovely BLOG DESIGN

© 2006-2013 Crystal Johnsen/Little Bit Funky. Powered by Blogger.

01 09 10 11 12

Exhibit E

to JFI's Notice of Reliance

sfgate.com Web Search by YAHOO! Businesses

Home News Sports Business Entertainment Food Living Travel Columns Shopping Cars Jobs Real Estate Index ▼

How to Grow Pomegranates From Cuttings

by JK Assar, Demand Media

A pronounced protrusion, referred to as a calyx, characterizes a pomegranate.

Most pomegranate trees (Punica granatum L.) found in the home landscape started as bare-root, balled-and-burlapped or container-grown specimens, or they grew from stem cuttings. Stem cuttings reliably reproduce a pomegranate plant without the hassle of growing from seeds, which rarely grow true, and develop the desirable qualities of the donor plant. Pomegranate trees grow in U.S. Department of Agriculture plant hardiness zones 8 through 11, and have an affinity for fertile, deep, well-draining loam or sandy loam with a pH between 5.5 and 7.0. Although a relatively low-maintenance plant, poms require diligent pruning, regular watering and optimal fertilization to grow from a cutting to a healthy, hardy tree capable of producing vigorously for 15 years or more.

Sponsored Link

1 Tip to Lose Belly Fat

Cut pounds of stomach fat every week by using this 1 weird old tip.

promo.puregce.com

1

Take 8- to 10-inch-long cuttings from 1/4- to 1/2-inch-wide shoots or suckers from last year's growth using pruning shears. Harvest and plant the cuttings in late winter just before the threat of frost passes. Wipe the blades of the pruning shears with a cloth moistened with isopropyl alcohol between cuts.

2

Plant the cuttings in well-draining loam or sandy loam in an area that gets full sun, making sure the top node sticks above the soil line. Plant cuttings 3 to 9 feet apart if growing to shrub form and at least 18 feet apart in all directions if growing to tree form.

3

Water the soil you planted the pomegranate cuttings in every seven to 10 days with 2 gallons of water per square foot during normal periods of rainfall. Keep the top 2 inches of soil perpetually moist near the end of the growing season in late summer and before the threat of frost in fall. Poms can tolerate a bit of flooding, so don't worry about keeping the soil too moist.

4

Top dress the soil with 1 to 1 1/4 pounds of 8-8-8 fertilizer just before the first frost in late fall and just after the threat of frost passes in early spring during the first two years of growth.

5

Top dress the soil with 2 to 3 1/2 pounds of 8-8-8 fertilizer each year just before the first frost in late fall and just after the threat of frost passes in early spring after the first two years of growth.

6

Prune back all the large stems with lopping shears except the strongest one during the first year's dormant period to develop a central leader if you want to grow a tree-type pom. Pinch back the new shoots except three to five that grow symmetrically during the first year to serve as the tree's scaffold branches.

7

Grasp suckers and twist them while pulling to remove them from the roots as soon as you see them; use pliers to grasp and twist suckers too dense to twist off by hand. Twisting the suckers off instead of cutting closes the wound and helps prevent them from growing back.

8

Top the pom off to 2 or 2 1/2 feet tall during the first two years of growth to grow a shrub-type pom. The lowest branch on a shrub-type pom should be no lower than 8 to 10 inches above the ground.

9

Trim back all the branches to three-fifths of their length and prune back any branches that come in contact with other growth during the first dormant period after planting. Remove old, over-ripe fruit from the poms when you prune, as well as any fruit lying on the ground. Pull weeds growing around the pom when you see them.

Sponsored Links

Motorola™ Moto X

First Smartphone Designed By You. Assembled In The USA. Learn More. www.Motorola.com/MotoX

Aspen Tree Inc.

Emergency crews available. ISA Certified Arborist #NJ0861-A www.AspenTreeInc.com

1 Tip To Lose Belly Fat

Cut pounds of stomach fat every week by using this 1 weird old tip. MiracleGarciniaCambogia.com

Rent To Own Homes $355/mo

Bad Credit OK, No Down Payment. Instant Access To Rent To Own Homes www.GoRentToOwn.com

Things You Will Need

Pruning shears
Cloth
Isopropyl alcohol
8-8-8 fertilizer
Lopping shears
Pliers (optional)

References

Floridata: Punica Granatum (http://www.floridata.com/ref/p/puni_gra.cfm)
University of Arizona College of Agriculture and Life Science: Growing Pomegranates (http://cals.arizona.edu/yavapai/anr/hort/byg/archive/pomegranates.html)
University of California Davis College Extension: Growing Pomegranates in California (http://ucce.ucdavis.edu/rics/fnric2/crops/pomegranate_factsheet.shtml)
University of Florida IFAS Extension: The Pomegranate (http://edis.ifas.ufl.edu/mg056)

About the Author

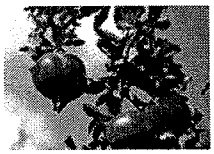
JK Assar's work has appeared in "Food & Wine," "Gourmet" and "Wine Spectator." He graduated from Le Cordon Bleu and cooked professionally in Paris, New York and Las Vegas. Since culinary school, Assar has studied, worked and cooked his way across Europe's organic farms, cheeseries and bakeries.

Photo Credits

NA/Photos.com/Getty Images

Suggest a Correction

More Like This:



How to Make Your Own Fertilizer for Pomegranate Trees

How to Start Cuttings from a Pomegranate Tree

How to Propagate Pomegranate From Seed

How to Grow Pomegranates Indoors

The Best Support for a Pomegranate Tree

Sponsored Links

Raspberry Ketones Warning

We Tried Them All. Here's The Only One We Recommend.

ConsumersGuides.com

2013 Mortgage Relief Plan

Struggling Homeowners may Qualify for Lower Payment & Save Home.

SaveHomeProgram.com/Fresh-Start?

Arborman Tree Service

Free Estimates, Call Now! All Tree Care & Stump Services

www.StumpRemovalCo.com

ticos tree service LLc

call for free estimate 10% of on any job of 1,000.00

www.TicosTreeService.com

Hydroponic Garden Centers

Grow lights, mylar, CO2, soils more Books, fans, filters, tents... more

plus.google.com

Related Articles

Can Pomegranate Trees Be Propagated From Cuttings?
How to Propagate Pomegranate From Seed
Can You Plant Pomegranates Year-Round?
How to Grow Petunias From Cuttings
What Kind of Soil for Pomegranates?
How to Grow Bamboo Cuttings

Quicken Loans - American's #1 Online Lender
www.quickenloans.com

15 Yr. Fixed at 3.250%	3.689% APR	$1,810/mo
30 Yr. Fixed at 4.375%	4.606% APR	$1,282/mo

Discover - Home Loans
www.discover.com

15 Yr. Fixed at 3.250%	3.596% APR	$1,799/mo
30 Yr. Fixed at 4.250%	4.484% APR	$1,264/mo

loanDepot
www.loandepot.com

15 Yr. Fixed at 3.125%	3.212% APR	$1,752/mo
30 Yr. Fixed at 4.125%	4.179% APR	$1,219/mo

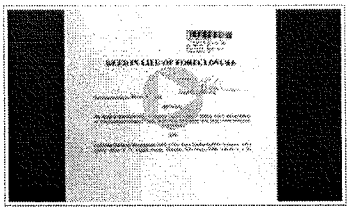
disclaimer

More Articles

How to Grow Crabapple Trees From Stem Cuttings
How to Grow a Bay Tree From Cuttings
How to Grow Conifers From Cuttings
How to Grow Chionanthus Virginicus From Cuttings
How to Do Hardwood Cuttings From Fruit Trees
How to Protect Pomegranates From Squirrels

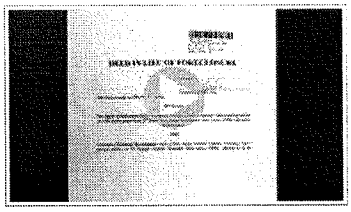
Does Fannie Mae Pay the Closing Costs on a ...

When purchasing a Fannie Mae foreclosure property, Fannie ...



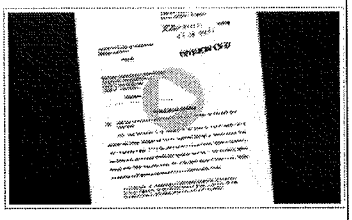
Quick Sale & Deed in Lieu of Foreclosure

A quick sale or a deed in lieu of foreclosure is a deed ...



A Deed in Lieu of Foreclosure & Deficiency

A deed of lieu in foreclosure is a deed instrument in which ...



Stages of Foreclosure

If you fall behind on your mortgage payment, the lender has ...

© 2013 Hearst Communications Inc.

Exhibit F

to JFI's Notice of Reliance

How To Eat a Pomegranate

58

January 25, 2012

Have you ever seen a plump, ruby-red pomegranate at the store and thought to yourself...*self, I'd **really** like to have fresh pomegranate seeds, but I just don't know how!*

Well, wonder no more. I'm going to show you how to to pry the snappy seeds bursting with sweet juice out of a pomegranate with minimal muss and fuss. You'll be done in 10 minutes or less!

How to Eat a Pomegranate

Print this tutorial!

Like I mentioned, you're not really eating a *pomegranate*, rather, you're eating the pomegranate's *seeds*, which are called **arils**. The arils are what hold the antioxidant-rich, sweet/tart pomegranate juice, and are great for topping salads, yogurt, cereal, oatmeal, or popping 'em plain and pretending they're healthy Nerds.

PS did anyone see Kim Kardashian housing Nerds on the last episode of Kim & Kourtney Take New York? Ben and I laughed for days.

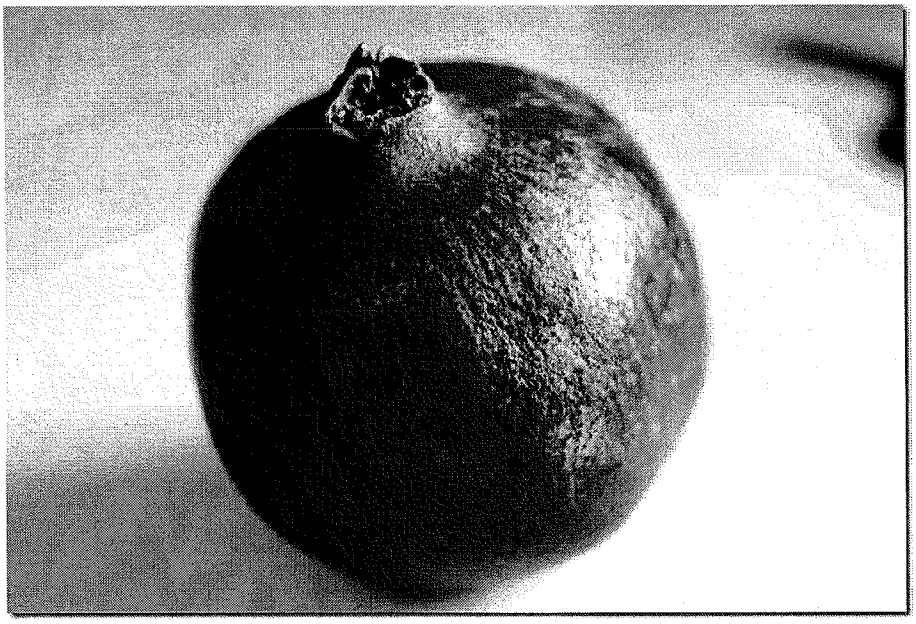
Anyways...

Step 1: Pick a pomegranate

Look for a pomegranate that's large, bright red, and smooth-skinned (the pomegranate in the picture below was a bit more weathered than I typically pick out). It should be heavy for it's size, plump and not withered whatsoever.

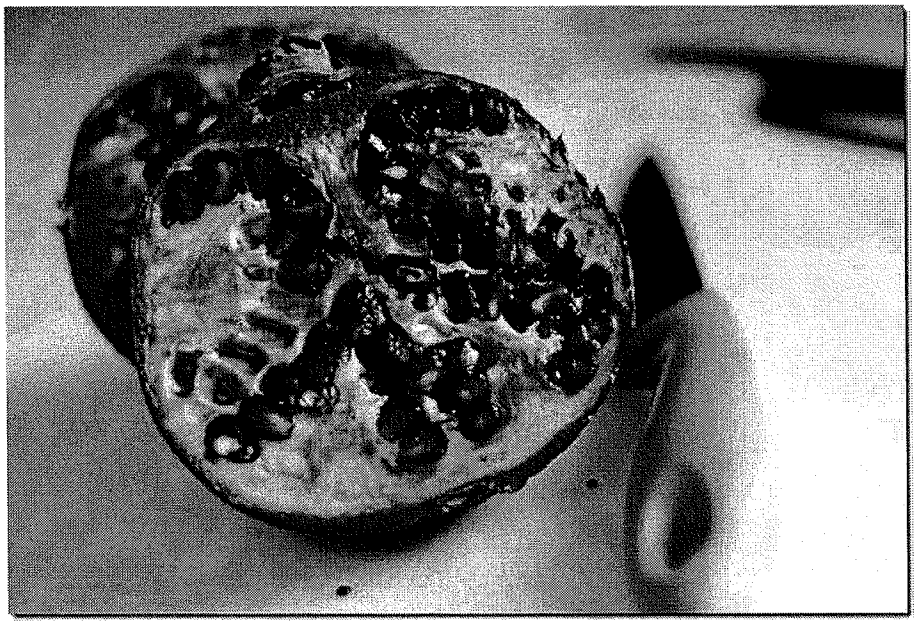
My name's Kristin and I'm an Iowa Girl! I eat as well as one can with a massive sweet tooth, run as often as possible despite the crazy Iowa weather, and am more often than not thinking about the cool places I want to travel to!

BlogHer Food Network



Step 2: Cut the pomegranate in half

Place a very sharp knife to the right or left of the knob on top, and slice straight down. I usually cut the pomegranate on a plastic cutting board, as the pomegranate juice could stain a wooden board.



Step 3: Cut each half in half again

At this point you should have 4 quarters of the pomegranate.

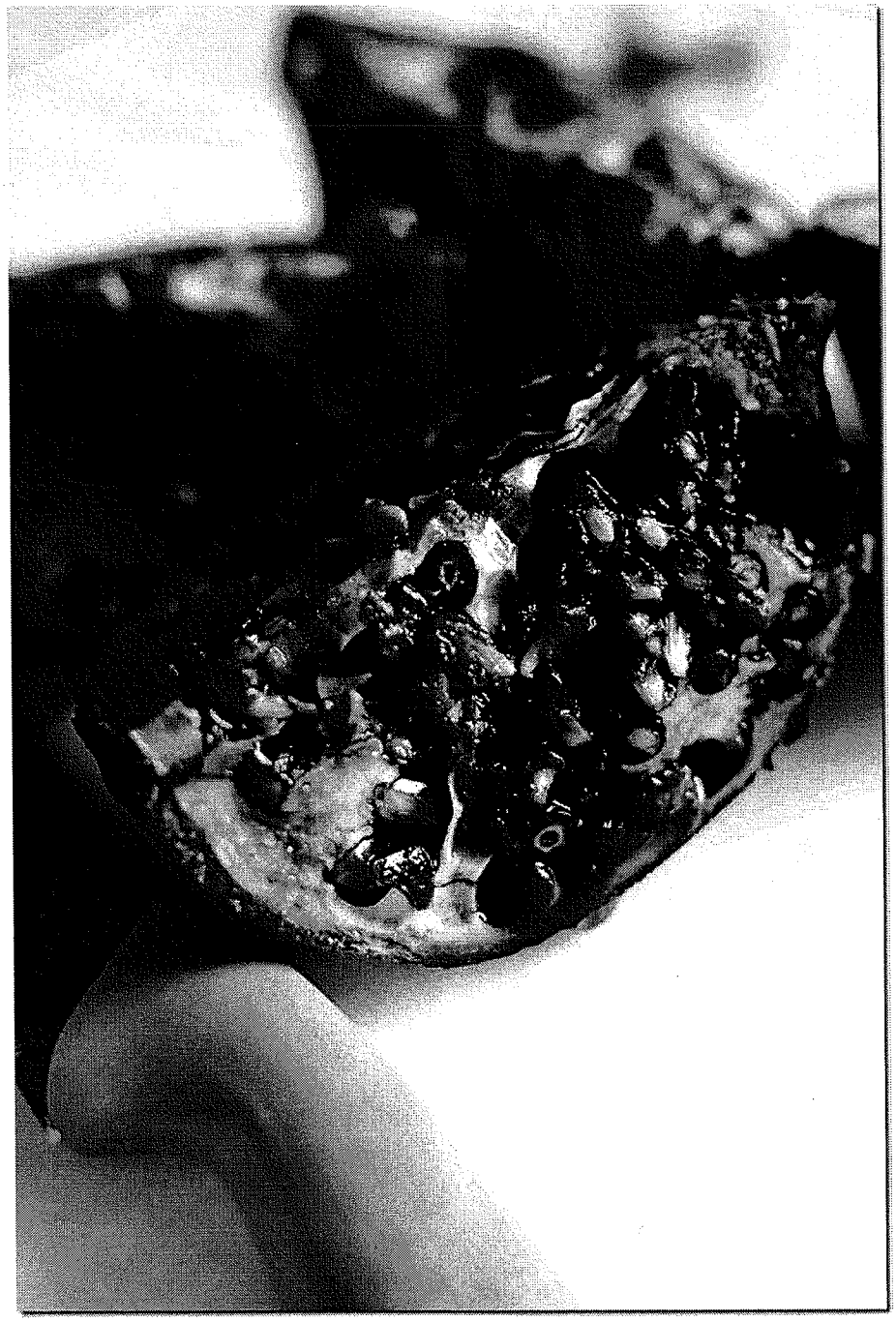
AdChoices | Advertise | Privacy

Search Iowa Girl Eats

SEARCH

Subscribe to Daily Posts by Email

SUBMIT



Step 4: Invert one quarter of the pomegranate over a bowl in the kitchen sink, and pop the seeds out with your fingers

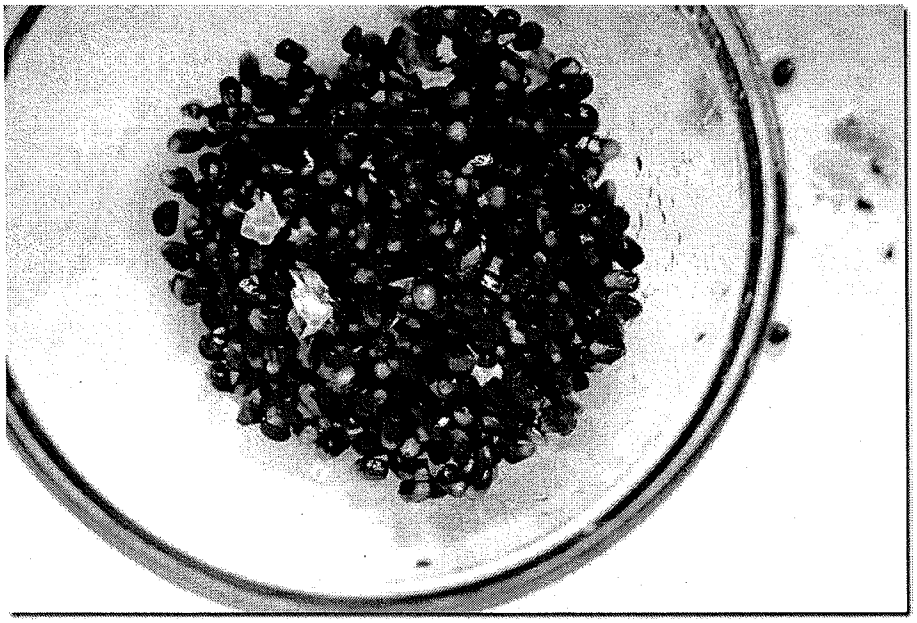
I try and get the majority of the seeds out with the peel inverted and facing me (so the seeds are face down in the bowl,) then flip the peel over to get the remainder out. Make sure you are doing this over the sink because pomegranate juice will be squirting out a bit, and it's easier to contain and clean the juice out of the sink.

Targets Twice (2x) the Daily Return of the Nikkei...

While Hedging Your Exposure to the Yen.

Popular Posts Today

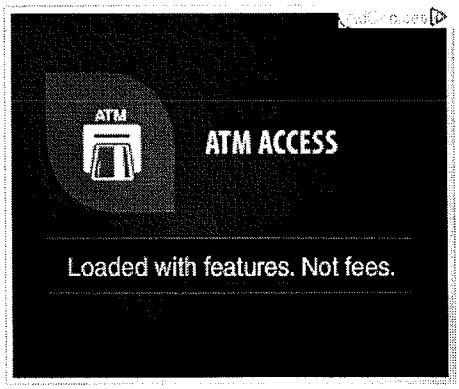
48 Hours in Denver!
Friday Favorites + Pampered Chef Giveaway!
15 Minute Tomato Basil Soup with Cheese Tortellini
Skinny Cheesy Chicken and Broccoli-Rice Casserole
Take Out, Fake Out: Easy Chicken Fried Rice
My Top Secret Diet Weapon
Easy Cheddar Cheese Sauce for Vegetables
P.F. Chang's Lettuce Wraps
Cheesy Taco Soup
Crock Pot Roast Chicken



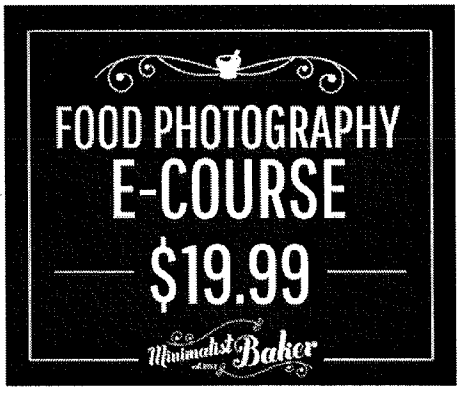
Continue with the remaining three pomegranate quarters.

Step 5: Fill the bowl of pomegranate seeds with cold water

You'll want about 3-4 inches of water above the seeds.

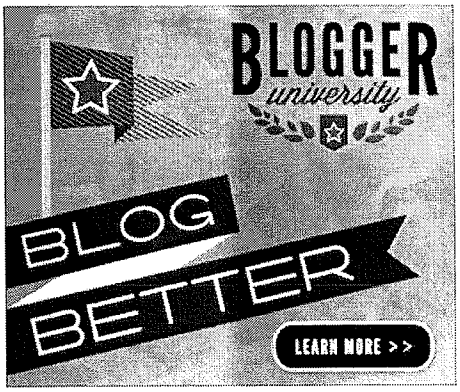


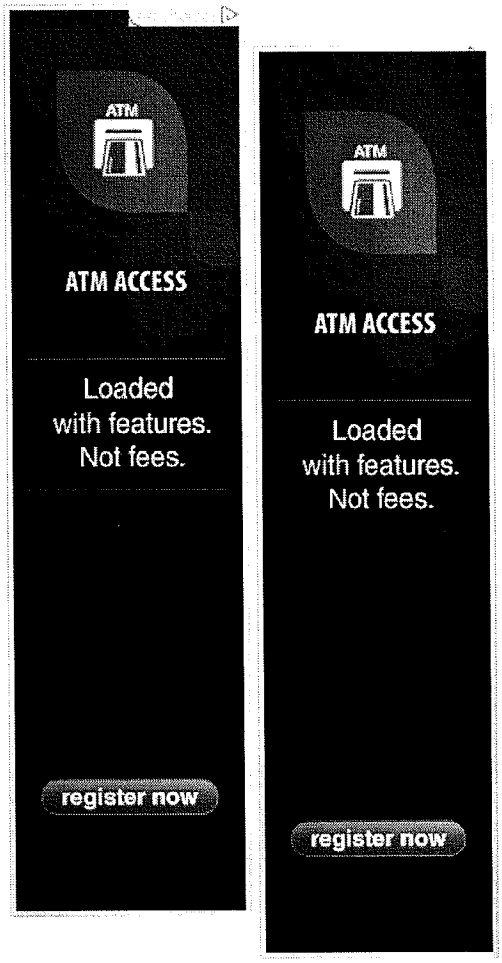
I support...



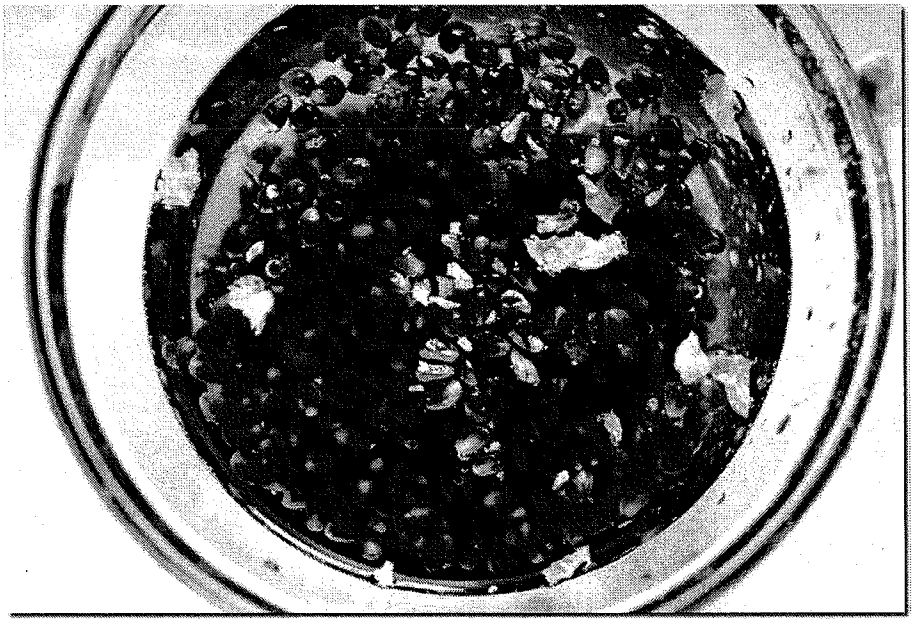
Step 6: Remove any loose peel from the seeds

Give the pomegranate seeds a little swirl with your fingers to let any loose peel float to the top. The seeds will sink to the bottom, allowing you to easily clean the peel out.



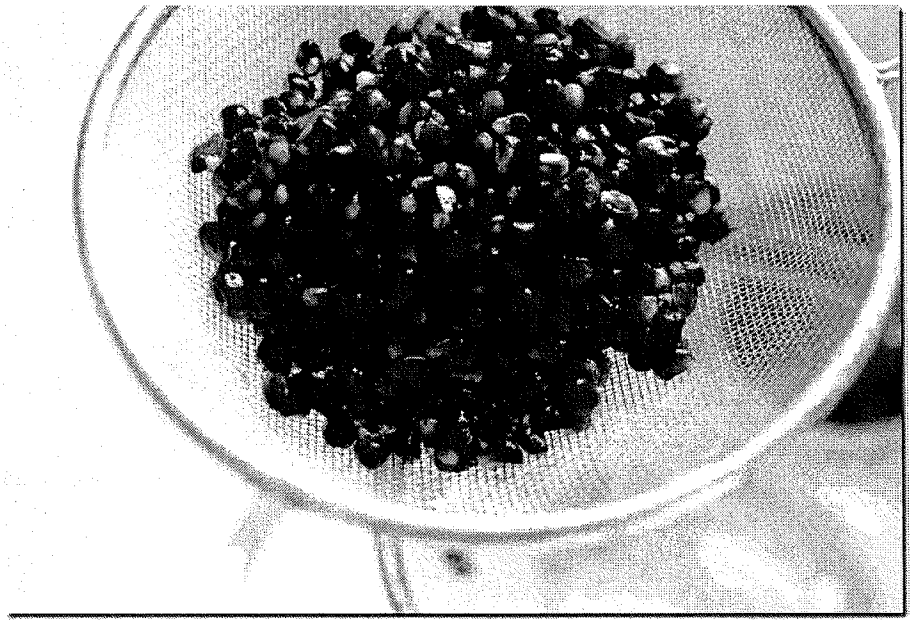


Categories



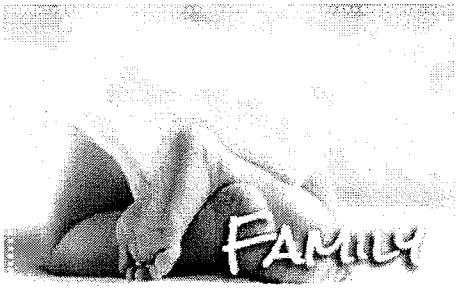
Step 7: Drain the seeds and return them to the bowl

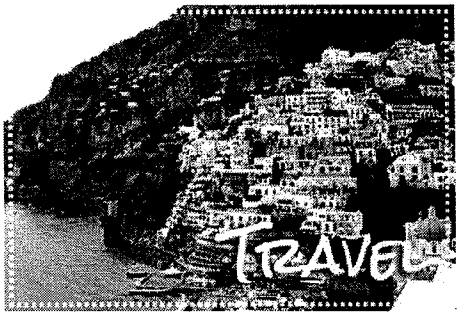
Refill the bowl with cold water one more time, clean out any remaining peel, and drain again.

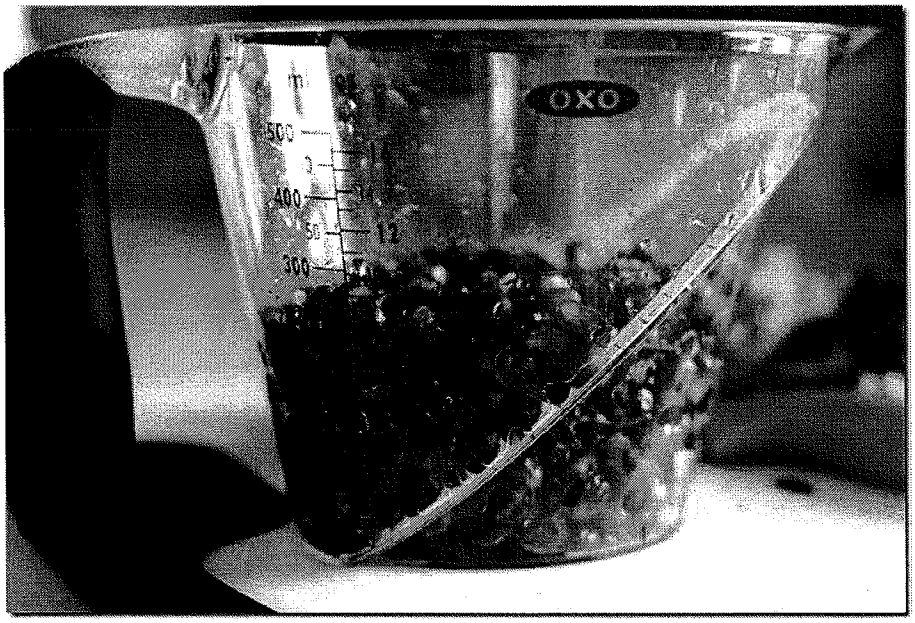


That's it!

Each pomegranate yields between 3/4 cup and 1 1/2 cups (6-12oz) of pomegranate seeds. Store the seeds in an airtight container in the fridge for up to a week, though I doubt they'll last that long.

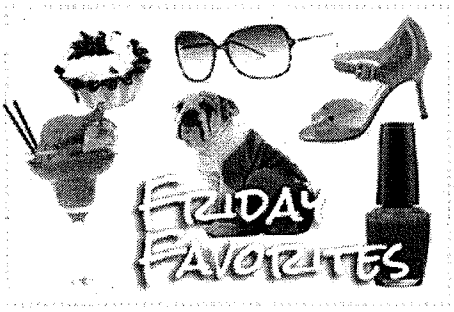


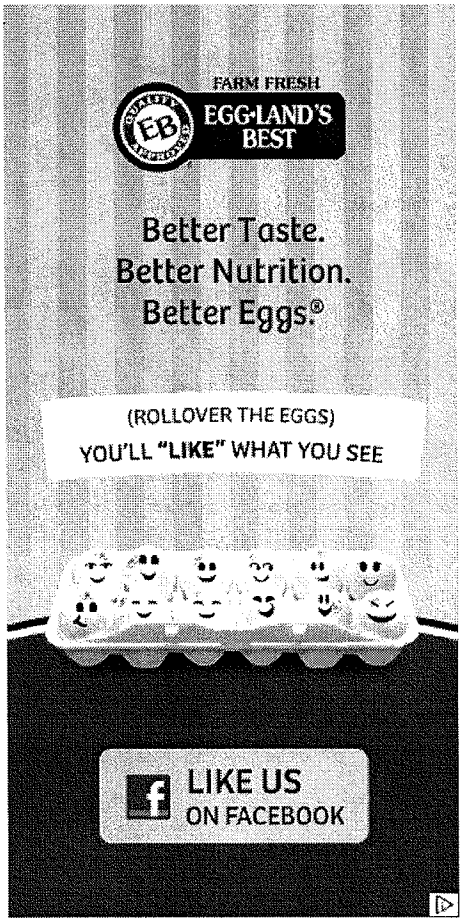


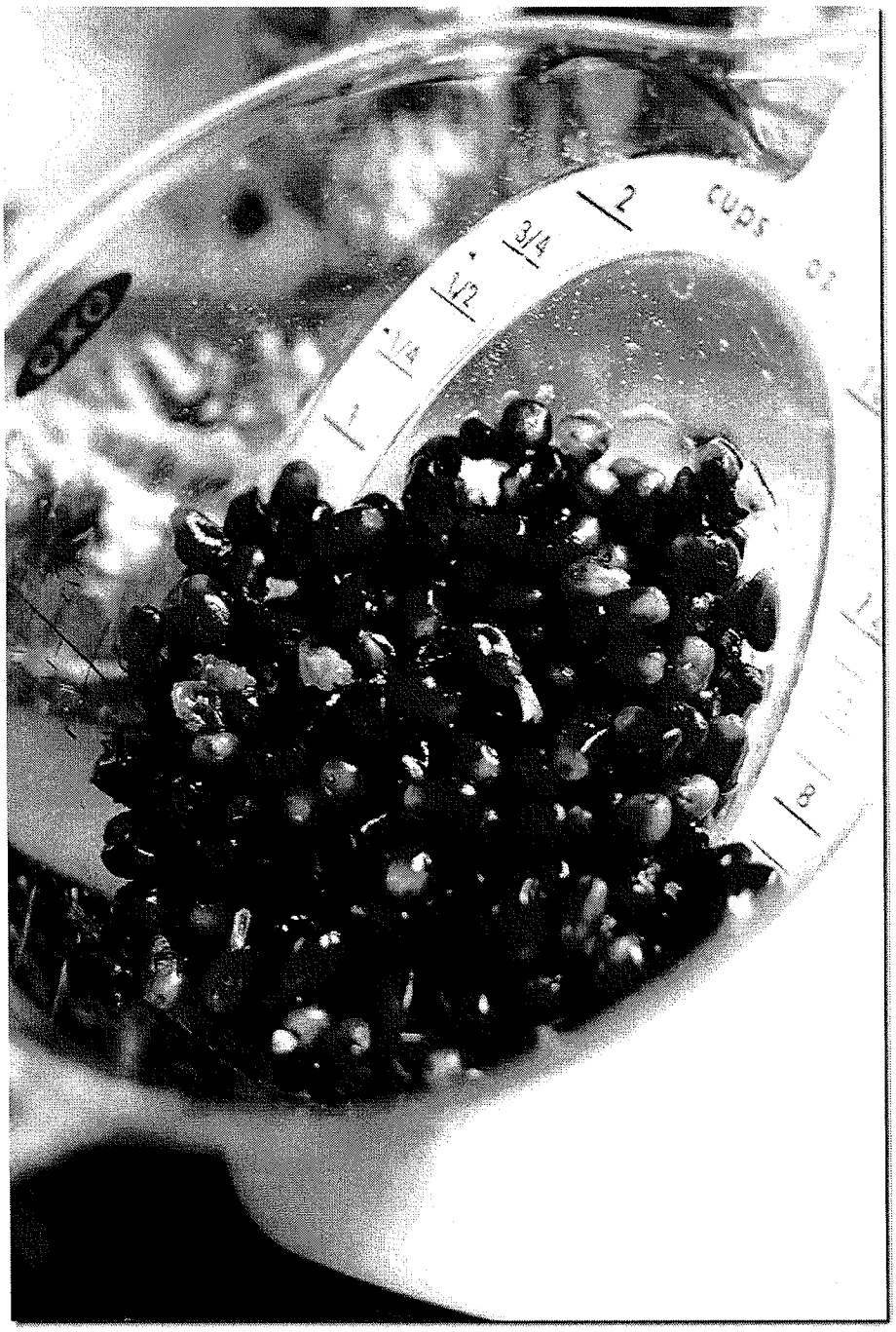


Still not convinced? Consider this:

Trader Joe's sells 6oz packages of fresh pomegranate seeds for $4. They also sell whole pomegranates for $2. If you de-seed the pomegranate yourself you're getting **double** the seeds, for **half** the price!



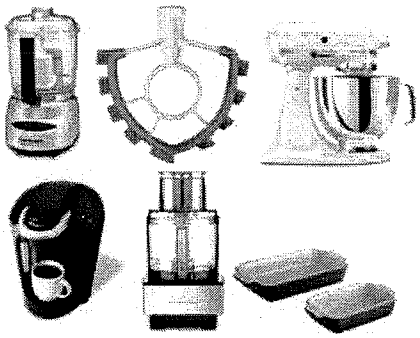




Now go forth, and eat pomegranates 'til you can eat pomegranates no more! (Which will likely never happen.)

Recipe Quick Links

My Favorite Products



Print this tutorial!

~~~~~

What's your favorite way to enjoy pomegranate seeds or juice?

Tags: How To, pomegranate, pomegranate seeds
Categories: How To, Tips
Comments: 58

58 50 10 334
Like Tweet

« PREV: TRIPLE ORANGE, AVOCADO &...

NEXT: HOMEMADE CHEESEBURGER HELPER »

More favorites >

Find a post by day

January 2012

M	T	W	T	F	S	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

« Dec Feb »

Food Blog Search

Comments

Kate @ Stripes and Polka Dots
01.25.2012

This is awesome! I just got my first pomegranate a few weeks ago, and I really liked it. Definitely going back for more

REPLY

katrina
01.25.2012

that's kinda how i do it too, except i pop the seeds out underwater, as it's FAR less messy that way.
~~~~~

i was just looking for a pomegranate today for out dinner (quinoa with avocado and shrimp and stuff) but my store didn't have any. bummer, they are delicious!

REPLY

Emily @ The Swallow Flies
01.25.2012

Me too! I learned that one the hard way! I have to say, though, the extra couple of dollars for the pre-packaged ones at TJ's is my preferred method!

REPLY

Iowa Girl Eats
01.25.2012

I tried that once and ended up splashing water all over myself. I'm very uncoordinated. :/ If you put the peel upside down there's hardly any juice splash!

REPLY

june
01.25.2012

That is what I was going to say.. and then your hands do not turn lovely colors AND no seeds spraying juice on your white wall... not that it has happened to me.....

REPLY

Lindsay @ The Reluctant Runner
01.25.2012

I also pop the seeds out underwater, and instead of cutting the fruit in quarters, I cut off the top and then score the skin and pull it apart because you lose less seeds that way (when you cut through them you lose the juice). Last winter I ate so many pomegranate seeds that I started getting really bad tummy aches, so this year I had to calm it down! I love eating the seeds by themselves or on top of a salad!

REPLY

Megan @ Fiterature
01.26.2012

I do it the same as you, Lindsay! But after I score the top, I let is soak in water for about 10 minutes to soften the membrane. Then the seeds almost fall away.
I put pomegranate seeds in smoothies, salads, pasta...you name it!

REPLY

Jen Rothmeyer (EmSun)
01.25.2012

Yum! I hardly ever see pomegranates in the store here (and I tend to eat more local), but if I see one soon I might splurge and have a special treat.

REPLY

AC
01.25.2012

Pin-worthy! Thanks! There's a gal at work that will sit with her butter knife & work SO hard to get each seed out... Her fingers are always a lovely color when she's done eating!

REPLY

Karla
01.25.2012

Love this trick, Kristin, and do it pretty much the exact same way! So, so worth the bit of trouble for the savings, but you have to be careful to watch the red splatters on your clothes if any break open

elizabeths
01.25.2012

These jewels are so tasty mixed into a cup of yogurt!

REPLY

I love them! They're tasty over Greek yogurt and honey...yuuuummmmmm!

REPLY

Blog is the New Black
01.25.2012

I love poms! DELISH!

REPLY

Emily
01.25.2012

I also recommend wearing an apron to protect your clothing!

REPLY

Susie @ Foodie fabulista
01.25.2012

Love them in a savory salad with walnuts & a mustard vinaigrette

REPLY

Michelle (Better with Berries)
01.25.2012

Great tutorial – under water is the only way to do it! Unless you want red stains all over your clothes

I love having pomegranate on oatmeal or yogurt!

REPLY

Cheryl
01.25.2012

Another vote for doing the process underwater! I just use a big bowl and put it in the sink in case it spills. My favorite way to eat pomegranates on a spinach salad with feta cheese and raspberry vinaigrette.

REPLY

nicoleigh
01.25.2012

My first and only time trying to eat a pomegranate was a big mess. But then I found an awesome pin in Pinterest.....
http://www.littlebitfunky.com/2011/11/how-to-eat-pomegranate.html
Next time, I'll be attempting the water trick.
However, I'm struggling finding some pomegranates!

REPLY

Carrie
01.25.2012

First time I bought/prepared a pomegranate was a few weeks ago, in order to make your Superfood Salad – I'm hooked!

REPLY

Caitlin
01.25.2012

Oh man, this makes me wish I had grabbed a pomegranate while I was at the grocery store earlier! They're so delicious! Thanks for sharing your tips!

REPLY

Adam
01.25.2012

Tonight I made the superfood salad you posted a week or two ago. (It was delicious!) That was the first time we have ever had a pomegranate. Then I logged on and saw this. Too bad I didn't check before I cooked! It will be a quicker process next time...

REPLY

Nancy
01.25.2012

I quarter the Pom then let sit in cold water for 10 min, then take the seeds out. That softens the membranes between the seeds so it's no problem. FYI, just another option for getting to the wonderful seeds that I love.

REPLY

Jennie M
01.25.2012

I eat them straight out of a bowl with a spoon, just like cereal. I've honestly never cooked with them or put them on salad. Just raw and delicious!

REPLY

Susan
01.25.2012

Oh man! A couple weeks ago I bought my first pomegranate with high hopes of figuring this out. I cut it in half and long story short, it was ALL OVER ME AND MY TAN SWEATER! I got so frustrated I threw the whole thing away. Now I need to go get another and give it a shot again! Thanks for sharing!!

REPLY

Stacey E
01.25.2012

I have never tried these...but I'm going to now!

REPLY

Lisa
01.25.2012

I like pomegranate flavored things, and pomegranate juice, but whenever I've had a fresh one, the seeds were hard and crunch, reminiscent of eating wood.

REPLY

Shannon
01.25.2012

Your way is much easier than mine. I can't wait to buzz over the TJ's and buy me a pomegranate. Thanks! :)

REPLY

Susan
01.26.2012

Another good way – especially if you are having a bad day and want to let the anger out is to half the pomegranate then hold one half in the palm of your hand over a bowl – skin side up – then bash the heck out of it with a wooden spoon. The seeds will just drop out.

REPLY

Sarah
01.26.2012

I get the fresh english peas from TJ's and make a salad with pomegranate seeds, peas, a little gorgonzola and arugula. so good.

REPLY

Eleni
01.26.2012

My favorite way to eat them is plain. I think pomegranates are so pretty...the seeds look like little gemstones!

REPLY

Emilie @ Emilie's Enjoyables
01.26.2012

Great tutorial, I definitely used to be very intimidated by pomegranates!

REPLY

Jeralyn
01.26.2012

So much work but totally worth it.

REPLY

Jen@FoodFamilyFitness
01.26.2012

I have seen these little beauties at the store, but had no idea what to do with them, thanks!!!

REPLY

Calee
01.26.2012

I've tried this before ... and my kitchen still looks like a murder scene. I love poms, but I can't seem to get this right. Maybe I'm picking the wrong ones?

REPLY

Iowa Girl Eats
01.26.2012

Just make sure to keep the pom quarters inside the bowl when you're getting seeds out. Mine don't usually spray, but that must just mean yours are extra juicy!

REPLY

Hannah-lyz
01.26.2012

I de-seed mine in a bowl of luke-warm water! Stops your hands from freezing, and stops those pesky poms spraying their juice everywhere! Plus, because the seed sink and the pith floats, it's even easier to sort through it! I love pomegranites! My mum and I used to cut a pomegranite in half, take half each, and sit on the sofa, picking the seeds out with a pin! Such fun, and a great fun way to eat a pom! (it takes longer, but that just means you enjoy it for longer!) x

REPLY

This is awesome! I can't get myself to spend the extra money to buy jsut the seeds. IT takes me forever to get the seeds out but to me it's worth it. Hopefully this will make things faster from now on. I love to get a pom and then melt dark chocolate chips with just a bit of oil in the

Robyn
01.26.2012

microwave. Then I add in the pom seeds and stir it up and drop it by spoon fools onto a cookie sheet covered with parchment. Put them in the freezer for a few minutes to harden. When you bite into them the juice explodes in your mouth and you have the delicious cold dark chocolate added to that. IT's a antioxidant packed flavor explosion!

REPLY

Julie
01.26.2012

Thanks for the tutorial! What I love best about this post, though, is knowing that you watch Kim and Kourtney Take NY–and yes, I did see Kim housing those nerds!

REPLY

Iowa Girl Eats
01.26.2012

Hahaha yesss! Another soul who will admit to watching K&K! 😉

REPLY

WendyG
01.27.2012

I can't believe how much I have been loving Scott more now since watching K&K Take NY!!!!!!!!!! He is a riot! I love Kourt's crazy couponing!!!!!!!! This weekend will be a GOOD episode! I was super sad without the Office last night.....ummmm I need my Dwight fix!

REPLY

iowa meet NYC
01.26.2012

I have never de-seeded a pomegranate before, but I am going to now [now: after my next trip to the grocery store]. Loved the 'nerds moment' on KKTNY. But most importantly .. IOWA has TRADER JOES? Since When? It took 23 years and moving out of Iowa for me to be introduced to the amazing-ness that is TJ's. I may come back now! [Love your blog!]. {chelset}

REPLY

Aparna
01.26.2012

Bought The 60 Second Pomegranate Deseeder in Nob Hill the other day for $2.99. Give it a try! Honestly took me less than a minute...(Please don't buy it on Amazon.....they are selling it for $14.99!!)
Here is the link:
http://www.amazon.com/The-60-Second-Pomegranate-Deseeder/dp/B0071N1VDY/ref=sr_1_3?ie=UTF8&qid=1327615333&sr=8-3

REPLY

tonya
01.27.2012

THANK YOU!! so much for this. i've always been afraid of the pomegranite. it's intimidating. i've gazed at it from across the produce aisle but it's always given me the side eye. i plan to get acquainted this weekend. 😉

REPLY

Quinoa and Fruit Salad | b fresh
01.28.2012

[...] the quinoa was cooking I de-seeded my pomegranate. Not quite as easy as Kristin made it look. I splattered red juice all over my kitchen, but it was worth it. Sweet enough to [...]

REPLY

Sarah

I just de-seeded my first pomegranate!!! Yum! Thanks for this post.

02.04.2012

A little taste of summer from snowy, blustery Newfoundland, Canada.

Sarah

REPLY

Staying Cool (and Chic) « On the Brink of Something Beautiful
07.23.2012

[...] Need tips on how to easily clean a pomegranate? This can be a project in and of itself. Visit IowaGirlEats here. [...]

REPLY

Super Superfoods: Fruits & Veggies « The Adventures of Z & K
08.05.2012

[...] Pomegranate: Although eating is a bit tricky (I have yet to learn how to "harvest" the seeds, knows as arils), pomegranate juice is a source of vitamin C and K. For step by step instructions, visit Iowa Girl Eats to learn how to eat a pomegranate. [...]

REPLY

the week in photos. | little lessons in a BIG city
11.09.2012

[...] better than a breakfast of fresh fruit. [thanks to iowa girl eats, I purchased & seeded my very own pomegranate. they're an intimidating [...]

REPLY

in season / pomegranate » hk in love.
12.13.2012

[...] still not convinced and think they still look like a little too much work for your liking (here's a simple way to seed one, by the way), next time you're in the grocery store, at least buy a [...]

REPLY

pomlover
01.21.2013

There's a much easier way. Pick up a "pom deseeder". They work great! Health food store or online http://www.pomegranatedeseeder.com
Been using them for a while. Now all my friends have them.

REPLY

Mo
02.02.2013

I'm an English girl who has recently really got into cooking, but we don't do cups over here. I think I've found a site that offers the oxo good grips with the cups measurements just like yours in the pic but before I buy I just thought I'd ask, can I use that for both wet + dry measurements? I've heard you can't.

REPLY

Iowa Girl Eats
02.04.2013

You can use the OXO for both wet and dry, though the dry won't be 100 accurate. Your best bet is to use them just for wet ingredients!

REPLY

Mo
02.05.2013

Oh okay! Which product do you use for dry measurements, then? (sorry for all the questions!)

REPLY

Iowa Girl Eats
02.05.2013

Here you go! http://astore.amazon.com/iogiea09-20/detail/B0014Y4X3G

REPLY

Mo
02.07.2013

Thanks!

REPLY

Mel
02.10.2013

Are you subscribed to Joey Graceffa?

REPLY

Andrea
08.04.2013

I just ate one 4 the first time, I got it from a grocery, they gave it 2 me in a paper bag, I just cut it across with a plastic knife like I did my passion fruit and it broke apart into sections where I could pick the little red things out 2 eat, it tasted like cranberry but with a sweet flavor not so bitter. I have not eaten a cranberry come 2 think of it but am familiar with the juice which is heavily advertised. Some juice came out but not too bad. I wonder how they get the trees in California, I have found lemon trees here in Florida on properties but not the pomegranate, interesting.

REPLY

the week in photos. | little lessons in a BIG city
09.08.2013

[...] better than a breakfast of fresh fruit. [thanks to iowa girl eats, I purchased & seeded my very own pomegranate. they're an intimidating [...]

REPLY

Update | The Fit Guru
11.07.2013

[...] So I had a bit of a setback this past week...I injured my Achilles tendon. Just normal walking causes incredible pain and trying to run was an even worse idea. Nevertheless I have made it to the gym! This is still my month and I can definitely say that my eating has been clean and healthy. I have been loving pomegranates this past month! If you haven't tried them you definitely need to! Who doesn't love an antioxidant filled fruit with immune supporting effects? For tips on how to pick them check this link: http://iowagirleats.com/2012/01/25/how-to-eat-a-pomegranate/ [...]

REPLY

Leave a Comment

NAME (REQUIRED)

EMAIL (REQUIRED)

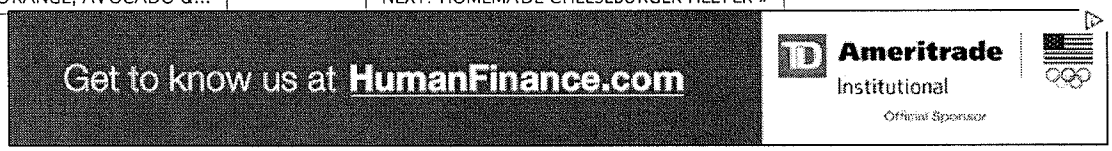
URL

RESPONSE

SUBMIT COMMENT

« PREV: TRIPLE ORANGE, AVOCADO &...

NEXT: HOMEMADE CHEESEBURGER HELPER »



COPYRIGHT © 2013 IOWA GIRL EATS. ALL RIGHTS RESERVED.

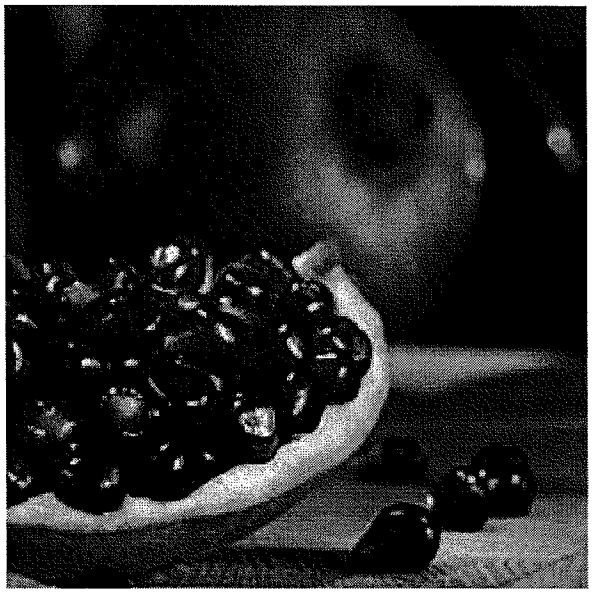
Exhibit G

to JFI's Notice of Reliance

Canning With Kids

- Home
- Grow It
- Can It
  - Sweets
  - Savories
- Cook It
  - Cooking with Kids
- Make It
- Bay Area Food
- Store
- About
  - Blog Roll
- Contact

How to Open a Pomegranate



by Paige on November 15, 2010

Like 31 0 0

There's a gal in my neighborhood that I adore. And it's not because she has a pomegranate tree. Really…that's not the reason.

REALLLLLLLYYYYY.

She's actually an awesome community member and activist. She helps out and volunteers her time, despite having a toddler and a new baby on the way. She's fierce. My kinda woman!

But, the pomegranate tree doesn't hurt either.

Every year at pomegranate time, she sends out an email, as many of us with our over-abundant fruit trees do, offering up her bounty of juicy red goodness. I'm a sucker for pomegranates. Love them. My son and I fill jars with the seeds and scoop them into our mouths by the spoonful. My husband is not such a fan and thinks it weird that we can eat so many in a sitting, and that we're not bothered by the little seeds inside the seeds. I'm a big fan of tart, so I truly find poms wonderful (hahahah – POM Wonderful should sponsor me for that comment!).

And since I am talking POM, let me just make a comment about canning and pomegranates: I love canning food. When people see my basement they're pretty over-whelmed. "How do you have the time?" they ask. And my honest answer is, "It's my hobby." And no matter the time, most people find room in their lives for a hobby. I don't mind staying up all hours of the night, fancying myself an alchemist, making my mystery potions and preserving them for the world to enjoy.

I'm kinda like Gargamel and Smurfette rolled into one:

(All the sweetness and attention-seeking nature of Smurfette + the potion-creating madness of Gargamel) – (Gargamel's evil) – (Smurfette's blueness) = ME!

But...despite all of that...there are lines that I draw. And currently, making pomegranate juice from pomegranate seeds is one of those lines. I just love the seeds too much to turn them into juice. I do. And if I want the straight up juice, I'll buy POM Wonderful concentrate. Someday I will probably dive into pureeing my own juice, but for now, I just couldn't imagine putting those seeds in a food processor versus my mouth. That crunchy little texture is everything.

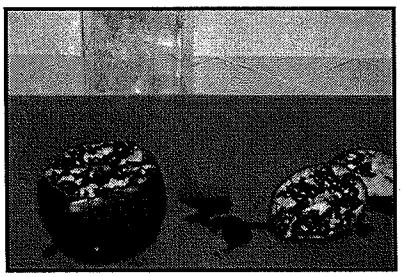
So instead of talking canning recipes, let's talk technique. In this case, how do you get those little seeds out of that big ole outer casing?

First thing to note: when you see a pomegranate tree and it has opened pomegranates on it, don't be like, "Ew. That is a moldy oldy pom." That, my friend, is a perfectly ripe pomegranate that has literally burst open with juicy goodness. And it is begging to be picked and eaten.

Who am I to deny?

So, make your life easier and pick the poms that have opened up. Once you remove them from the tree, they will go moldy within a few days, so you should take them home, remove the seeds and store them either in your freezer, or in your fridge if, like me, you plan to eat them rather quickly.

But if you end up with pomegranates that are fully intact, here's what you can do:



Step 1: Slice the top and bottom from the pomegranate. They're juicy, so do this on a cutting board.

Step 2: Slice a plus sign (+) into the pomegranate from top, going down 3/4 of the way. Don't slice all the way through.

Step 3: Put the pomegranate into a clean sink and pour boiling water into the sink, letting the pomegranate soak for several minutes. Basically, you're going to blanch the pomegranate.

Step 4: Move the pomegranate into a clean sink filled with cold water (if you don't have a double sink like I do, you can put the pomegranate into a pot of boiling water on the stove for Step 3, in which case I would not have the water at a rolling boil, instead just make sure it is very hot water.

Step 5: Using your hands, break the pomegranate open, under the water. As you pull it apart, the seeds will drop to the bottom of the sink, and the white pith will float to the top. This serves the dual purpose of preventing your hands from being stained.

And there you go. Enjoy those seeds!

- Add to Reddit
- Post to Delicious
- Post to StumbleUpon
  Post to
- Twitter
- Post to Facebook
  31
  31
  31
  31
  31
  31
  31
  31
  31
- Send via E-mail program
- Post to Digg

Tagged as: how to open a pomegranate, pomegranate

{ 5 comments… read them below or add one }

Seana Honeywell November 25, 2010 at 9:49 pm

Oh my gosh. My son is going to love you. He loves the pomegranates that my husband brings home from co-workers with a bounty, but *HATES* getting all of the seeds out.

Reply

Paige Bayer November 26, 2010 at 8:26 pm

My son loves pomegranates as well!!! But he doesn't even try to get the seeds out himself. I used to stay up all night watching tv and peeling them out. Took forever and stained my hands for days….this is SO much easier!

Reply

Alisonandchrismiddleton December 19, 2010 at 11:30 am

I think it is awesome that you can fresh foods but what about BPA risk? I have been avoiding buying cans and instead ot for frozen if it is out of season. What do you think about this?

Reply

Paige Bayer December 20, 2010 at 1:37 pm

I'm glad you asked that very important question, Alison (or Chris!). Tattler makes reusable (!!!), BPA-free lids that can be used for both pressure and water-bath canning. They're made in the USA, too1 Goodness all the way around. I get mine frmo Lehmans.com

Reply

The Cozy Herbivore December 8, 2011 at 12:01 pm

What a great technique! I totally used it (and linked back to this post!) when I made my Cranberry Pomegranate Syrup. Thanks for the tip!

Reply

Leave a Comment

Name *

E-mail *

Website

Submit

☐ Notify me of follow-up comments by email.

☐ Notify me of new posts by email.

{ 1 trackback }

- How to roast pumpkin seeds — Canning With Kids

Previous post: Planning Your Meals When the Bounty Arrives

Next post: The Joys of Eating with the Seasons

Welcome!

8/7/13 And just like that, the year is nearly 2/3 over. And I'm back.

- **Subscribe/Socialize**

- To search, type and hit e

- **Recent Posts**
  - A Beautiful End to a Beautiful Year
  - Pony Royale: It's a Pony Party!
  - How to Freeze Corn
  - California Grown Survey
  - Healthy Asparagus Side Dish
  - A New Spring in the Garden
  - Marshmallows on a Stick: Last Minute Valentine Goodies
  - Canned Cranberry Curd
  - Serendipity Saucy Spreads – Bay Area Food
  - Happy New Year
- **Featured In…**

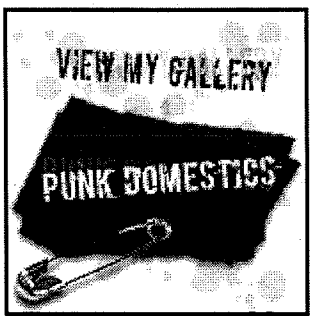
- **Categories**

Select Category

- **Archives**

Select Month

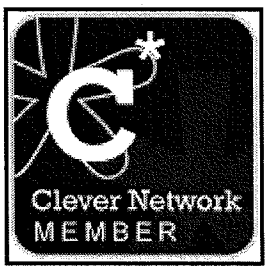
- **Punk Domestics**



- **Farmer's Market Finder**

Farmers Market Finder
Find a market near you
zipcode or city, state
culinate
get this widget for
your
blog

- **Clever Girls Collective**



- **Blog with Integrity**

Get smart with the Thesis WordPress Theme from DIYthemes.

Exhibit H

to JFI's Notice of Reliance

snooth
DRINK GREAT WINE

Search millions of wines

Introducing snooth Signup Now with FREE gift

Log In or Sign up

ProWein

For Trade Visitors only! See you

Messe Düsseldorf

Tree of Life Semi Sweet Pom Wntree of Life Semi Sweet Pomegranate Wine NV

There are currently no submitted critic scores.

+ WINE CRITIC

Pomegranate is a wonderful fruit known throughout the world for its qualities as a rich source of antioxidants. Tree of Life pomegranate wine retai... **Read more**

Add your review

3 reviews
+My Wines
List It
Edit

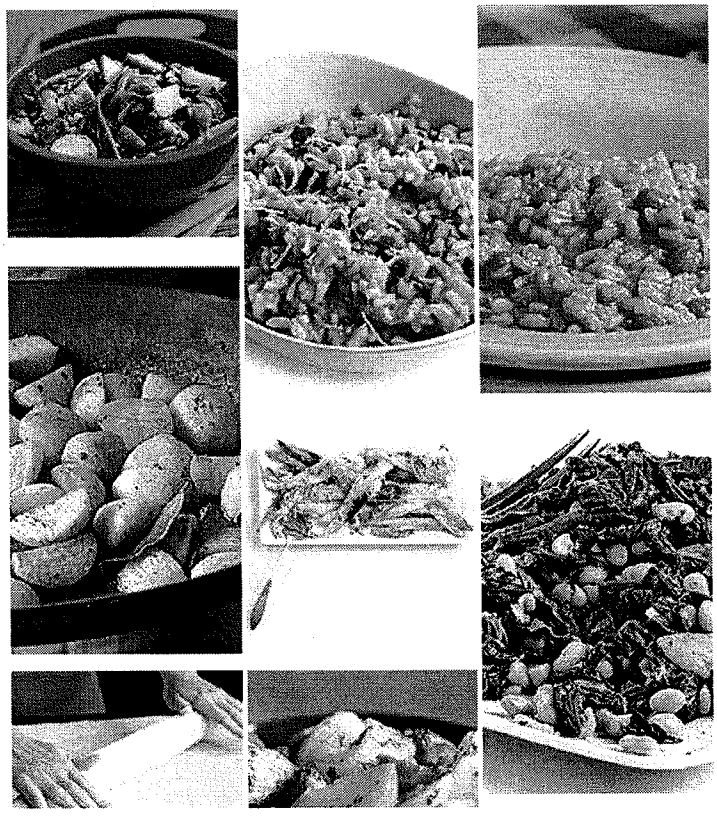
Vintages
NV
Add a vintage

Add winemaker's notes

Add a price

Like 0 Tweet 0 0

FOOD PAIRINGS FOR TREE OF LIFE SEMI SWEET POM WNTREE OF LIFE SEMI SWEET POMEGRANATE WINE



USER REVIEWS FOR TREE OF LIFE SEMI SWEET POM WNTREE OF LIFE SEMI SWEET POMEGRANATE WINE

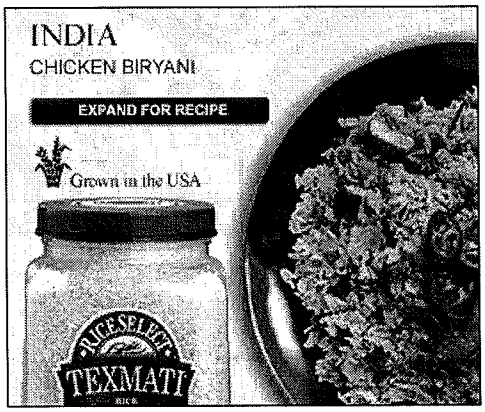
Add your review

Stay Connected

iPhone Share Tweet Google+

Get our free newsletter

Your Email Address SUBMIT



BEST WINE DEALS

$18.99 21% off

Water Wheel Shiraz Blend Bendigo 2008

$22.99 15% off

Albarino Pazo Senorans 2011

See More Deals »

COMMUNITY ACTIVITY

Alex Kogan

4

04/09/2009

Pomegranate is a wonderful fruit known throughout the world for its qualities as a rich source of antioxidants. Tree of Life pomegranate wine retains this fruitâ€™s purported flavor, character and qualities. Enjoy this wine daily and discover the mythical secrets of the pomegranate, going back to the ancient world and Biblical times when people believed that the pomegranate was the true fruit of the Tree of Life.

USER TAGS:

TREE OF LIFE POMEGRANATE WINE

This was helpful! Comment

SmoothRedWine

4

04/28/2009

USER TAGS:

WONDERFULLY SMOOTH...

This was helpful! Comment

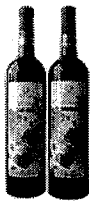
RATINGS & TAGS FOR TREE OF LIFE SEMI SWEET POM WNTREE OF LIFE SEMI SWEET POMEGRANATE WINE

Kerush *rated this wine* 07/23/2010

Add winemaker's notes

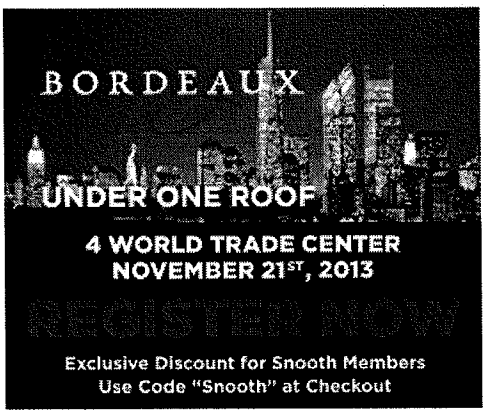
PHOTOS FOR ALL VINTAGES

+ Add Image



1200x1600

Hello Snooth!	POSTED 11:18AM 11/12/13
PD Consultants UK	POSTED 11:02AM 11/12/13
Rockpile Winery Cabernet Sauvignon Rockpile Ridge Vineyard (2010)	LISTED 10:49AM 11/12/13
Argyle Pinot Noir Willamette Valley (2010)	WISHLISTED 10:29AM 11/12/13
Freemark Abbey Cabernet Sauvignon (2010)	LISTED 10:28AM 11/12/13
Marimar Estate Pinot Noir Mas Cavalls (2007)	WISHLISTED 10:27AM 11/12/13
Artesa Pinot Noir (2009)	WISHLISTED 10:26AM 11/12/13
Willamette Valley Vineyards Whole Cluster Fermented Pinot Noir (2011)	WISHLISTED 10:24AM 11/12/13
Edna Valley Vineyard Pinot Noir Edna Valley Paragon (2009)	WISHLISTED 10:23AM 11/12/13
Walter Hansel Winery Pinot Noir Russian River Valley the South Slope Vineyard (2009)	WISHLISTED 10:21AM 11/12/13



Copyright © 2013 Snooth, Inc. All rights reserved. Terms of Use | Privacy Policy | Sitemap | Contact Us | Made in NYC

Exhibit I

to JFI's Notice of Reliance

pomegranate cafe

Indulgently Healthy Cafe

← Older posts

Chef Rachel's September Class at Pom Has Been Cancelled (but stay tuned for more exciting events coming to the cafe)

Posted on September 9, 2013 by pomegranatecafe

Leave a comment

New Class Coming to Pom in September

Posted on August 18, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/low-impact-desserts/)

Leave a comment

Patricia Bragg is coming to Pomegranate Cafe!!!

Posted on June 28, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/bragg/)

Leave a comment

Two Great Classes Coming to Pom in June…

Posted on May 28, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/2013-june-cleanse/)

(http://pomegranatecafe.wordpress.com/events/pizza-night/)

Tagged cleanse, Elaina Love, Hot Yoga, Pomegranate Cafe, vegan Leave a comment

April Movie Night at Pomegranate Cafe "RACE TO NOWHERE"

Posted on April 9, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/pom-movie-night/)

Leave a comment

The Keystone XL Pipeline: What's all the fuss about?

Posted on March 26, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/the-keystone-xl-pipeline-whats-all-the-fuss-about/)

Leave a comment

Los Soles! The art of Zarco and Carmen Guerrero at Pomegranate Cafe

Posted on March 12, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/los-soles-the-art-of-zarco-and-carmen-guerrero/)

1 Comment

Next week at Pom: Cultivating the Authentic Self with Stacy J. Warner!

Posted on March 6, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/authentic-self/)

Leave a comment

Chef Elaina Love is back for another class at Pomegranate Cafe!

Posted on March 6, 2013 by pomegranatecafe (http://pomegranatecafe.wordpress.com/events/got-culture/)

Tagged Elaina Love, vegan Leave a comment

CORRECTION: The Joan Baron Celebration will take place on Tuesday the 26th of February.

Posted on February 11, 2013 by pomegranatecafe

Leave a comment
← Older posts
Blog at WordPress.com. | Customized Confit Theme.
Follow

Follow "pomegranate cafe"

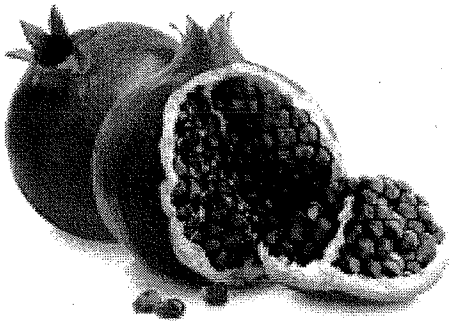
Powered by WordPress.com

Exhibit J

to JFI's Notice of Reliance

Search

FEATURED STUDIES | VIEW ALL STUDIES | RELATED ARTICLES & RESOURCES | GLOSSARY



Scientific Studies on Wonderful Variety Pomegranates

There are several varieties of pomegranates grown in various locations throughout the world. The following research was conducted exclusively with California grown, Wonderful variety Pomegranates.

Subjects received a minimum of eight ounces of POM Wonderful 100% Pomegranate Juice or 850mg POMx pomegranate polyphenol extract per day.

SEARCH PUBLISHED STUDIES ON WONDERFUL VARIETY POMEGRANATES GO

Featured Studies ›

Explore summaries of 24 published, scientific studies on Wonderful variety pomegranate juice and extract - organized by subjects.

View All Studies ›

Browse through a complete list of 65 published pomegranate-related studies. Topics include pomegranate's ancient roots to modern medicine, affects on prostate health, and the glycaemic index value of pomegranate juice.

Articles & Resources ›

Find additional articles and resources to learn more about pomegranate research, from the health benefits of pomegranates to their suggested anti-aging properties.

Exhibit K

to JFI's Notice of Reliance

Wonderful Pomegranate Tree (Standard) - FT226

(http://lghttp.17653.nexcesscdn.net/808B16/cdn_images/media/catalog/pro

How to Grow Pomegranate

$19.99 | 1 | Add to Cart | Wishlist

This product qualifies for $9.99 flat rate shipping in the Continental US.

Pre-Order Today!
Will begin shipping: December 20, 2013

This product is not registered for sale in the following states: HI, AK, PR

☆☆☆☆☆No Reviews | Add Your Review

Description | Details | Reviews | Articles | Support

Zones: 7-10

Chill hours: 150

Harvest: September 8 - October 12

Looks: Large purple-red fruit with deep colored juice.

Personality: Delicious, tangy flavor.

Facts of note: Pomegranates are not grafted onto any rootstock, so in areas where it gets cold enough to freeze the tops of the plants back sometimes, they still come back and produce the same fruit.

Hummingbirds **LOVE** the pomegranate flowers.

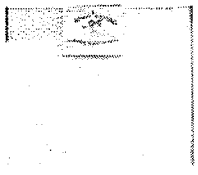
(http://www.youtube.com/watch?v=Qxrl--Nj0VY)

stress. A pomegranate can reach 20'-30' in maturity, but is more commonly seen at 12'-16'. Suitable to espalier and for containers. Pomegranates do not like to be planted as bare–roots and are difficult to establish, so we sell these No. 1 size trees (2' to 3') in pots to enhance their survival rate. Trees are 1 year old, and should begin to fruit the same year you plant them.

Please Note: Although most of our bare-root trees arrive to our warehouse in imid-December, there are a few varieties -- Almond, Mulberry, Walnut, Persimmon, and Jujube -- that will not arrive until mid-January. If you order any of those varieties along with varieties that arrive in mid-December, your order *will be delayed for shipment until mid-January* unless you ask us to split your shipments and agree to pay any additional shipping charges resulting from two separate shipments.

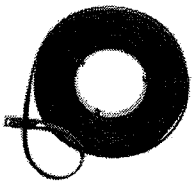
Check out our Fruit Tree Harvest Chart (http://www.groworganic.com/media/pdfs/fruittreeharvestchart-b.pdf) to plan for successive harvests.

You may also be interested in

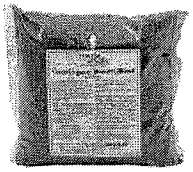


(http://www.groworganic.com/root-guard-gopher-basket-15-gallon.html)
Root Guard Gopher Basket - 15 Gallon
As low as: $5.59
$6.99
1 Add to Cart
Add to Wishlist
(https://www.groworganic.com/wishlist/index/add/product/4106/)
(2)

(http://www.groworganic.com/spiral-tree-guards-36-pack-of-5.html)
Spiral Tree Guards - 36" (Pack of 5)
As low as: $5.59
$6.99
1 Add to Cart
Add to Wishlist
(1)



(http://www.groworganic.com/flex-strap-tree-ties-50-ft-coil.html)
Flex Strap Tree Ties (50 ft Coil)
$19.99
1 Add to Cart
Add to Wishlist



(http://www.groworganic.com/peaceful-valley-bareroot-booster-blend.html)
PrimeStart Booster Blend (3 Lb Bag)
As low as: $1.99
$3.99
1 Add to Cart
★★★★★(6)
Add to Wishlist
(https://www.groworganic.com/wishlist/index/add/product/2309/)

Store (http://www.groworganic.com/)

Blog (http://www.groworganic.com/organic-gardening/)

Videos (http://www.groworganic.com/organic-gardening/videos)

Newsletter (http://www.groworganic.com/subscribe)

Catalog (http://www.groworganic.com/garden-catalog.html)

Quick Order (http://www.groworganic.com/quick-order)

Report Bugs (http://www.groworganic.com/bugs)

Account (https://www.groworganic.com/customer/account/)

Wishlist (https://www.groworganic.com/wishlist/)

Log In (https://www.groworganic.com/customer/account/login/)

Cart (0) (http://www.groworganic.com/checkout/cart/)

Subscribe (http://www.groworganic.com/subscribe)

catalog.html)

(http://www.youtube.com/groworganic)

Over 2½ Million Views!

(http://www.groworganic.com/garden-catalog.html)

Exhibit L

to JFI's Notice of Reliance

Find your Growing Zone
Zip Code GO

50% Off All Trees, Bushes, Fruit Bearing & Perennials
PLUS
FREE FedEx Shipping on Orders Over $149!*
* Free shipping excludes grass plugs, seeds & hard goods.

Sale Ends Thursday

Nature Hills Nursery
1 YEAR Guarantee

#3

Item # 4954-1002733
Cannot Ship To: AK, HI

Size: 3 – 4 Feet
In Stock

~~**$139.90**~~
50% off! Now $69.95

Quantity: 1
Add To Cart

Reviews (1) **Shipping Fees** **Plant Types & Container Sizes**

Pomegranate - Wonderful

Hardy Ornamental with Outstanding Fruit

The Wonderful Pomegranate is a hardy ornamental with a fabulous fall harvest. One would look lovely in your landscape bed, or plant several as a shrub boarder along the house.

Pomegranates grow 8-10 feet tall with an equal spread. They are most often grown as a shrub, but if you prefer a tree they're simple enough to prune into a desired shape.

Many people grow the Pomegranate not for the fruit, but simply for its ornamental appeal. You'll love how the glossy dark green color of the oval leaves catch the midday sun. The leaves fill out the Pomegranate's dense rounded shape, lending it an appealing silhouette that would enhance almost any location in your yard.

Spring and fall are special times for your Pomegranate. In the spring the leaves emerge with an uncommon splash of bronze. An abundance of dainty flowers follow, their rare blending of oranges and reds reminiscent of a summer sunset.

You'll be pleased to find that the flowers are hardier than many spring blooms, prolonging your enjoyment into the summer months and encouraging the hummingbirds who love them. Fall brings even more appeal, as yellow leaves and a harvest of the 4-inch, round red fruit proclaim a successful conclusion to the season.

Pomegranates have been cultivated since ancient times, and the fruit is increasingly popular for its health benefits. The juice is chocked full of vitamins, antioxidants and other health advantages. The crimson fruit around each seed has a unique tart-sweet flavor and is popular eaten whole or used as a juice or syrup.

Once you've tasted a Pomegranate from your very own tree, you'll never want to be without one again.

* Ornamental
* Outstanding fruit
* Hardy

Enter Zip Code for estimated delivery:
GO

Plant Facts

Family	Punica granatum
Mature Height	10 - 12 feet
Soil	Widely Adaptable
Zones	7-10
Sun Exposure	Full Sun
Characteristics	Sweet
Bloom Period	Varies
Pollinator Required	None Required
Harvest Period	Mid September

11/12/2013 11:48:42 -10.0.33.13-Web3

Exhibit M

to JFI's Notice of Reliance

sfgate.com Web Search by YAHOO! Businesses

Home News Sports Business Entertainment Food Living Travel Columns Shopping Cars Jobs Real Estate Index ▼

How to Grow a Wonderful Pomegranate Tree

by Joshua Duvauchelle, Demand Media

Grow your own fresh pomegranates at home.

If you're looking to create an edible landscape that's as pleasing to your eyes as it is to your taste buds, try the pomegranate tree. Its height of 6 to 12 feet makes it perfect for any backyard, and its juicy, red fruit — set against dark green, glossy foliage — adds color and texture to your landscape while also tasting great. While pomegranates grow well anywhere in U.S. Department of Agriculture plant hardiness zones 7 through 10, the state of California ranks as the best place to grow the highest-quality pomegranates. The "Wonderful" variety of pomegranates is most popular there, and it's widely available in most garden stores as potted transplants ready to plant right out of their 5-gallon pots.

Sponsored Link

Pomegranate Trees $9.95+

White, Red & Sweet Types. US Grown. Top Quality & Fast Home Delivery.

www.WillisOrchards.com

1

Choose a location that gets full sun -- at least six hours of sunshine every day. The area should have a height clearance of approximately 12 feet and be 15 to 18 feet away from other trees, garden structures or your home.

2

Dig a hole with a garden spade that's approximately three times wider and three times deeper than the pot in which the "Wonderful" pomegranate transplant is currently growing.

3

Remove the pomegranate transplant from its pot and rinse the root ball with a garden hose to remove an inch or two of potting soil from around the root ball. This helps expose and loosen the roots in the root ball, which in turn helps the plant get established faster.

4

Place the pomegranate transplant in the hole, situating it so that its root ball is level or just slightly higher than the surrounding soil, then fill the hole in with the soil that you removed.

5

Water the pomegranate tree immediately, using enough water to moisten the dirt to a depth of 2 to 3 feet. This helps eliminate any air pockets that were created during the digging and transplanting.

6

Add 3 to 4 inches of organic mulch around the pomegranate tree, such as bark chips or shredded leaves. This helps keep the soil moist and blocks weed growth while also shielding the pomegranate tree from fluctuating day and night temperatures.

7

Continue watering the pomegranate tree every other day for the first two weeks after planting, then reduce watering to just once per week. Always apply water at the pomegranate plant's base rather than getting its foliage wet; this helps reduce the risk of fungus diseases.

8

Fertilize the "Wonderful" pomegranate tree, once in the fall after planting and again the following spring. Use 2 pounds of 8-8-8 garden fertilizer, split evenly between the two fertilizing applications. Double the fertilizer amount in the tree's second year, then triple the fertilizer amount in its third year, after which the fertilizing applications hold steady.

9

Watch for insect pests. While pomegranates are relatively pest-free, rare cases of aphids, mites and other bugs may occur starting in the spring. In such cases, spraying with insecticidal soap or botanical oils — applied according to the manufacturer's labeled guidelines, as potency varies widely by product — can correct the problem naturally.

Sponsored Links

1 Tip for a Tiny Belly:

Cut pounds of stomach fat every week by using this 1 weird old tip. promo.puregce.com

2013 Best Skin Tighteners

An Unbiased Review List of The Top Performing Skin Tighteners In 2013 www.SkinCareSearch.com/FaceLifting

1 Tip To Lose Belly Fat

Cut pounds of stomach fat every week by using this 1 weird old tip. MiracleGarciniaCambogia.com

Bad Food for Diabetes

Foods to eat & avoid to control blood sugar. From Today Show expert www.JoyBauer.com

Things You Will Need

"Wonderful" pomegranate transplant in 5-gallon pot
Garden spade
Organic mulch
8-8-8 garden fertilizer
Botanical oil spray or insecticidal soap

Tip

When harvesting the fruit from your pomegranate tree, don't simply pull the fruit off the tree. This can injure the fruit and cause cracking. Instead, use gardening shears to snip the stem that connects the fruit to the tree.

References

University of Florida Extension: The Pomegranate (http://edis.ifas.ufl.edu/mg056)
Global Healing Center: Tips for Growing a Pomegranate Tree (http://www.globalhealingcenter.com/organic-herbs/growing-a-pomegranate-tree)
University of California Extension: Growing Pomegranates in California (http://ucce.ucdavis.edu/rics/fnric2/crops/pomegranate_factsheet.shtml)
Texas A&M University Extension: Home Fruit Prodution - Pomegranate (http://aggie-horticulture.tamu.edu/citrus/pomegranate.htm)
Arizona Cooperative Extension: Growing Pomegranates (http://ag.arizona.edu/yavapai/anr/hort/byg/archive/pomegranates.html)
Clemson Cooperative Extension: Pomegranate (http://www.clemson.edu/extension/hgic/plants/vegetables/tree_fruits_nuts/hgic1359.html)
Purdue University Extension: Pomegranate (http://www.hort.purdue.edu/newcrop/morton/pomegranate.html)

About the Author

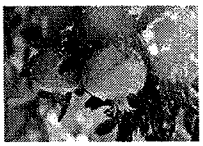
Joshua Duvauchelle is an editor and journalist. His work has appeared in various national and international magazines, including "Alive," Canada's largest health magazine, and "Honolulu," the largest lifestyle magazine in Hawaii. When he's not writing or blogging, Duvauchelle enjoys yoga, running and exploring his local restaurant scene.

Photo Credits

Zedcor Wholly Owned/PhotoObjects.net/Getty Images

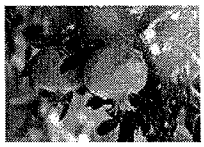
Suggest a Correction

More Like This:



How Long Does It Take for a Pomegranate Tree to Grow?

Everything to Know About Pomegranate Trees



The Best Varieties of Pomegranate Trees

Pomegranate Tree Facts

Do Pomegranate Plants Need Another Pollinator?

Sponsored Links

LendingTree®Official Site

Mtg Rates as low as 2.86% APR ARM. Free Quotes - Up to 5 Offers Today

www.lendingtree.com

VA Home Loans - $0 Down

See If You Qualify For A VA Loan. Up to $417K with $0 down.

www.VeteransUnited.com

Obama Loan Forgiveness

Get Rid Of Your Annoying Student Loan! See How You Can Qualify Now.

SmarterSchooling.com/ForgiveDebt

Room Addition Estimates

See Room Addition Comparisons. Ballpark Home Remodeling Costs.

RoomAdditions.RealtyNow.c

Student Loan Forgiveness

Restore Your Financial Credibility. No Games. Just Results. BBB A Rated

studentconsolidationservices

Related Articles

Pomegranate Tree Size
Pomegranate Tree Stages
Pomegranate Tree Cultivation
How to Grow Pomegranate Trees in Containers
Care & Feeding of a Pomegranate Tree
Pomegranate Tree Problems

DISCOVER HOME LOANS Discover - Home Loans
www.discover.com

15 Yr. Fixed at 3.250%	**3.614% APR**	$1,801/mo
30 Yr. Fixed at 4.250%	**4.517% APR**	$1,269/mo

EverBank
www.everbank.com

15 Yr. Fixed at 3.250%	**3.308% APR**	$1,764/mo
30 Yr. Fixed at 4.250%	**4.284% APR**	$1,235/mo

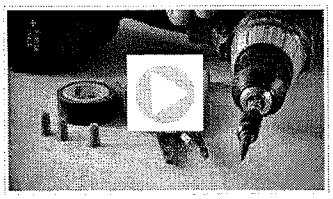
Capital One
www.capitalone360.com

15 Yr. Fixed at 3.125%	**3.464% APR**	$1,783/mo
30 Yr. Fixed at 4.125%	**4.322% APR**	$1,240/mo

disclaimer

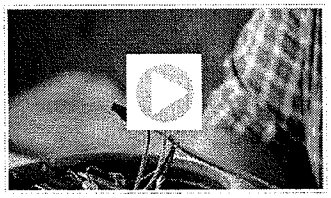
More Articles

Everything to Know About Pomegranate Trees
How to Get a Pomegranate Tree to Hold Fruit
How to Start Cuttings from a Pomegranate Tree
What Kind of Dormant Spray Can You Spray on Pomegranate Trees?
Natural Insect Sprays for Pomegranate Trees
What to Use to Get Rid of Aphids on a Pomegranate Tree



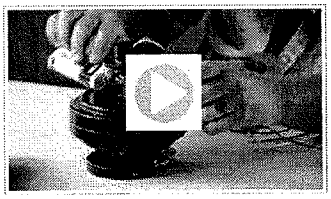
Tips & Tricks for Installing Ceiling Fans

Installing ceiling fans requires you to have a few basic ...



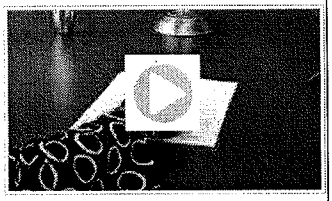
How to Make Electrical Connections for a ...

Making electrical connections for a ceiling fan requires ...



How to Stop a Buzzing Ceiling Fan

You can stop a buzzing ceiling fan by making sure that the ...



Resolving Tenant Complaints

resolving tenant complaints is one of the key ...

© 2013 Hearst Communications Inc.

Exhibit N

to JFI's Notice of Reliance

FREE SHIP TO STORE† OR HOME*. NOW AVAILABLE ON OVER 400,000 ITEMS.

PRO Site | Tool & Truck Rental | Installation Services and Repair | Gift Cards | Help

More saving. More doing.

Your Store: Beavercreek #3855 (Change)

Wonderful Pomegranate

Model # PUNGR00BR0024FT Internet # 202038904

$27.99 / each

This item cannot be shipped to the following state(s): AZ,CA,GU,HI,PR,VI

Ships FREE with $45.00 Order

Online Only

PRODUCT OVERVIEW

This beautiful deciduous, fruit-bearing tree ripens in late August. This self-fertile plant, fruits best with rich, moist soil in full sun, but will tolerate less hospitable conditions as well. Showy orange and red flowers make any landscape more attractive in the Spring. Produces large purple-red tangy and flavorful tasting fruit, perfect for eating fresh off the branch or to be used in cooking. Specimens grow up to 15 ft. in height with a 10 ft. spread. This ships bare-root which means it is dormant with no leaves, no soil, and the roots are exposed.

- Botanical Name : Punica granatum 'Wonderful'
- Arching fountain-shaped form
- Self-fruitful
- Hardy to -5°F
- Fruit Color: purple red
- Chill Hours : 150
- Hardiness Zones: 6-9
- Seasonal - November through February
- MFG Model # : PUNGR00BR0024FT
- MFG Part # : PUNGR00BR0024FT

SPECIFICATIONS

Assembled Depth (in.)	.25 in	Assembled Height (in.)	60 in
Assembled Width (in.)	.25 in	Drought Tolerant	No
Evergreen or Deciduous	Deciduous	Mature Height (in.)	180 in
Mature Width (in.)	120 in	Optimal Soil Condition	Neutral
Returnable	Non-Returnable	Salt Tolerant	No
Shipped As	Bare Root	Sun Tolerance	Full Sun
Windbreak	No		

SHIPPING OPTIONS

Most orders process within 5 business days.

Please allow 3 to 5 business days for **Standard Shipping** in addition to order processing time, which varies by product. Items deliver by small parcel service.
Orders for this item may be expedited for an additional fee.

Other Delivery Options:

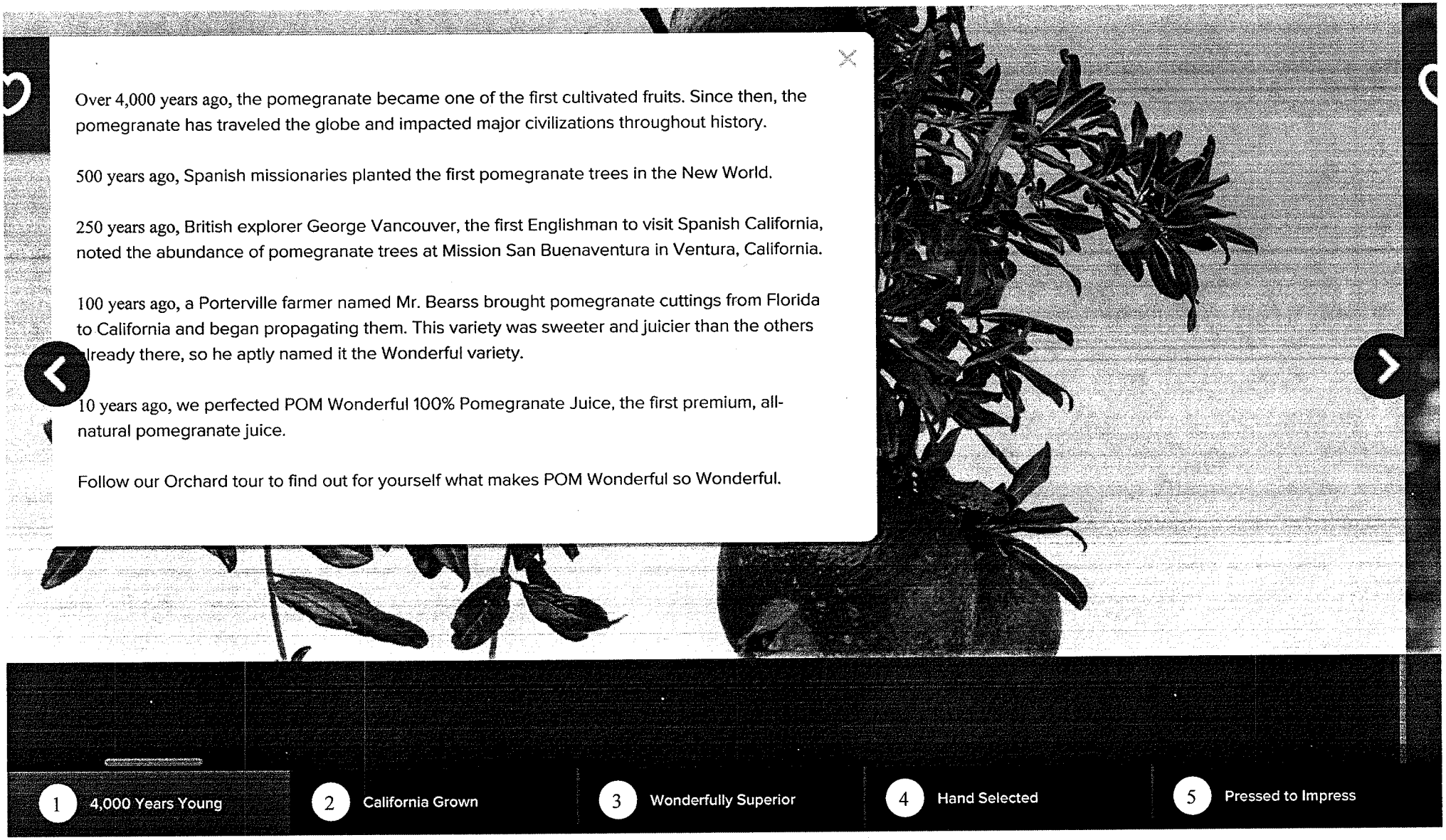
Expedited Shipping: Delivery the second business day in addition to order processing time, which varies by product. Items deliver by small parcel service.

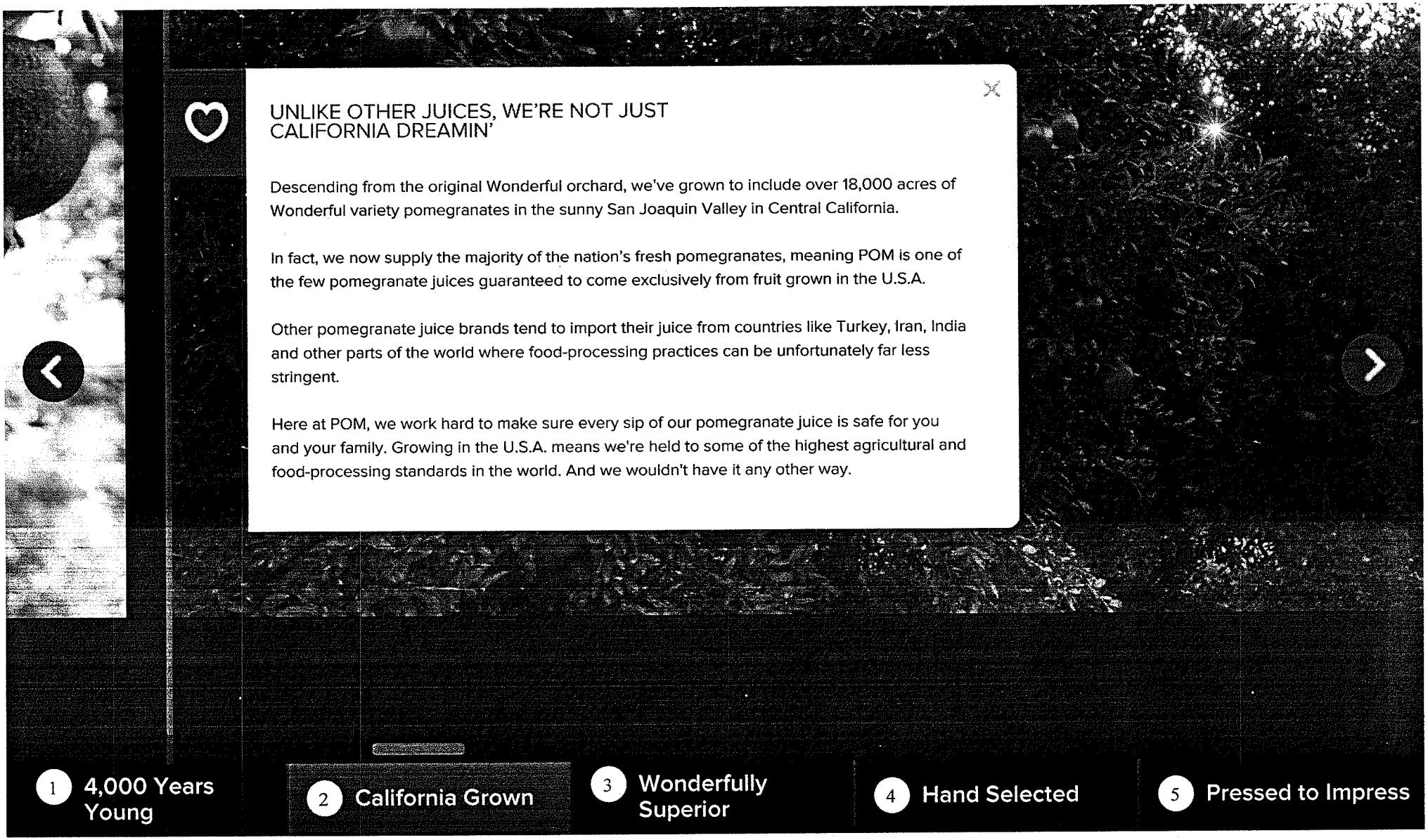
Express Shipping: Delivery the next business day in addition to order processing time, which varies by product. Items deliver by small parcel service.

If product is eligible for shipping to AK, HI and US Territories additional transit time and remote surcharges may apply.

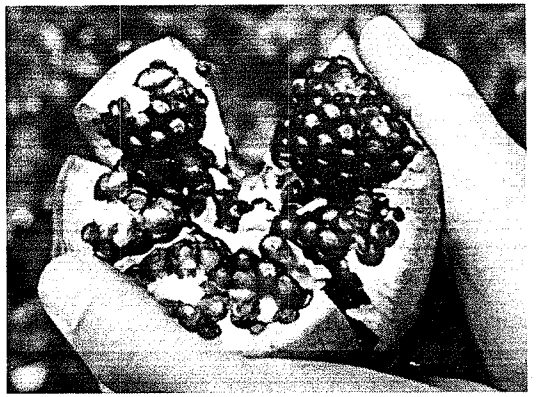
Exhibit N-1

to JFI's Notice of Reliance


Over 4,000 years ago, the pomegranate became one of the first cultivated fruits. Since then, the pomegranate has traveled the globe and impacted major civilizations throughout history.
500 years ago, Spanish missionaries planted the first pomegranate trees in the New World.
250 years ago, British explorer George Vancouver, the first Englishman to visit Spanish California, noted the abundance of pomegranate trees at Mission San Buenaventura in Ventura, California.
100 years ago, a Porterville farmer named Mr. Bearss brought pomegranate cuttings from Florida to California and began propagating them. This variety was sweeter and juicier than the others already there, so he aptly named it the Wonderful variety.
10 years ago, we perfected POM Wonderful 100% Pomegranate Juice, the first premium, all-natural pomegranate juice.
Follow our Orchard tour to find out for yourself what makes POM Wonderful so Wonderful.
1 4,000 Years Young
2 California Grown
3 Wonderfully Superior
4 Hand Selected
5 Pressed to Impress


UNLIKE OTHER JUICES, WE'RE NOT JUST CALIFORNIA DREAMIN'
Descending from the original Wonderful orchard, we've grown to include over 18,000 acres of Wonderful variety pomegranates in the sunny San Joaquin Valley in Central California.
In fact, we now supply the majority of the nation's fresh pomegranates, meaning POM is one of the few pomegranate juices guaranteed to come exclusively from fruit grown in the U.S.A.
Other pomegranate juice brands tend to import their juice from countries like Turkey, Iran, India and other parts of the world where food-processing practices can be unfortunately far less stringent.
Here at POM, we work hard to make sure every sip of our pomegranate juice is safe for you and your family. Growing in the U.S.A. means we're held to some of the highest agricultural and food-processing standards in the world. And we wouldn't have it any other way.
1 4,000 Years Young
2 California Grown
3 Wonderfully Superior
4 Hand Selected
5 Pressed to Impress

PROUDLY GROWN IN A GOLDEN STATE



LIFE CYCLE

Every spring in POM Wonderful's orchards, the Wonderful pomegranate transforms from a fragrant blossom into a protective fruit containing a treasure of ruby-like arils inside.

BLOSSOM

In May, the red petals of the pomegranate tree release a delicate fragrance that attracts bees to pollinate the flowers, beginning the remarkable change from flower to fruit.

MATURATION

At summer's end, the petals fall away to reveal the iconic crown. Hot, sunny days ripen the inside of the fruit, while cool nights cause the rind to deepen from green to red.

1 4,000 Years Young | 2 California Grown | 3 Wonderfully Superior | 4 Hand Selected | 5 Pressed to Impress

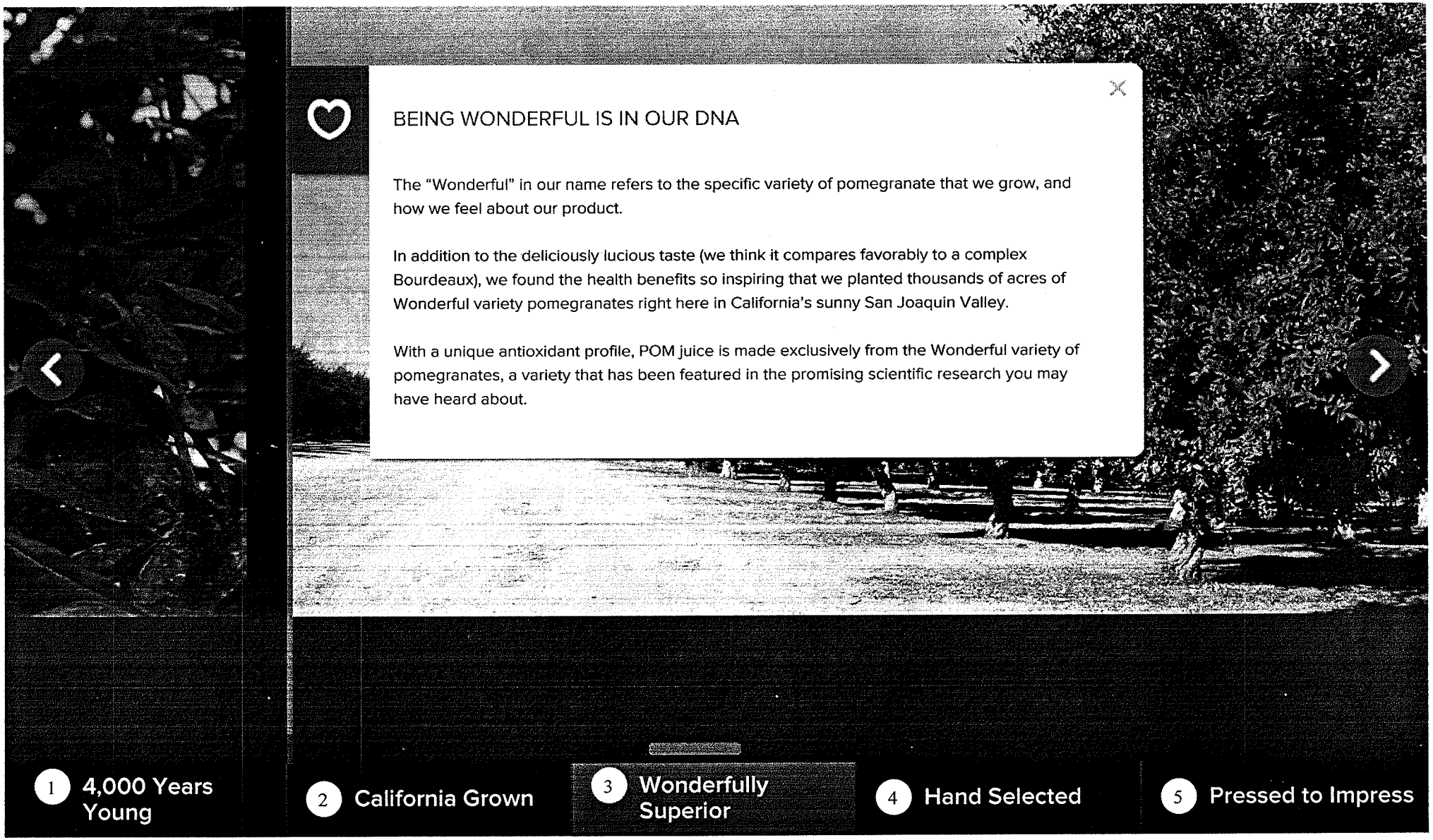

BEING WONDERFUL IS IN OUR DNA
The "Wonderful" in our name refers to the specific variety of pomegranate that we grow, and how we feel about our product.
In addition to the deliciously lucious taste (we think it compares favorably to a complex Bourdeaux), we found the health benefits so inspiring that we planted thousands of acres of Wonderful variety pomegranates right here in California's sunny San Joaquin Valley.
With a unique antioxidant profile, POM juice is made exclusively from the Wonderful variety of pomegranates, a variety that has been featured in the promising scientific research you may have heard about.
1 4,000 Years Young
2 California Grown
3 Wonderfully Superior
4 Hand Selected
5 Pressed to Impress

Exhibit O

to JFI's Notice of Reliance

Subscribe to National Geographic Magazine $15

Shop Our Store
- Books & Atlases
- Clothing & Accessories
- DVDs
- Maps
- Catalog Quick Shop

Sign up for free Newsletters
Once a month get new photos and expert tips.
Sign up

Pomegranate Juice Fights Heart Disease, Study Says

Stefan Lovgren
for National Geographic News
March 22, 2005

In the mythology of ancient Babylonia, pomegranate was considered an agent of resurrection. Now there is scientific evidence for the fruit's restorative powers.

According to a new study, antioxidants contained in pomegranate juice may help reduce the formation of fatty deposits on artery walls. Antioxidants are compounds that limit cell damage.

Printer Friendly
Email to a Friend

SHARE What's This?
Digg
StumbleUpon
Reddit

RELATED
Some Couch Potatoes Born That Way, Fat Study Says
Caffeine Addiction Is a Mental Disorder, Doctors Say
U.S. Racking Up Huge "Sleep Debt"
Tea Boosts Immunity and Helps Skin, Study Finds
Low-Fat, High-Protein Cicadas: New Health Snack?
Olive Oil Fights Heart Disease, Breast Cancer, Studies Say

Scientists have tested the juice in mice and found that it combats hardening of the arteries (atherogenesis) and related diseases, such as heart attacks and strokes.

"In this experimental study, we have established that polyphenols [antioxidant chemicals] and other natural compounds contained in the pomegranate juice may retard atherogenesis," said Claudio Napoli, a professor of medicine and clinical pathology at the University of Naples, Italy.

The research is published this week in the *Proceedings of the National Academy of Sciences.*

Legendary Powers

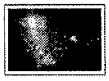
Pomegranate *(Punica granatum)* is native to a region ranging from Iran to the Himalaya. It later spread to the Mediterranean area and now grows in most of the United States.

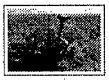
The apple-size fruit, which grows on rounded plants 15 to 20 feet (4.6 to 6 meters) tall, contains a sack of seeds and a juicy pulp.

In ancient Greece pomegranate was known as the fruit of the dead. In Hebrew tradition pomegranates adorned the vestments of the high priest. Ancient Persians believed that pomegranate seeds made their warriors invincible. In China the fruit symbolized longevity.

Scientists have long known about health benefits of pomegranates. The latest study, in particular, shows that the juice limits the genetic tendency toward hardening of the arteries.

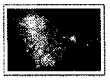
"The protective effects of pomegranate juice were higher than previously assumed," Napoli said.


LATEST PHOTO NEWS
SPACE PHOTOS THIS WEEK: Tiny Galaxy, Sun's Iron, More

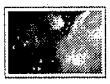

LATEST VIDEO NEWS
Stuck Mars Rover About to Die?

Most Viewed News

ADVERTISEMENT

LATEST PHOTOS IN THE NEWS

SPACE PHOTOS THIS WEEK: Tiny Galaxy, Sun's Iron, More

SPACE PHOTOS THIS WEEK: Tiny Galaxy, Sun's Iron, More


SPACE PHOTOS THIS WEEK: Star Birth, Active Sun, More

More Photos in the News

NATIONAL GEOGRAPHIC'S PHOTO OF THE DAY
Toda Natio
- Today's Photo
- Download as Wallpaper

NEWS FEEDS XML RSS

ADVERTISEMENT

The study was done at the University of Naples, Italy, and the University of California, Los Angeles.

Continued on Next Page >>

Get our news delivered directly to your desktop—free.
How to Use XML or RSS

NATIONAL GEOGRAPHIC DAILY NEWS TO-GO

Listen to your favorite National Geographic news daily, anytime, anywhere from your mobile phone. No wires or syncing. Download Stitcher free today.

LATEST NEWS VIDEOS

Stuck Mars Rover About to Die?

Giant Salamanders Helped to Spawn

Rare Gorillas Spied Feasting on Figs

More Videos in the News

SOURCES AND RELATED WEB SITES

Proceedings of the National Academy of Sciences

Sponsored Links

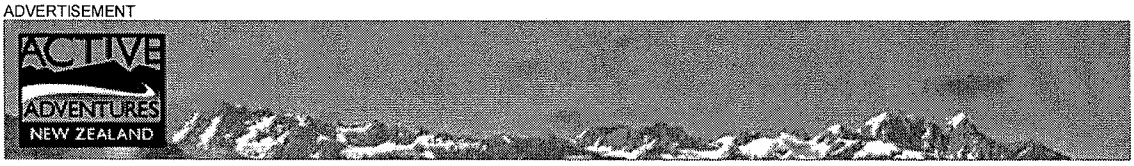
Pine Barrens Tree Service
www.pinebarrenstree.com
Tree Pruning and Tree Removal ISA Certified Arborist Tree Climber

Are You Writing a Book?
www.iUniverse.com
Get a free guide to professional editing & publishing options.

Dementia Nursing Homes
AlzheimersLocator.com/Dementia_Care
Quality Memory Care in Your Area. Call Today for Free Referrals.

Email the News Staff Contact Other Staff

ADVERTISEMENT



© 1996- National Geographic Society. All rights reserved.

Exhibit P

to JFI's Notice of Reliance

Dr. Fuhrman™
How to live, for life

Shopping Cart | Contact | Help Log In

1-800-474-WELL (9355)
1-908-237-2195

Home About Lose Weight Reverse Disease Success Stories Events FAQ Library Shop Member Center Children Vitamin Advisor Blog

Search

Secrets Revealed: The Powerful Health Benefits of the Pomegranate

One of the oldest known fruits, found in writings and artifacts of many cultures and religions, the pomegranate (punica granatum) is an original native of Persia. This nutrient dense, antioxidant rich fruit has been revered as a symbol of health, fertility and eternal life.

If you're not familiar with the pomegranate, it is a red fruit with a tough outer layer; only the juice and the seeds inside are edible. Pomegranate juice is available year round, but you can purchase fresh pomegranates in most grocery stores from September through January. When refrigerated in a plastic bag, pomegranates keep for up to 2 months. Try tossing the seeds on a salad for a brilliantly colorful, crunchy, and nutritious addition.

Seeding a pomegranate may seem like a lot of work for just a piece of fruit but think again. getting at those seeds may be well worth it. The pomegranate is a nutrient dense food source rich in phytochemical compounds. Pomegranates contain high levels of flavonoids and polyphenols, potent antioxidants offering protection against heart disease and cancer. A glass of pomegranate juice has more antioxidants than red wine, green tea, blueberries, and cranberries.

Amazing Clinical Results
This fantastic little fruit recently made its way back into the news after some spectacular clinical results. Here's what you need to know:

Compounds found only in pomegranates called punicalagins are shown to benefit the heart and blood vessels. Punicalagins are the major component responsible for pomegranate's antioxidant and health benefits. They not only lower cholesterol, but also lower blood pressure and increase the speed at which heart blockages (atherosclerosis) melt away.

Recent medical research studied heart patients with severe carotid artery blockages. They were given an ounce of pomegranate juice each day for a year. Not only did study participants' blood pressure lower by over 12 percent, but there was a 30 percent reduction in atherosclerotic plaque. Just as astounding, participants who did not take the pomegranate juice saw their atherosclerotic plaque increase by 9 percent.[1]

In other studies, potent antioxidant compounds found in pomegranates have shown to reduce platelet aggregation and naturally lower blood pressure, factors that prevent both heart attacks and strokes.[2]

Not only are pomegranates good for your heart and blood vessels but they have been shown to inhibit breast cancer, prostate cancer, colon cancer, leukemia and to prevent vascular changes that promote tumor growth in lab animals.[3] Several in vitro studies have shown this remarkable anti-cancer effect. Additional studies and clinical trials currently taking place are hopeful to reveal this fascinating effect on humans.

Also of note, pomegranate juice contains phytochemical compounds that stimulate serotonin and estrogen receptors, improving symptoms of depression and increasing bone mass in lab animals. [4]

Many studies show that the pomegranate is one of the most powerful, nutrient dense foods for overall good health. These clinical findings clearly show a correlation between pomegranate compounds and their positive effect on both human and animal cardiovascular, nervous, and skeletal health. This is one fruit that you can't afford to exclude from your diet!

A Proven Supplement
Dr. Fuhrman recommends that all patients who have heart disease, high cholesterol, or high blood pressure as well as those who are looking to

Seeding a Pomegranate

1. Cut the crown (protruding blossom end) off the pomegranate, removing with it some of the pale-yellow pith. Take care not to pierce the seeds within.
2. Lightly score the skin in quarters from stem to crown end.
3. Immerse the scored fruit in a large bowl of cool water and soak for 5 minutes. Holding the fruit under water, break sections apart with your fingers, separating the seeds from membrane. The seeds will sink to the bottom of the bowl.
4. Discard skin and membranes. Drain the seeds and dry on paper towels.

Antioxidant Rich Smoothie
Serves: 2 Preparation Time: 5 minutes

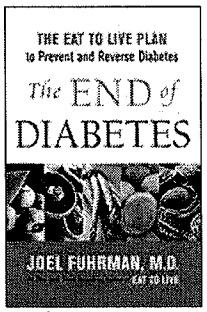
Ingredients:
8 cups organic baby spinach
1 cup pomegranate juice
1 cup blueberries, frozen
1 cup strawberries, frozen
8 dates, cut in half
2 tablespoons flaxseeds, ground
1/2 avocado, optional

Instructions:
Blend all ingredients together. This is delicious & very healthy!

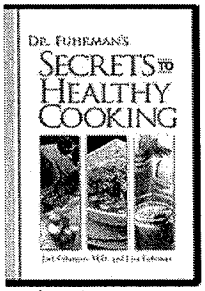
Features of the Pomegranate

- Most powerful anti-oxidant of all fruits
- Potent anti-cancer and immune supporting effects
- Inhibits abnormal platelet aggregation that could cause heart attacks, strokes and embolic disease
- Lowers cholesterol and other cardiac risk factors
- Lowers blood pressure

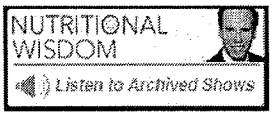
Library
Articles
Recipes
Healthy Times Newsletters and Position Papers
What's Cooking Bulletin
Q&A Library
Twitter Chats



Learn how to prevent and reverse diabetes



Learn how to prepare great tasting, high nutrient recipes



prevent these ailments incorporate the powerful components of pomegranates into their diet. He developed a unique supplement, LDL Protect to do just that.

- Shown to promote reversal of atherosclerotic plaque in human studies
- May have benefits to relieve or protect against depression and osteoporosis

All pomegranate extracts are not equal. Dr. Fuhrman's LDL Protect uses the highest grade and potency of pomegranate extract available. Some less costly grades are not certified to contain high levels of active polyphenols. The pomegranate extract used in LDL Protect contains the full array of polyphenols present in the fruit's seeds, husk and juice and is particularly rich in punicalagins. LDL Protect delivers the potent synergistic effects that have been observed in natural spectrum extracts of pomegranate. [5]

For those who still have LDL cholesterol above 100 mg/dl after dietary intervention, Dr. Fuhrman designed this mixture of high quality, cholesterol-lowering and cardiac protective compounds - plant sterols and pomegranate. No other product on the market offers this combination of ingredients. LDL Protect is an all natural, high quality formula that is both effective and safe.

References:

1. Aviram M, Rosenblat M, Gaitini D, et al. Pomegranate juice consumption for 3 years by patients with carotid artery stenosis reduces common carotid intima-media thickness, blood pressure and LDL oxidation. Clin Nutr 2004;23(3):423-33.

2. Aviram M, Dornfeld L, Rosenblat M, et al. Pomegranate juice consumption reduces oxidative stress, atherogenic modifications to LDL, and platelet aggregation:studies in humans and in atherosclerotic apolipoprotein E-deficient mice. Am J Clin Nutr 2000;71(5):1062-76. Aviram M, Dornfeld L. Pomeganate juice consumption inhibits serum angiotensin coverting enzyme activity and reduces systolic blood pressure. Atherosclerosis 2001;158(1):195-8.

3. Kim ND, Mehta R, Yu W, et al. Chemopreventive and adjuvant therapeutic potential of pomegranate (Punica granatum) for human breast cancer. Breast Cancer Res Treat 2002;71(3):203-17. Kohno H, Suzuki R, Yasui Y, et al. Pomegranate seed oil rich in conjugated linolenic acid suppresses chemically induced colon carcinogenesis in rats.Cancer Sci 2004;95(6):481-6.

Toi M, Bando H, Ramachandran C, et al. Preliminary studies on the anti-angiogenic potential of pomegranate fractions in vitro and in vivo. Angiogenesis 2003;6(2):121-8.

Kawaii S, Lansky EP. Differentiation-promoting activity of pomegranate (Punica granatum) fruit extracts in HL-60 human promyelocytic leukemia cells. J Med Food 2004;7(1):13-8.

4. Mori-Okamoto J, Otawara-Hamamoto Y, Yamato H, Yoshimura H. Pomegranate extract improves a depressive state and bone properties in menopausal syndrome model ovariectomized mice. J Ethnopharmacol 2004;92(1):93-101.

5. Seeram et al, J Nutr Biochemistry 2005: (16) 360-367.

Copyright © 2004—2013 DrFuhrman.com, Inc. All rights reserved. All material provided on the DrFuhrman.com website is provided for informational or educational purposes only. Consult a physician regarding the applicability of any opinions or recommendations with respect to your symptoms or medical condition.

Exhibit Q

to JFI's Notice of Reliance

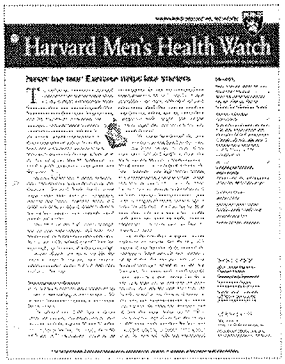
Harvard Health Publications
HARVARD MEDICAL SCHOOL
Trusted advice for a healthier life

MY ACCOUNT | MY LIBRARY | DICTIONARY | HELP
Customer Sign In
Shopping Cart (0 items for $0.00)
Enter a Keyword to Search

Home Health Newsletters Special Health Reports Health Books Browse By Topic Blog Text size: A A A

[CHECK OUT THESE NEWLY RELEASED SPECIAL HEALTH REPORTS FROM HARVARD MEDICAL SCHOOL Learn How

You may also find this of interest:



Harvard Men's Health Watch

Harvard Men's Health Watch is written specifically for men, to help them lead healthier, longer lives. With...

Read more »

Health benefit of pomegranate juice on prostate cancer and the heart

APRIL 2007

BOSTON — Few American men have heard of the pomegranate, and fewer still have eaten this curious-looking fruit loaded with red seeds. But new scientific findings suggest that pomegranates may one day find a place in healthful diets, reports the April 2007 issue of ***Harvard Men's Health Watch***.

Two recent studies suggest that pomegranate juice may help fight prostate cancer. In one study, scientists grew cells from highly aggressive cases of human prostate cancer in tissue cultures. Pomegranate fruit extracts slowed the growth of the cultured cancer cells and promoted cell death. The researchers then implanted the cancer cells in mice. A group of mice that received water laced with pomegranate juice developed significantly smaller tumors than the untreated animals. In a preliminary study of men with prostate cancer, pomegranate juice lengthened patients' PSA doubling time (the longer the doubling time, the slower the tumor is growing) from 15 months before treatment to 54 months on the juice.

Preliminary results in test tubes, animals, and humans suggest that pomegranates may also have beneficial effects on cardiovascular disease. Studies show that pomegranate juice can protect LDL (bad) cholesterol from oxidative damage. The juice has also been shown to slow the progression of plaques in mice with atherosclerosis. Results from two small clinical studies are even more intriguing, showing that carotid artery thickness decreased and cardiac blood flow improved in pomegranate juice drinkers. However, preliminary research also suggests that pomegranate juice may interact with certain medications, much like grapefruit juice does.

The bottom line: Early studies raise hopes that pomegranates may have potential benefits for prostate cancer and heart disease, but more research is needed to determine whether these hopes are justified.

Recommend 114 people recommend this. Sign Up to see what your friends recommend.

Tweet 16 3 Share / Save Print

Also in this issue of the *Harvard Men's Health Watch*

- DHEA and health: More questions than answers
- Pomegranates for the prostate and the heart: Seeds of hope
- Medical memo: High-dose radiotherapy for prostate cancer
- On call: Second testicular cancers
- On call: Goals for cholesterol

More Harvard Health News »

News from Harvard Health

Watchful waiting can do the job of BPH medications for some men

Avoiding addiction when powerful opioid painkillers are needed

Some imaging tests not worth the costs and risks

Not taking necessary medications can sabotage health

The top 5 tests you probably don't need

Better food choices for better heart health: simple substitutions improve the diet

To avoid the agony of kidney stones, start with a glass of water

Tracking blood pressure at home can help protect the heart

Taking over the counter pain relievers safely

Having "the talk" when heart disease runs in the family

More Health News »

HEALTHbeat
Harvard's FREE E-Newsletter

Get health information and advice from the experts at Harvard Medical School. Sign up today and get **25% off your first purchase**.

Enter E-mail Address

Enter First Name (Optional)

About Harvard Health Publications
Harvard Health Publications publishes four monthly newsletters--**Harvard Health Letter**, **Harvard Women's Health Watch**, **Harvard Men's Health Watch**, and **Harvard Heart Letter**--as well as more than 50 special health reports and books drawing on the expertise of the 8,000 faculty physicians at Harvard Medical School and its world-famous affiliated hospitals.

Harvard Health Publications

About Us
Our Blog
Privacy Policy
Shipping Policy

Follow us on:

Contact Us

Customer Service
Change address
Pay bill
Renew subscription
Check expiration date
Order a gift subscription
Missing Issues
Media Inquiries
Technical Support
Help

E-mail The Editor

Special Health Reports
Harvard Health Letter
Harvard Women's Health Watch
Harvard Men's Health Watch
Harvard Heart Letter

Corporate Sales

Permissions
Licensing
Bulk Sales

© 2000-2013 Harvard University. All rights reserved. Site Map

Exhibit R

to JFI's Notice of Reliance

PubMed

Display Settings: Abstract

Full Text Online WILEY ONLINE LIBRARY

Nutr Rev. 2009 Jan;67(1):49-56. doi: 10.1111/j.1753-4887.2008.00133.x.

Pomegranate juice: a heart-healthy fruit juice.

Basu A, Penugonda K.

Department of Nutritional Sciences, 301 Human Environmental Sciences, Oklahoma State University, Stillwater, Oklahoma 74078-6141, USA. arpita.basu@okstate.edu

Abstract

Pomegranate juice is a polyphenol-rich fruit juice with high antioxidant capacity. In limited studies in human and murine models, pomegranate juice has been shown to exert significant antiatherogenic, antioxidant, antihypertensive, and anti-inflammatory effects. Pomegranate juice significantly reduced atherosclerotic lesion areas in immune-deficient mice and intima media thickness in cardiac patients on medications. It also decreased lipid peroxidation in patients with type 2 diabetes, and systolic blood pressure and serum angiotensin converting enzyme activity in hypertensive patients. Thus, the potential cardioprotective benefits of pomegranate juice deserve further clinical investigation, and evidence to date suggests it may be prudent to include this fruit juice in a heart-healthy diet.

PMID:19146506[PubMed - indexed for MEDLINE]

Publication Types, MeSH Terms, Substances

LinkOut - more resources

Exhibit S

to JFI's Notice of Reliance

Welcome, guest. Please Sign in or Sign up

LifeExtension®
Foundation for Longer Life

Life Extension Magazine

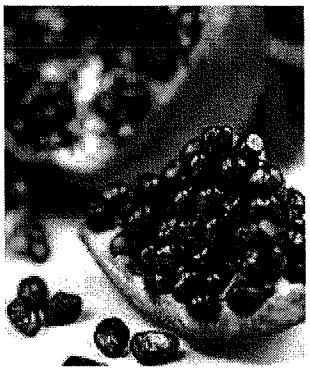
LE Magazine May 2007

REPORT

Pomegranate

Powerful Protection for Aging Arteries—and Much More

By Tiesha D. Johnson, BSN, RN



Every year, more than a million Americans are struck down by a heart attack or stroke. For many, sudden death will be their first—and last—symptom of undetected vascular disease. Those lucky enough to survive often face invasive procedures like angioplasty and coronary bypass surgery, followed by a lifetime of curtailed physical activity and costly heart medications.

If you trust your vascular health to mainstream doctors, you may be gambling with your life. Although cardiovascular disease remains the nation's number-one killer, American medicine prioritizes heart disease treatment rather than prevention. Sadly, it has become far more profitable to treat heart disease than to prevent it.

Fortunately, natural strategies that can help avert life-threatening heart attacks and strokes are readily available today. One of the most promising heart-protective agents to emerge in recent years is pomegranate. Packed with unique antioxidants that guard the body's endothelial cells against free-radical assault, pomegranate has been shown to prevent—and even reverse—cardiovascular disease.

Research also shows that pomegranate can stop the progression of deadly prostate cancer. And scientists are now exploring pomegranate's potential in averting ailments ranging from diabetes to Alzheimer's disease, as well as its role in supporting skin, joint, dental, and liver health.

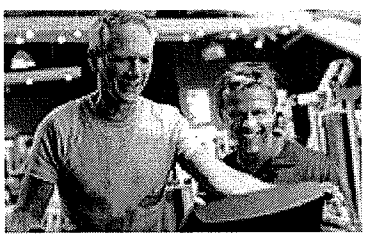
In this article, we examine the growing volume of research that attests to pomegranate's myriad health-promoting properties—particularly its role in safeguarding the delicate endothelial cells that line blood vessels and are so critical to preserving optimal vascular function in aging adults.

Pomegranate: Powerful Support for Cardiovascular Health

Approximately 71 million Americans suffer from cardiovascular diseases such as hypertension (high blood pressure), coronary artery disease, a history of stroke, or peripheral vascular disease (impaired blood flow to the extremities). Atherosclerosis—a disease of the blood vessels, characterized by inflammation, vascular endothelial cell dysfunction, and impaired nitric oxide production—is a major component of cardiovascular disease.

In both laboratory and clinical studies, pomegranate shows great promise in averting the numerous pathological changes associated with cardiovascular disease. Scientists believe pomegranate works through several mechanisms to fight cardiovascular disease by:

- reducing oxidative stress
- supporting the synthesis and activity of nitric oxide
- inhibiting the oxidation of potentially harmful LDL (low-density lipoprotein).



Reducing oxidative stress and inflammatory damage in blood vessels is a well-documented way to lower the risk of cardiovascular disease, both known and undetected.[1] Mounting evidence suggests that compounds in pomegranate known as punicalagins are cardioprotective by virtue of their powerful antioxidant and anti-inflammatory effects.

In one study, for example, pomegranate juice outperformed numerous

Page 1 2 3

All Contents Copyright © 1995–2013 Life Extension® All rights reserved

These statements have not been evaluated by the Food and Drug Administration.
These products are not intended to diagnose, treat, cure, or prevent any disease.

The information provided on this site is for informational purposes only and is not intended as a substitute for advice f or other health care professional or any information contained on or in any product label or packaging. You should no information on this site for diagnosis or treatment of any health problem or for prescription of any medication or othe should consult with a healthcare professional before starting any diet, exercise or supplementation program, before ta medication, or if you have or suspect you might have a health problem. You should not stop taking any medication wi consulting your physician.

Exhibit T

to JFI's Notice of Reliance

Pomegranate

Introduction

According to legend, pomegranates grew in the garden of Eden, and the fruit has been used as a folk medicine for thousands of years. More recently, it has been promoted as a "superfood" that can relieve symptoms of many diseases. In laboratory tests, pomegranate shows antiviral, antibacterial, and antioxidant properties. But there is not yet strong evidence that it works in humans to treat or prevent any condition. In addition, there is some concern that pomegranate juice might interact with medications -- much like grapefruit juice does -- making some less effective.

Pomegranate fruit extract is a rich source of polyphenols, chemicals in plants that provide their flavor and color. Polyphenols are also antioxidants, meaning they help protect cells from damage and may lower inflammation in the body. Pomegranate fruit is also high in vitamin C. One pomegranate provides about 40% of the daily requirement of this vitamin.

Share

The bark, fruit, root, and rind of the pomegranate tree are used as medicine in Asia and the Middle East, but in the West the fruit and its juice are usually the parts being studied. The juice and rind have antioxidant properties, while the juice, rind, and oil from seeds contain isoflavones similar to the ones in soy.

Plant Description

Pomegranate grows as a multistemmed shrub or large tree, as high as 20 or 30 feet, that produces suckers from the base. It is native to Iran and is cultivated in the Mediterranean, Asia, Africa, and Europe. Deciduous leaves are opposite, or in whorls, approximately 3/8 to 4 inches long. Flowers are 1 ¼ inch and have a red tubular calyx. The fruit has a leathery skin, usually deep pink or red. The inside of the fruit has white spongy tissue that creates spaces filled with sacs or tart pulp and seed.

Parts Used

The fruit and seed are used in modern herbal medicine. In some traditional folk remedies, the rind and root or bark may also have been used, but they contain potentially toxic substances and should be avoided.

Medicinal Uses and Indications

Cancer

Because it is high in antioxidants and other nutrients, some people think that drinking pomegranate juice regularly may help prevent cancer. There is no specific evidence of that, however.

In test tubes, pomegranate extracts made from juice, rind, and oil slow down the reproduction of cancer cells and may hasten their death. Some extracts also help reduce blood supply to tumors, starving them and making them smaller. Most studies have focused on breast and prostate cancer cells. In one other study, pomegranate juice extract given to mice slowed down the growth of lung tumors. However, most of these studies have been in test tubes or in animals, not humans.

In one human study, men who had surgery or radiation for prostate cancer lengthened the amount of time it took for their PSA levels to double by drinking 8 oz. of pomegranate juice each day. Men whose PSA levels double in a short period of time are more at risk for death from prostate cancer. Those who drank pomegranate juice increased the time it took for their PSA levels to double from about 15 months to 54 months, a significant increase.

If you are being treated for any cancer, be sure to ask your oncologist before you take pomegranate or any herb or supplement. Some may interact with cancer medications, making the medications less effective.

Heart disease

Pomegranate's high antioxidant content has also made researchers wonder if it could treat heart disease. So far, the scientific studies have been small and mostly done either in test tubes or animals.

Pomegranate juice seems to protect LDL ("bad") cholesterol from damage. Some scientists think that damage to LDL cholesterol causes plaque to build up in arteries, so stopping the damage might help keep arteries clear. One study of mice with atherosclerosis found that pomegranate juice slowed the growth of plaque formation. And a few small studies in people found that pomegranate juice improved blood flow and kept arteries from becoming thick and stiff. However, more and better studies are needed to see exactly what benefit pomegranate juice might offer.

There is some preliminary evidence that drinking pomegranate juice every day may help lower systolic blood pressure (the top number in a blood pressure reading) but not diastolic blood pressure (the bottom number).

Share

Osteoarthritis

Flavonols (a kind of antioxidant) similar to the ones found in pomegranate fruit have been suggested as treatments for osteoarthritis. Osteoarthritis happens when the cartilage in joints wears down and causes pain and stiffness.

Researchers believe flavonols can help block inflammation that contributes to the destruction of cartilage. In test tubes, pomegranate extract blocked the production of an enzyme that destroys cartilage in the body. The results were promising; however, more studies -- and studies that look at the effects in humans -- are needed.

Available Forms

Pomegranate juice is available as a liquid; pomegranate extract is available in pill, capsule, or powder form.

How to Take It

Pediatric

As part of a healthy diet, normal amounts of pomegranate juice (4 - 6 oz.) are considered safe. Do not give pomegranate extract to a child without first talking to your doctor.

Adult

There is no standard recommended dose for pomegranate. Eating the fruit and drinking the juice as part of a healthy diet is considered safe. For other conditions, the following doses have been used:

- Atherosclerosis: 50 ml of juice per day
- High cholesterol: 40 g per day
- Prostate cancer: 8 oz. of juice per day

Precautions

The use of herbs is a time-honored approach to strengthening the body and treating disease. Herbs, however, can trigger side effects and can interact with other herbs, supplements, or medications. For these reasons, you should take herbs only under the supervision of a health care provider.

Drinking 8 - 12 oz. of pomegranate juice per day is considered safe. Look for 100% juice with no added sugar. If you have diabetes, ask your doctor before drinking fruit juices, including pomegranate.

If you have diarrhea, do not drink pomegranate juice or take pomegranate extract.

Pregnant women should not take pomegranate extract because it may contain fruit rind. The juice, however, is considered safe.

Possible Interactions

Although researchers aren't sure, some evidence indicates that pomegranate juice may interact with several medications (much like grapefruit juice does). For that reason, be sure to tell your doctor if you drink pomegranate juice. If you are being treated with any of the following medications, you should not use pomegranate in medicinal forms without first talking to your health care provider.

Share

ACE inhibitors -- These types of drugs are used to control high blood pressure and to treat heart failure and prevent kidney damage in people with diabetes. Pomegranate juice is believed to have some of the same effects as ACE inhibitors and could make the drug too strong. ACE inhibitors include:

- Benazepril (Lotensin)
- Captopril (Capoten)
- Enalapril (Vasotec)
- Fosinopril (Monopril)
- Lisinopril (Zestril)
- Ramipril (Altace)

Blood pressure medication -- Pomegranate juice may lower blood pressure. If you already take medication to lower blood pressure, pomegranate juice or extract could raise the risk of having low blood pressure.

Statin, medications used to lower cholesterols -- There is one case report of a man who developed rhabdomyolysis (a condition where muscle tissue breaks down and leads to kidney damage) after taking rosuvastatin (Crestor) and drinking 200 ml of pomegranate juice weekly. Although scientists aren't sure whether drinking pomegranate juice while taking statins caused the condition, you should check with your doctor before drinking pomegranate juice if you also take a statin. Statins include:

- Atorvastatin (Lipitor)
- Fluvastatin (Lescol)
- Lovastatin (Mevacor)
- Pravastatin (Pravachol)
- Rosuvastatin (Crestor)
- Simvastatin (Zocor)

Warfarin (Coumadin) -- Researchers aren't sure, but it's possible that pomegranate may interact with the blood-thinner warfarin and increase the risk of bleeding.

Supporting Research

Ahmed S, Wang N, Hafeez BB, Cheruvu VK, Haqqi TM. *Punica granatum* L. extract inhibits IL-1beta-induced expression of matrix metalloproteinases by inhibiting the activation of MAP kinases and NF-kappaB in human chondrocytes in vitro. *J Nutr.* 2005 Sep;135(9):2096-102.

Aviram M, Dornfeld L. Pomegranate juice consumption inhibits serum angiotensin converting enzyme activity and reduces systolic blood pressure. *Atherosclerosis.* 2001 Sep;158(1):195-8.

Aviram M, Dornfeld L, Rosenblat M, et al. Pomegranate juice consumption reduces oxidative stress, atherogenic modifications to LDL, and platelet aggregation: studies in humans and in atherosclerotic apolipoprotein E-deficient mice. *Am J Clin Nutr.* 2000;71(5):1062-1076.

Aviram M, Rosenblat M, Gaitini D, et al. Pomegranate juice consumption for 3 years by patients with carotid artery stenosis reduces common carotid intima-media thickness, blood pressure and LDL oxidation. *Clin Nutr.* 2004;23 (3):423-433.

Basu A, Penugonda K. Pomegranate juice: a heart-healthy fruit juice. *Nutr Rev.* 2009 Jan;67(1):49-56. Review.

Bell C, Hawthorne S. Ellagic acid, pomegranate and prostate cancer -- a mini review. *J Pharm Pharmacol.* 2008 Feb;60(2):139-44. Review.

Davidson MH, Maki KC, Dicklin MR, et al. Effects of consumption of pomegranate juice on carotid intima-media thickness in men and women at moderate risk for coronary heart disease. *Am J Cardiol.* 2009 Oct 1;104(7):936-42.
Share
Esmaillzadeh A, Tahbaz F, Gaieni I, et al. Concentratedpomegranate juice improves lipid profiles in diabetic patients withhyperlipidemia. *J Med Food.* 2004;7:305-8.

Gruenwald J, Brendler T, Jaenicke C. Pomegranate. In: *PDR for Herbal Medicines.* 3rd ed. Montvale, NJ: Thomson PDR;2004:650-51.

Hadipour-Jahromy M, Mozaffari-Kermani R. Chondroprotective effects of pomegranate juice on monoiodoacetate-induced osteoarthritis of the knee joint of mice. *Phytother Res.* 2009 Jun 5. [Epub ahead of print]

Jurenka JS. Therapeutic applications of pomegranate *(Punica granatum L.):* a review. *Altern Med Rev.* 2008 Jun;13 (2):128-44. Review.

Kaplan M, Hayek T, Raz A, et al. Pomegranate juice supplementation to atherosclerotic mice reduces macrophage lipid peroxidation, cellular cholesterol accumulation and development of atherosclerosis. *J Nutr.* 2001;131(8):2082-2089.

Khan GN, Gorin MA, Rosenthal D, Pan Q, et al. Pomegranate fruit extract impairs invasion and motility in human breast cancer. *Integr Cancer Ther.* 2009 Sep;8(3):242-53.

Khan N, Afaq F, Kweon MH, Kim K, Mukhtar H. Oral consumption of pomegranate fruit extract inhibits growth and progression of primary lung tumors in mice. *Cancer Res.* 2007 Apr 1;67(7):3475-82.

Langley P. Why a pomegranate? *BMJ.* 2000 Nov 4;321(7269):1153-4.

Lansky EP, Newman RA. *Punica granatum* (pomegranate) and its potential for prevention and treatment of inflammation and cancer. *J Ethnopharmacol.* 2007 Jan 19;109(2):177-206. Review.

Pantuck AJ, Leppert JT, Zomorodian N, et al. Phase II study of pomegranate juice for men with rising prostate-specific antigen following surgery or radiation for prostate cancer. *Clin Cancer Res.* 2006 Jul 1;12(13):4018-26.

Rasheed Z, Akhtar N, Anbazhagan AN, Ramamurthy S, Shukla M, Haqqi TM. Polyphenol-rich pomegranate fruit extract (POMx) suppresses PMACI-induced expression of pro-inflammatory cytokines by inhibiting the activation of MAP Kinases and NF-kappaB in human KU812 cells. *J Inflamm (Lond).* 2009 Jan 8;6:1.

Reddy MK, Gupta SK, Jacob MR, Khan SI, Ferreira D. Antioxidant, antimalarial and antimicrobial activities of tannin-rich fractions, ellagitannins and phenolic acids from *Punica granatum L. Planta Med.* 2007 May;73(5):461-7.

Rettig MB, Heber D, An J, Seeram NP, Rao JY, et al. Pomegranate extract inhibits androgen-independent prostate cancer growth through a nuclear factor-kappaB-dependent mechanism. *Mol Cancer Ther.* 2008 Sep;7(9):2662-71. Erratum in: *Mol Cancer Ther.* 2008 Nov;7(11):3654.

Sartippour MR, Seeram NP, Rao JY, Moro A, Harris DM, et al. Ellagitannin-rich pomegranate extract inhibits angiogenesis in prostate cancer in vitro and in vivo. *Int J Oncol.* 2008 Feb;32(2):475-80.

Sastravaha G, Yotnuengnit P, Booncong P, Sangtherapitikul P. Adjunctive periodontal treatment with *Centella asiatica* and *Punica granatum* extracts. A preliminary study. *J Int Acad Periodontol.* 2003 Oct;5(4):106-15.

Sumner MD, Elliott-Eller M, Weidner G, et al. Effects ofpomegranate juice consumption on myocardial perfusion in patients with coronaryheart disease. *Am J Cardiol.* 2005;96:810-4.

Syed DN, Afaq F, Mukhtar H. Pomegranate derived products for cancer chemoprevention. *Semin Cancer Biol.* 2007 Oct;17(5):377-85. Epub ahead of print

Toi M, Bando H, Ramachandran C, et al. Preliminary studies on the anti-angiogenic potential of pomegranate fractions in vitro and in vivo. *Angiogenesis.* 2003;6(2):121-128.

Share

Vidal A, Fallarero A, Pena BR, et al. Studies on the toxicity of *Punica granatum L.* (Punicaceae) whole fruit extracts. *J.Ethnopharmacol.* 2003;89(2-3):295-300.

Vasconcelos LC, Sampaio MC, Sampaio FC, Higino JS. Use of *Punica granatum* as an antifungal agent against candidosis associated with denture stomatitis. *Mycoses.* 2003 Jun;46(5-6):192-6.

Version Info

- Last Reviewed on 01/13/2012
- Steven D. Ehrlich, NMD, Solutions Acupuncture, a private practice specializing in complementary and alternative medicine, Phoenix, AZ. Review provided by VeriMed Healthcare Network.

A.D.A.M., Inc. is accredited by URAC, also known as the American Accreditation HealthCare Commission (www.urac.org). URAC's accreditation program is an independent audit to verify that A.D.A.M. follows rigorous standards of quality and accountability. A.D.A.M. is among the first to achieve this important distinction for online health information and services. Learn more about A.D.A.M.'s editorial policy, editorial process and privacy policy. A.D.A.M. is also a founding member of Hi-Ethics and subscribes to the principles of the Health on the Net Foundation (www.hon.ch)

The information provided herein should not be used during any medical emergency or for the diagnosis or treatment of any medical condition. A licensed medical professional should be consulted for diagnosis and treatment of any and all medical conditions. Call 911 for all medical emergencies. Links to other sites are provided for information only -- they do not constitute endorsements of those other sites. © 1997- 2013 A.D.A.M., Inc. Any duplication or distribution of the information contained herein is strictly prohibited.

This page was last updated: May 7, 2013

UMMC Overview

Find a Doctor > Ask the Expert >

Related Links

- Patient Success Stories
- Awards and Honors
- Video Library

© 2011 University of Maryland Medical Center (UMMC). All rights reserved. UMMC is a member of the University of Maryland Medical System, 22 S. Greene Street, Baltimore, MD 21201. ***1.800.492.5538*** *TDD:* ***1.800.735.2258*** *Physician Referral:* ***1.800.373.4111***

Share

Exhibit U

to JFI's Notice of Reliance

Federal Trade Commission
Protecting America's Consumers

In the Matter of POM Wonderful LLC and Roll Global LLC, as successor in interest to Roll International Corporation, companies, and Stewart A. Resnick, Lynda Rae Resnick, and Matthew Tupper, individually and as officers of the companies

FTC File No. 082-3122
Docket No. 9344

January 16, 2013

- Opinion of the Commission, By Commissioner Maureen K. Ohlhausen
  - POM Claims Appendix (Appendix A)
  - POM Figures Appendix (Appendix B)
  - POM Figures 34-39 (Appendix B Video Files)
  - Summary Table of Commission Findings Regarding POM Exhibits
- Concurring Statement of Commissioner Ohlhausen
- Concurring Statement of Commissioner Rosch
- Final Order
- News Release

November 27, 2012

- Commission Order Extending Timetable for Issuing Final Decision and Order

September 10, 2012

- Corrections to Complaint Counsel's Compilation of Materials for Oral Argument

August 23, 2012

- Transcript of Oral Argument Before the Commission [PDF – 91 pages]

August 21, 2012

- Notice of Appearance by Counsel for Respondent Matthew Tupper

August 16, 2012

- Complaint Counsel's Compilation of Materials to Present During Oral Argument [PDF - 41 pages]

July 27, 2012

- Complaint Counsel's Reply Brief to Respondents' Answering Brief
- Reply Brief of Respondents Pom Wonderful LLC, Roll Global, Stewart A. Resnick, and Lynda Rae Resnick
- Respondent Matt Tupper's Reply to Complaint Counsel's Answering Brief

July 25, 2012

- Commission Order Ruling On Motion To Reopen the Record and Motion For Leave To File A Reply

July 18, 2012

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosch
Edith Ramirez
Julie Brill
Maureen K. Ohlhausen

In the Matter of	)	
POM WONDERFUL LLC and	)	
ROLL GLOBAL LLC,	)	Docket No. 9344
as successor in interest to Roll International	)	
Corporation, companies, and	)	January 10, 2013
STEWART A. RESNICK,	)	
LYNDA RAE RESNICK, and	)	
MATTHEW TUPPER, individually and as	)	
officers of the companies,	)	
Respondents.	)	

OPINION OF THE COMMISSION

By OHLHAUSEN, Commissioner:

I. Introduction

Respondents POM Wonderful LLC ("POM Wonderful" or "POM"), Roll Global LLC ("Roll Global"), Stewart A. Resnick, Lynda Rae Resnick, and Matthew Tupper (collectively, "Respondents") appeal from Administrative Law Judge ("ALJ")[1] D. Michael Chappell's Initial Decision and Order holding them liable for violating Sections 5(a) and 12 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45 and 52, by making false or misleading claims in multiple media fora to promote their pomegranate juice products, specifically POM Wonderful Juice, POMx Pills, and POMx Liquid (collectively, "Challenged POM Products"). Complaint Counsel cross-appeal the ALJ's finding that some of the challenged advertisements did not make the representations alleged in the Complaint, his holding concerning the level of scientific support needed to make the alleged claims, and the injunctive relief outlined in the ALJ's Order. We conclude that the Respondents have violated Section 5(a) and Section 12 of the FTC Act, based on both the findings of the ALJ and on additional challenged advertisements, and we issue a Final Order which differs in some respects from the Order attached to the Initial Decision.

Respondents have marketed the Challenged POM Products using a variety of means since they began selling and marketing POM Wonderful Juice in 2002. Between 2002 and 2010, sales for all Challenged POM Products totaled close to $250 million.

On September 24, 2010, the Commission issued an administrative complaint alleging that Respondents engaged in deceptive acts and practices and disseminated false advertising in violation of Sections 5(a) and 12 of the FTC Act in promoting the Challenged POM Products. The Complaint alleged that Respondents disseminated advertising and promotional materials representing that consumption of certain doses of Challenged POM Products treats, prevents or reduces the risk of heart disease, prostate cancer, or erectile dysfunction ("ED"), without having a reasonable basis to substantiate these claims. The Complaint also alleged that Respondents disseminated advertising and promotional materials representing that clinical studies, research, and/or trials prove that consumption of the Challenged POM Products in certain doses treats, prevents or reduces the risk of heart disease, prostate cancer, or ED, when in fact clinical studies, research, or trials do not so prove.

---

[1] For purposes of this opinion, we use the following abbreviations in referencing the record:
ALJ: Administrative Law Judge D. Michael Chappell
Tr.: Transcript of trial testimony before the ALJ
Dep.: Transcript of deposition
ID: Initial Decision
IDF: Initial Decision Findings of Fact
CCA: Complaint Counsel's Appeal Brief
RA: Respondents' Appeal Brief
RAns: Respondents' Answering Brief
RR: Respondents' Reply Brief
CX: Complaint Counsel Exhibit
PX: Respondent Exhibit

At trial, Complaint Counsel challenged a total of 43 items, including print advertisements, newsletters, separate "web captures" of Respondents' websites, Internet banner advertisements, press releases, and media interviews. Respondents denied that such materials make the claims alleged and argued that the claims that were made in their advertising and promotional materials were substantiated adequately by scientific research. Some of POM's ads and marketing materials stated that the Challenged POM Products were supported by over $30 million in medical research.

In his Initial Decision, the ALJ found that 19 of the 43 challenged advertisements and promotional materials contained implied claims that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED, and that in 14 of these ads, there were implied claims that the effects on disease were clinically proven; that those claims were false or misleading; and that the claims were material to consumers' purchasing decisions. ID at 5-6. In his opinion, the ALJ determined that in the case of a safe food that is not advertised as a substitute for medical treatment, competent and reliable scientific evidence includes clinical studies though not necessarily double-blind, randomized, placebo-controlled clinical trials. *Id.* at 328. The ALJ attached to the Initial Decision an order that would, if issued by the Commission, prohibit the Respondents from making representations that any food, drug, or dietary supplement, including but not limited to the Challenged POM Products, is effective in diagnosing, curing, treating, mitigating, or preventing any disease unless such representations are not misleading and are based on competent and reliable scientific evidence. *Id.* at 332. The order would also prohibit Respondents from misrepresenting the results of any test, study or research in connection with the advertisement or sale of any food, drug, or dietary supplement, including but not limited to the Challenged POM Products. *Id.* In addition, the order would prohibit Respondents from making any representation about the health benefits, performance, or efficacy of any food, drug, or dietary supplement, including but not limited to the Challenged POM Products, unless the representation is non-misleading and based on Respondents' reliance on competent and reliable scientific evidence. *Id.* The order would define "competent and reliable scientific evidence" as "tests, analyses, research, or studies, conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results." *Id.* at 331.

Respondents' principal claims on appeal are that the ALJ erred in (1) finding that any of the challenged advertising and promotional materials contain implied efficacy or establishment claims (*i.e.*, those asserting that the efficacy claims are established scientifically) that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED; (2) holding that substantiation for such claims required clinical studies; and (3) finding the foregoing claims to be material. Respondents also allege that the relief ordered is impermissibly broad and runs afoul of the First and Fifth Amendments.

Complaint Counsel's principal claims on cross-appeal are (1) the ALJ should have found that all of the challenged advertisements and promotional materials (including four media interviews) made efficacy claims; (2) all but four of these materials also included establishment claims; (3) the ALJ incorrectly applied a substantiation standard requiring only clinical studies, rather than the higher standard of well-designed, well-conducted, double-blind, randomized

controlled clinical trials (referred to in this opinion as "RCTs"); and (4) in his order, the ALJ should have required pre-approval by the Food and Drug Administration ("FDA") of any future disease claims made by Respondents with respect to the Challenged POM Products.

Based on our consideration of the entire record in this case and the arguments of counsel, we deny Respondents' appeal and grant in part, and deny in part, Complaint Counsel's cross-appeal. We find Respondents liable on the basis of a larger number of advertisements containing false and misleading claims than the ALJ found. The basis of Respondents' liability under the FTC Act is their lack of sufficiently reliable evidence — namely, RCTs (as described more fully below in this opinion) — to substantiate the claims that we found. Complaint Counsel's experts testified that two RCTs are necessary to substantiate the heart disease claims at issue, while the prostate cancer and ED claims can be substantiated with at least one RCT. *See* CX1291 at 15 (Sacks Expert Report) (for heart disease "most scientists and researchers . . . believe that at least two-well designed studies . . . showing strong results are needed to constitute reliable evidence"); CX1287 at 6 (Eastham Expert Report) (stating "qualified experts in the field of urology, including the prevention and treatment of prostate cancer, . . . would require that Respondents' claims be supported by at least one well-conducted, randomized, double-blind, placebo-controlled clinical trial with an appropriate endpoint"); and CX1289 at 4 (Melman Expert Report) ("[t]o constitute competent and reliable scientific evidence, experts in the field of erectile dysfunction would require at least one clinical trial, involving several investigatory sites, that is well-designed, randomized, placebo-controlled, and double-blinded"). The Commission need not, and does not, reach the question of the number of RCTs needed to substantiate the claims made because, as discussed below, Respondents failed to proffer even one RCT that supports the challenged claims that we found they made.[2] The Final Order we issue today differs from that proposed by the ALJ and contains fencing-in relief by providing that any disease-related establishment or efficacy claims made about the Challenged POM Products or in connection with Respondents' sale of any food, drug, or dietary supplement must be supported by at least two RCTs.[3] However, we do not reach the question of liability based on the four challenged media interviews, and today's Final Order does not include a provision requiring FDA pre-approval of any future claims made by Respondents.

II. Factual Background and Proceedings Below

Respondent POM Wonderful is a limited liability company wholly owned by the Stewart and Lynda Resnick Revocable Trust dated December 27, 1988. IDF 1, 3. In 2002, POM Wonderful launched the first of the Challenged POM Products, POM Wonderful Juice, and currently sells all of the Challenged POM Products. IDF 5, 6. Respondent Roll Global is a separate corporation wholly owned by the same trust; Roll Global owns a number of companies, including POM Wonderful LLC, FIJI Water, Suterra, Paramount Farms, Paramount Citrus, Teleflora, Neptune Shipping, Paramount Farming, and Justin Winery. IDF 7, 9, 11. Roll

[2] The Commission applies the same rationale throughout this opinion when it refers to a requirement of "RCTs" for Respondents' liability under the FTC Act.

[3] As explained more fully in Section X.B, Commissioner Ohlhausen supports an order provision requiring at least one RCT, viewed in light of the relevant scientific evidence, for disease-related efficacy and establishment claims made about the Challenged POM Products or in connection with the sale of any food, drug, or dietary supplement by the Respondents.

International Corporation reorganized at the end of 2010 and is currently known as Roll Global. IDF 8. Roll Global uses an in-house advertising agency for POM and its other affiliated companies. IDF 14.

The individual Respondents in this case include Stewart Resnick, Lynda Resnick, and Matthew Tupper. Stewart Resnick is the Chairman and CEO of POM Wonderful, and Chairman and President of Roll Global. IDF 19-21.[4] His responsibilities include setting the marketing, advertising, and medical research budgets for POM Wonderful. IDF 23. Although he leaves most of the marketing decisions about POM Wonderful to his wife, Lynda Resnick, he considers himself responsible for whether advertising should or should not be published and has been involved at a high level with POM's advertising and marketing campaigns. IDF 25-26. Lynda Resnick is Vice Chairman of Roll Global and sole owner of POM Wonderful along with Stewart Resnick. IDF 15, 28. Mrs. Resnick was still the chief marketing executive at POM as of 2011, working with POM's marketing department and internal advertising agency to implement creative concepts for POM's campaigns. IDF 31, 33. Mrs. Resnick has the "final say" with respect to POM's marketing and advertising content and concepts. IDF 34. Matthew Tupper joined POM in 2003 as Chief Operating Officer and became President of POM Wonderful in 2005 before retiring from POM at the end of 2011. IDF 37-38, 40. Mr. Tupper was responsible for the day-to-day affairs of POM, including managing the operations of the marketing team. IDF 44. The head of POM's Marketing Department reported to Mr. Tupper, and one of Mr. Tupper's responsibilities was to serve as a liaison between the marketing staff and the researchers who performed the medical studies sponsored by POM. IDF 50, 52.

The Challenged POM Products are POM Juice, POMx Liquid, and POMx Pills. POM Juice is a 100% juice product produced by pressing whole pomegranates, filtering and/or enzyme-treating the juice, concentrating the juice, reconstituting it with water, pasteurizing it, and bottling it. IDF 58-60. A single serving of POM Juice is eight ounces, and it is sold in grocery stores for a price of approximately $3 for an eight-ounce bottle. IDF 64-65, 97. POM Juice contains a variety of polyphenols (including ellagitannins and gallotannins, anthocyanins, and ellagic acid). IDF 62-63. POMx Liquid "is the product of the pressed whole fruit after most of the juice is extracted and the polyphenols are concentrated by filtering and concentrating using juice processing." IDF 67 (quoting CX0096, *in camera*, at 0014). A single serving is one teaspoon daily. IDF 69. POMx Pills are made through a process by which POMx Liquid is extracted. IDF 70. POMx Pills do not contain anthocyanins, nor do they contain the calories or sugar found in POM Juice. IDF 73, 75. A single serving is one pill daily. IDF 76. POMx Pills and POMx Liquid are available for sale via the Respondents' website or through a telephone call center; POMx Pills are also available through some retail outlets. IDF 68, 72. If purchased from the POM website, the cost of a bottle containing 30 POMx Pills or a five ounce bottle of POMx Liquid (containing extract) was $29.95, excluding shipping. IDF 101-102.

POM Wonderful has engaged in a number of advertising campaigns to promote the Challenged POM Products, including print advertisements in magazines, freestanding inserts in newspapers, billboards, posters in bus shelters, posters in health clubs and doctors' offices, advertising on prescription drug bags, Internet websites, online banner advertisements, medical

[4] Another Respondent, Mark Dreher, Ph.D., agreed to an administrative consent order to resolve the claims against him. *See* http://www.ftc.gov/os/caselist/0823122/100927pomagree.pdf.

outreach, radio and television ads, and press releases. IDF 171. POM Wonderful considers health-conscious, educated, affluent consumers to be its target audience. IDF 172, 176, 178, 181.

The POM Juice print advertisements at issue were disseminated in a wide variety of publications, including but not limited to the *Chicago Tribune*, *Prevention*, *Details*, *Rolling Stone*, *Health*, *InStyle*, *Town and Country*, *Men's Health*, and *Men's Fitness*. IDF 169. The POMx Pills print advertisements challenged by Complaint Counsel were disseminated in publications including but not limited to *Fortune*, *The New York Times*, *Discover*, *Men's Health*, *Popular Science*, *Time*, and *Playboy*. IDF 170. Some of POM's challenged advertisements are creative in nature, depicting the POM Wonderful Juice bottle in a number of unusual ways (for example, as an intravenous bag; covered by medical equipment such as a blood pressure cuff or EKG sensors; anthropomorphized lying on a therapist's couch or in a bikini top; and as a superhero) and accompanied by headlines such as "[a]maze your cardiologist" and "[l]ucky I have super HEALTH POWERS." *See* CX0033; CX0034; CX0103; CX0109; CX0192; CX0274; CX0372. Many of the challenged advertisements include statements touting the Challenged POM Products' effects on heart disease, prostate cancer, and/or ED, sometimes by quoting from or citing to various scientific studies.

At trial, Complaint Counsel challenged 43 promotional materials that Respondents disseminated. The Complaint alleges that POM's materials claim that drinking POM Juice, taking POMx Pills, or taking POMx Liquid daily (1) prevents or reduces the risk of heart disease, including by decreasing arterial plaque, lowering blood pressure, and/or improving blood flow to the heart (Compl. ¶ 12.A); (2) treats heart disease, including by decreasing arterial plaque, lowering blood pressure, and/or improving blood flow to the heart (Compl. ¶ 12.B); (3) prevents or reduces the risk of prostate cancer, including by prolonging prostate-specific antigen doubling time ("PSADT") (Compl. ¶ 14.A); (4) treats prostate cancer, including by prolonging PSADT (Compl. ¶ 14.B); (5) prevents or reduces the risk of ED (Compl. ¶ 16.A); and (6) treats ED (Compl. ¶ 16.B). In sum, the Complaint alleges that Respondents made six different claims regarding the efficacy of the Challenged POM Products.

The Complaint also alleges that Respondents have represented that "clinical studies, research, and/or trials prove that" drinking POM Juice or taking POMx Pills or Liquid treats heart disease, prostate cancer, and erectile dysfunction or prevents or reduces the risk of each of these diseases. Compl. ¶¶ 12, 14, 16. Thus, in addition to the claim that the Challenged POM Products treat, prevent or reduce the risk of disease, the Complaint alleges that some of the ads convey that there is clinical proof of the efficacy of the Challenged POM Products, *i.e.*, that they make "establishment" claims.

Following an administrative trial that began on May 24, 2011, and concluded on November 4, 2011, the ALJ filed a 335-page Initial Decision, with 1,431 findings of fact and a 108-page appendix on May 17, 2012. The ALJ found that 19 of the 43 challenged advertisements and promotional materials contained implied claims that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED, and that 14 of these ads also contained implied claims that these effects on disease were clinically proven. ID at 211-34. The ALJ also found that the claims at issue are material to consumers. *Id.* at 290-96.

The ALJ further determined that the appropriate level of substantiation for such claims is competent and reliable scientific evidence, which for claims that a food or food-derived product treats, prevents or reduces the risk of disease must include adequate clinical studies, though not necessarily RCTs. *Id.* at 234-50. The ALJ determined that Respondents did not have such evidence to substantiate their claims, rendering them false or misleading under Sections 5(a) and 12 of the FTC Act. *Id.* at 250-290. According to the ALJ's cease and desist order against the corporate and individual Respondents pursuant to Section 5(b) of the FTC Act, Respondents would be prohibited from engaging in deceptive advertising practices with respect to any food, drug, or dietary supplement that may be advertised by Respondents in the future. *Id.* at 309-25. The ALJ did not require that Respondents seek FDA pre-approval for any future disease claims with respect to the Challenged Products. *See id.* at 314-23.

III. Legal Standard

The Commission reviews the record *de novo* by considering "such parts of the record as are cited or as may be necessary to resolve the issues presented and . . . exercis[ing] all the powers which [the Commission] could have exercised if it had made the initial decision." 16 C.F.R. § 3.54. In this case, the Commission adopts the ALJ's findings of fact to the extent those findings are not inconsistent with this opinion.

An advertisement is deceptive if it contains a representation or omission of fact that is likely to mislead a consumer acting reasonably under the circumstances, and that representation or omission is material to a consumer's purchasing decision.[5] *FTC Policy Statement on Deception*, 103 F.T.C. 174, 175 (1984) (appended to *Cliffdale Assocs., Inc.*, 103 F.T.C. 110 (1984)) ("*Deception Statement*"); *see also, e.g.*, *In re Novartis Corp.*, 127 F.T.C. 580, 679 (1999), *aff'd*, 223 F.3d 783 (D.C. Cir. 2000); *In re Stouffer Foods Corp.*, 118 F.T.C. 746, 798 (1994); *In re Kraft, Inc.*, 114 F.T.C. 40, 120 (1991), *aff'd*, 970 F.2d 311 (7th Cir. 1992). In addition, the Commission long has held that making objective claims without a reasonable basis constitutes a deceptive practice in violation of Section 5. *FTC Policy Statement Regarding Advertising Substantiation*, 104 F.T.C. 839 (1984) (appended to *Thompson Med. Co.*, 104 F.T.C. 648 (1984)) ("*Substantiation Statement*"); *see, e.g.*, *In re Auto. Breakthrough Scis., Inc.*, 126 F.T.C. 229, 293 & 293 n.20 (1998); *In re Jay Norris, Inc.*, 91 F.T.C. 751, 854 (1978), *aff'd as modified*, 598 F.2d 1244 (2d Cir. 1979). Consequently, the determination of whether Respondents disseminated false advertisements in violation of the FTC Act requires a three-part inquiry: (1) whether Respondents disseminated advertisements conveying the claims alleged in the Complaint; (2) whether those claims were false or misleading; and (3) whether those claims are material to prospective consumers. *Kraft, Inc. v. FTC*, 970 F.2d 311, 314 (7th Cir. 1992); *FTC v. Pantron I Corp.*, 33 F.3d 1088, 1095 (9th Cir. 1994); *FTC v. Direct Mktg. Concepts, Inc.*, 569 F. Supp. 2d 285, 297 (D. Mass. 2008), *aff'd*, 684 F.3d 1 (1st Cir. 2010).

[5] The Complaint alleges that Respondents violated both Sections 5 and 12 of the FTC Act. Section 5 prohibits "deceptive" acts or practices in or affecting commerce, 15 U.S.C. § 45(a), while Section 12 specifically addresses the dissemination of any "false advertisement," *i.e.*, one that is "misleading in a material respect," 15 U.S.C. § 55(a)(1), for food, drugs, devices, services, or cosmetics. The deception standard is the same under both provisions. *Deception Statement*, 103 F.T.C. at 182.

IV. Respondents Disseminated Advertising or Promotional Material Making Disease Treatment, Prevention and Risk Reduction Claims

The Commission's approach to ad interpretation is well established, and the general framework is not disputed on appeal. The Commission "will deem an advertisement to convey a claim if consumers, acting reasonably under the circumstances, would interpret the advertisement to contain that message." *In re Thompson Med. Co.*, 104 F.T.C. 648, 788 (1984), *aff'd*, 791 F.2d 189 (D.C. Cir. 1986); *Deception Statement*, 103 F.T.C. at 176. A reasonable interpretation is one that would be shared by at least a significant minority of reasonable consumers. *Kraft, Inc.*, 114 F.T.C. at 122; *In re Telebrands Corp.*, 140 F.T.C. 278, 291 (2005) ("[a]n ad is misleading if at least a significant minority of reasonable consumers are likely to take away the misleading claim"), *aff'd*, 457 F.3d 354 (4th Cir. 2006); *Deception Statement*, 103 F.T.C. at 177 n.20 (citing *In re Kirchner*, 63 F.T.C. 1282 (1963) (explaining a reasonable interpretation is one that would be shared by more than an insignificant and unrepresentative segment of the class of persons to whom the represented is addressed)). Where an ad conveys more than one meaning, only one of which is misleading, a seller is liable for the misleading interpretation even if non-misleading interpretations are possible. *See, e.g.*, *In re Bristol-Myers Co.*, 102 F.T.C. 21, 320 (1983), *aff'd*, 738 F.2d 554 (2d Cir. 1984); *Nat'l Comm'n on Egg Nutrition v. FTC*, 570 F.2d 157, 161 n.4 (7th Cir. 1977). The primary evidence of the representations that an advertisement conveys to reasonable consumers is the advertisement itself. *Deception Statement*, 103 F.T.C. at 176; *see also Novartis Corp.*, 127 F.T.C. at 680; *Stouffer Foods Corp.*, 118 F.T.C. at 798; *Kraft, Inc.*, 114 F.T.C. at 121. In determining what claims may reasonably be attributed to an advertisement, the Commission examines the entire advertisement and assesses the overall "net impression" it conveys. *Deception Statement*, 103 F.T.C. at 178; *see also Novartis Corp.*, 127 F.T.C. at 679; *Kraft, Inc.*, 114 F.T.C. at 122; *FTC v. QT, Inc.*, 448 F. Supp. 2d 908, 958 (N.D. Ill. 2006) ("the Court looks to the overall, net impression made by the advertisement to determine whether the net impression is such that the ads would be likely to mislead reasonable consumers"), *aff'd*, 512 F.3d 858 (7th Cir. 2008).

The Complaint alleges that Respondents' advertisements claim that consuming the Challenged POM Products daily treats, prevents or reduces the risk of heart disease, prostate cancer, or ED. These claims that the Challenged POM Products are effective without expressly or impliedly representing a particular level of support are "efficacy claims." The Complaint also alleges that Respondents have represented that "clinical studies, research, and/or trials prove that" drinking POM Juice or taking POMx Pills or Liquid treats the diseases or prevents or reduces the risk of each of the diseases. A claim that there is a certain type or level of support is considered an "establishment claim." *Thompson Med. Co.*, 791 F.2d at 194; *see also Bristol-Myers Co.*, 102 F.T.C. at 321 (noting that a claim of clinical proof can be express or implied). While "[t]here is no conceptual or practical reason to single out such claims . . . for special treatment . . . the express or implied claim that an advertiser possesses a particular level of substantiation" is an additional representation, which we also evaluate to ensure that it is not misleading. *Thompson Med. Co.*, 104 F.T.C. at 821-22 n.59.

It is well established that the Commission has the common sense and expertise to determine "what claims, including implied ones, are conveyed in a challenged advertisement, so long as those claims are reasonably clear." *Kraft, Inc.*, 970 F.2d at 319; *accord FTC v. Colgate-*

Palmolive Co., 380 U.S. 374, 391-92 (1965); *FTC v. Nat'l Urological Grp., Inc.*, 645 F. Supp. 2d 1167, 1189-90 n.12 (N.D. Ga. 2008) (holding that facial analysis is a sufficient basis to find an alleged claim was made if it is "clear and conspicuous" or "apparent" on the face of the ad), *aff'd*, 356 Fed. Appx. 358, (11th Cir. 2009) (unpublished opinion); *Daniel Chapter One*, 2009 WL 5160000 at *14-15 (F.T.C. 2009), *aff'd*, 405 Fed. Appx. 505 (D.C. Cir. 2010) (unpublished opinion), *available at* 2011-1 Trade Cas. (CCH) ¶77,443 (D.C. Cir. 2010).

Claims may be either express or implied. The Commission reviews implied claims as if they are on a continuum: at one end claims are virtually synonymous with express claims; at the other end are claims that use language that few consumers would interpret as making a particular representation. *Novartis Corp.*, 127 F.T.C. at 680. To determine whether a particular implied claim has been made, the Commission starts with a facial analysis of the advertisement. A facial analysis of an ad considers "an evaluation of such factors as the entire document, the juxtaposition of various phrases in the document, the nature of the claim, and the nature of the transaction." *Deception Statement*, 103 F.T.C. at 176. "If, after examining the interaction of all the different elements in the ad, the Commission can conclude with confidence that an advertisement can reasonably be read to contain a particular claim, a facial analysis is sufficient basis to conclude that the advertisement conveys the claim." *Stouffer Foods Corp.*, 118 F.T.C. at 798; *accord Novartis Corp.*, 127 F.T.C. at 680; *Kraft, Inc.*, 114 F.T.C. at 121. Nonetheless, "the Commission may not inject novel meanings into ads . . . ; ads must be judged by the impression they make on reasonable members of the public." *Bristol-Myers Co.*, 102 F.T.C. at 320.

Extrinsic evidence is unnecessary to establish the impression that consumers would take away from an ad if the claims are reasonably clear from the face of the advertisement. *Kraft Inc.*, 970 F.2d at 319 (holding that "the Commission may rely on its own reasoned analysis to determine what claims, including implied ones, are conveyed in a challenged ad, so long as those claims are reasonably clear from the face of the advertisement."); *accord Nat'l Urological Grp.*, 645 F. Supp. 2d at 1189-90 n.12 (holding that facial analysis is a sufficient basis to find an alleged claim was made if claims are "clear and conspicuous" or "apparent" on the face of the advertisement); *FTC v. QT, Inc.*, 448 F. Supp. 2d at 958 (quoting *FTC v. Febre*, No. 94 C 3625, 1996 WL 396117, at *4 (N.D. Ill. July 3, 1996), *aff'd*, 128 F.3d 530 (7th Cir. 1997)); *Kraft, Inc.*, 970 F.2d at 320) ("'There is no authority for defendants' contention that implied claims cannot be found to be deceptive absent extrinsic evidence. The courts and the FTC have consistently recognized that implied claims fall along a continuum from those which are so conspicuous as to be virtually synonymous with express claims to those which are barely discernible. It is only at the latter end of the continuum that extrinsic evidence is necessary.' Where implied claims are conspicuous and 'reasonably clear from the face of the advertisements,' extrinsic evidence is not required.") (citations omitted); *Stouffer Foods Corp.*, 118 F.T.C. at 798 ("If after examining the interaction of all the different elements in the ad, the Commission can conclude with confidence that an ad can reasonably be read to contain a particular claim, a facial analysis is sufficient basis to conclude that the ad conveys the claim."); *see also Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 652-53 (1985) ("When the possibility of deception is as self-evident as it is in this case, we need not require the State to 'conduct a survey of the . . . public before it [may] determine that the [advertisement] had a tendency to mislead.'") (quoting FTC v. Colgate-Palmolive Co., 380 U.S. at 391-92).

Yet, if extrinsic evidence has been introduced, that evidence "must be considered by the Commission in reaching its conclusion" about the meaning of the advertisement. *Bristol-Myers Co.*, 102 F.T.C. at 319; *see also Thompson Med. Co.*, 104 F.T.C. at 794 (finding that the Commission was "obliged to consider" extrinsic evidence offered by the parties). In this case, extrinsic evidence includes expert testimony by Dr. Ronald Butters and Dr. David Stewart, a survey of consumer responses to billboard headlines, and evidence regarding the intent of Respondents to convey particular messages in their advertising.

We find that in the context of POM Wonderful's challenged advertisements, reasonable consumers would read claims to "prevent" or "reduce the risk of" heart disease, prostate cancer, or ED as conveying the claim that consuming the Challenged POM Products substantially reduces the likelihood that the consumer will contract the disease or condition, not that the products would absolutely prevent the onset of these conditions. Because the development of heart disease, cancer, or ED may be influenced by many factors, in the context of the particular advertisements challenged in this matter, most reasonable consumers would not interpret the language, imagery, and other elements of the advertisements to convey claims that consuming the Challenged POM Products would eliminate all possibility that the consumer might develop these diseases at some later time. This interpretation of the implied claims in Respondents' advertisements does not affect our conclusion that Respondents disseminated advertisements or promotional materials that contained the claims alleged in the Complaint, which was phrased in the disjunctive (prevent or reduce risk) rather than the conjunctive (prevent and reduce risk).[6]

A. Facial Analysis

In the Initial Decision, Judge Chappell found claims alleged by Complaint Counsel were conveyed in 19 advertisements or promotional materials. He found that 11 of these ads conveyed efficacy claims that the Challenged POM Products treat, prevent or reduce the risk of heart disease. IDF 580, 583. He found that eight ads conveyed efficacy claims that the Challenged POM Products treat, prevent or reduce the risk of prostate cancer, IDF 581, and four ads conveyed efficacy claims that the Challenged POM Products treat, prevent or reduce the risk of ED. IDF 582.[7] In 15 of the 19 advertisements, the ALJ found that the advertisements contained establishment claims that clinical studies supported the heart disease, prostate cancer, and ED efficacy claims. IDF 580, 581, 582. In our review of the ads, the Commission finds that 36[8] ads convey the claims alleged by Complaint Counsel.[9] The attached Claims Appendix provides an analysis of each of the challenged ads in this case. We evaluate treatment claims separately from claims that the Challenged POM Products prevent or reduce the risk of disease

[6] To the extent this interpretation affects the substantiation that the Respondents must possess to support their claims, we incorporate this interpretation in our analysis. *See* discussion *infra* Section V.A.

[7] The ALJ found some of the ads to make claims relating to more than one disease.

[8] The Commission finds three of the 39 exhibits we reviewed on appeal contain none of the disease claims alleged in the Complaint and seven of those 39 exhibits contain only some of the asserted claims. As explained below, *see* discussion *infra*, the Commission did not reach the question of whether the four media interviews conveyed the challenged claims.

[9] For most of the challenged advertisements, Commissioner Ohlhausen agrees with the majority of the Commission about the claims conveyed. As explained in her Concurring Statement, for some advertisements, however, Commissioner Ohlhausen either did not find certain claims were made or believes extrinsic evidence is necessary to determine whether consumers would take away such claims.

(which, as explained above, are viewed as equivalent in the context of this matter). We also explain in the Claims Appendix the basis for our findings that Respondents made establishment claims. The Claims Appendix describes the facial analysis of each ad.

Although we find that more ads contain claims alleged by Complaint Counsel than the ALJ did, we agree with Judge Chappell's approach to the facial analysis regarding the juxtaposition of elements in the ads to find that Respondents represented that the Challenged POM Products treat heart disease and that the Challenged POM Products prevent or reduce the risk of heart disease. As Judge Chappell explained,

> Respondents made these claims indirectly and obliquely, typically presenting, through words and images, a logical syllogism that: free radicals cause or contribute to heart disease; the POM Products contain antioxidants that neutralize free radicals; and, therefore, the POM Products are effective for heart disease. IDF 294-295, 301-303, 348, 374, 394-396, 398, 407, 414, 444, 452-453, 460-462.

ID at 225. We also adopt the ALJ's reasoning regarding the basis for finding establishment claims in the ads that contain heart disease claims and incorporate his findings.

> Against this background, many of the advertisements further state or represent that the POM Products have been shown in one or more clinical, medical, or scientific studies [sic], to reduce plaque, lower blood pressure, and/or improve blood flow to the heart, in a context where it is readily inferable that the referenced study results involve heart disease risk factors and, therefore, constitute clinical support for the effectiveness claim. IDF 295, 301, 303, 349, 373, 376, 379, 395-397, 400, 407, 414, 420.

ID at 225-26.

We similarly adopt and incorporate the ALJ's approach to the facial analysis of Respondents' ads regarding the presence of prostate cancer claims.

> These advertisements typically communicate the claim by juxtaposing statements and representations that prostate cancer is a leading cause of death in men; antioxidants, such as those provided by the POM Products, may help prevent cancer; that PSA is an indicator of prostate cancer; that PSA doubling time is an indicator of prostate cancer progression; and that the POM Products have been shown in clinical testing to slow PSA doubling time. IDF 310-318, 332, 334-336, 352-353, 371, 381, 389-392, 398, 400-405, 409, 429.

ID at 228. The ALJ further explained that he found the establishment claims because the ads "connect both POM-provided antioxidants, and the study results, to effectiveness for prostate cancer." *Id.*

We likewise adopt and incorporate the ALJ's reasoning for the facial analysis for the ads containing ED claims.

> Respondents disseminated print advertisements that stated and represented, for example, that (1) the superior antioxidants in the POM Products protect against free radicals, which can damage the body; (2) powerful antioxidants enhance the actions of nitric oxide in vascular endothelial cells, showing potential for management of "ED"; and (3) a preliminary study on "erectile function" showed that men who consumed POM Juice reported "a 50% greater likelihood of improved erections," as compared to a placebo. IDF 323-324. . . . Presenting a study on "erectile function" showing "improved erections" is reasonably read to imply effectiveness for erectile dysfunction, particularly when juxtaposed to an express reference to management of "ED." IDF 323-325.

ID at 229-230.

Respondents argue that this chain of reasoning to determine whether a significant minority of reasonable consumers would interpret the ads as containing the alleged claims is improper because the approach requires leaps in logic or the addition of missing elements in a chain of deduction. Respondents further argue that a facial analysis cannot provide those missing elements, but instead such analysis is strictly constrained by what actually appears in ad. We disagree. When conducting a facial analysis of an advertisement, the advertisement must be viewed as a whole "without emphasizing isolated words or phrases apart from their context[.]" *Removatron Int'l Corp. v. FTC*, 884 F.2d 1489, 1496 (1st Cir. 1989) (quoting *Am. Home Prods. Corp. v. FTC*, 695 F.2d 681, 687 (3d Cir. 1982)); *FTC v. Sterling Drug, Inc.*, 317 F.2d 669, 674 (2d Cir. 1963) (explaining "[t]he entire mosaic should be viewed rather than each tile separately"). Respondents' ads drew a logical connection between the antioxidant claims and the specific disease treatment or prevention claims through the associated explanatory text, the specific findings of the study results, and references to diseases or medical conditions. Ultimately, we assess the net impression of each ad, and we find that for many of Respondents' ads, the net impression is more than any individual element of the ad.

The ALJ did not individually analyze those exhibits for which he did not find the claims alleged by Complaint Counsel. Instead, he summarized generally a variety of factors explaining why he did not find such claims, including that the "advertisements . . . do not mention heart disease, prostate cancer, or erectile dysfunction; use vague, non-specific, substantially qualified, and/or otherwise non-definitive language; use language and/or images that, in the context of the advertisement, are inconsistent with the alleged claim; and/or do not draw a connection for the reader, such as through associated explanatory text, between health benefits, or study results, and effectiveness for heart disease, prostate cancer, or erectile dysfunction." ID at 222.

Based on a facial analysis of the ads, as well as a consideration of the relevant extrinsic evidence, we find that Respondents conveyed the efficacy claims alleged in the Complaint in more ads than the ALJ did. [10]

For example, we overrule the ALJ's with regard to Figure 7 ("Cheat Death" print ad) because we find that this ad conveyed to at least a significant minority of reasonable consumers

[10] *See* Summary Table of Commission Findings Regarding POM Exhibits, appended to this opinion.

that drinking eight ounces of POM Juice daily prevents heart disease. We make this finding based on the net impression of the advertisement, including the statements that drinking eight ounces of POM Juice a day "can help prevent . . . heart disease," and "[t]he sooner you drink it, the longer you will enjoy it," as well as imagery of the POM Juice bottle with a noose around the neck of the bottle.

We also overrule some of the ALJ's findings with regard to Figure 11 ("Decompress" print ad) because we find that this ad conveyed to at least a significant minority of reasonable consumers that drinking eight ounces of POM Juice daily prevents or reduces the risk of heart disease. The ad containing medical imagery depicts the POM Juice bottle wrapped in a blood pressure cuff. Moreover, express language in the ad establishes a link between POM Juice, which "helps guard . . . against free radicals [that] . . . contribute to disease," and the $20 million of "scientific research from leading universities, which has uncovered encouraging results in prostate and cardiovascular health." The ad also states that POM Juice will help "[k]eep your ticker ticking." In combination, these elements communicate the message that POM Juice prevents or reduces the risk of heart disease, and that those efficacy claims are scientifically established.

In addition, we reverse the findings of the ALJ with regard to Figure 22 ("Drink to Prostate Health" print ad). Based on the overall net impression, we find that this ad conveyed to at least a significant minority of reasonable consumers that drinking eight ounces of POM Juice daily treats prostate cancer and that this claim is scientifically established. Factors contributing to this net impression include the language "Drink to prostate health" and express language equating POM Juice to "good medicine." Furthermore, the ad describes "[a] recently published preliminary medical study [that] followed 46 men previously treated for prostate cancer" which found that "[a]fter drinking 8 ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly longer PSA doubling times."

Regarding the establishment claims, we agree with the ALJ that "[t]he majority of the Challenged Advertisements that have been found herein to have made the claims alleged in the Complaint [also] represented that clinical studies supported the claimed effectiveness of the POM Products." ID at 225. Not "every reference to a test [or study] necessarily gives rise to an establishment claim. The key, of course, is the overall impression created by the ad." *Bristol-Myers Co.*, 102 F.T.C. at 321 n.7. An establishment claim may be made by such words and phrases as "established" or "medically proven," but an establishment claim may also be made "through the use of visual aids (such as scientific texts or white-coated technicians) which clearly suggest that the claim is based upon a foundation of scientific evidence." *Id.* at 321 (citing *Am. Home Prods.*, 98 F.T.C. 136, 375 (1981), *aff'd*, 695 F.2d 681 (3d Cir. 1982)).

For four ads, Figures 4-7, the ALJ found that the ads conveyed heart disease efficacy claims but not establishment claims. *See* IDF 583. As recognized by Judge Chappell, Complaint Counsel did not allege establishment claims for two of the ads, Figures 5 and 7. For Figures 4 and 6, the ALJ explained that he did not find establishment claims when the ads "either do not reference any clinical testing or refer to clinical testing in such a way and in such context, that it cannot be concluded with confidence that a significant minority of reasonable consumers would take away the message that the efficacy claim is 'clinically proven.'" ID at 227. The ALJ found

that these ads represented that the Challenged POM Products treat, prevent or reduce the risk of heart disease, but he explained that "the only reference to any scientific support is in very small print, at an asterisk at the bottom of the page, which states 'Aviram, M. Clinical Nutrition, 2004. Based on a clinical pilot study.'" He concluded that "this small print, single reference to a study, particularly in the context of a qualified assertion that POM Juice 'can' reduce plaque, is insufficient to conclude with confidence" that reasonable consumers would interpret the ads "to be claiming that POM Juice is clinically proven to be effective for heart disease." *Id.* at 227-28 (citing IDF 446-447, 466-467).

The Commission disagrees.[11] We find that specificity of the representation in the text of the ad that drinking "eight ounces a day can reduce plaque by up to 30%!" – which is in the same size font as the rest of the ad text – would lead at least a significant minority of reasonable consumers to interpret the ad to convey that there is clinical proof of the heart disease claims. The specific percentage reduction of plaque in someone's arteries cannot be ascertained by any means other than by scientific measurement, and the statement therefore implies that the claim of plaque reduction is scientifically established. The claim of scientific proof is bolstered by the asterisk that directs the reader to the quoted citation for the "clinical pilot study," which the Commission acknowledges is in small print.

Respondents argue that none of their ads make establishment claims asserting "clinical proof" because any references to studies in the ads are only accurate descriptions of specific study findings rather than broad establishment claims. Respondents claim that it is improper to treat reports of particular study results about PSADT or reduced plaque in arteries as claimed clinical proof of treatment or prevention of prostate cancer or heart disease. We disagree. As we explain in the Claims Appendix, these ads drew a logical connection between the study results and effectiveness for the particular diseases. Reasonable consumers are unlikely to differentiate the precise medical differences after reading a headline proclaiming "Prostate Cancer Affects 1 Out of Every 6 Men," *see* Figure 17; a statement that "Prostate cancer is the most commonly diagnosed cancer in men in the United States," *see* Figures 21 and 27; or the headline "Amaze your cardiologist." *See* Figure 6.

Respondents also argue that the ads cannot reasonably be interpreted as making establishment claims asserting "clinical proof" because the ads simply report study results in a qualified manner with words such as "preliminary," "promising," "encouraging," or "hopeful." It is well established that if the disclosure of information is necessary to prevent a representation from being deceptive, the disclosure must be clear. *See, e.g.*, *Pantron I Corp.*, 33 F.3d at 1088; *Thompson Med. Co.*, 104 F.T.C. at 789 n.9, 842-43. Respondents' use of one or two adjectives does not alter the net impression that clinical studies prove their claims. This is especially true when the chosen adjectives – promising, encouraging, or hopeful – provide a positive spin on the studies rather than a substantive disclaimer.[12] As the ALJ explained, in the context of the

[11] Commissioner Ohlhausen would uphold the ALJ's findings for CX0031 and CX0034 (Figures 4 and 6). *See* Commissioner Ohlhausen's Concurring Statement.

[12] Our analysis here is consistent with the Commission's experience in other situations where it has found the use of qualifiers to be inadequate to sufficiently modify an otherwise false or misleading claim to render it non-deceptive. *See, e.g.*, Guides Concerning Use of Endorsements and Testimonials in Advertising, 16 C.F.R. § 255.2 (ads with endorsements will likely be interpreted as conveying that the endorser's experience is representative of what consumers will generally achieve, even when they include disclaimers such as "Results not typical" and "These

particular ads, "the foregoing language fails to materially alter the overall net impression that such advertisements were claiming clinical proof." *See, e.g.*, IDF 300-301, 312, 333, 342, 349-350, 354; *see also* IDF 519 (noting that Dr. Stewart had opined that "the typical consumer would likely have little understanding of what 'initial' or 'pilot' means, particularly in the context of [a study] being referred to as having been published in a major journal").[13]

Moreover, we note that in many instances, ads describing study results using such qualifying language include other elements that also contribute to the net impression that the claims at issue are clinically proven, such as the use of medical imagery (including the caduceus, a well-recognized symbol of the medical profession), or statements relating to the overall amount of money spent on "medical" research, ranging from $20 million to over $30 million, depending on the relevant time period. When an ad represents that tens of millions of dollars have been spent on medical research, it tends to reinforce the impression that the research supporting product claims is established and not merely preliminary.

Whether an ad conveys the implied claims alleged by Complaint Counsel is a question of fact. *See, e.g.*, *Removatron Int'l*, 884 F.2d at 1496, *Nat'l Urological Grp.*, 645 F. Supp. 2d at 1189. As we explain here, and in more detail in the Claims Appendix, based on our weighing of all of the evidence, the Commission finds that the net impression conveyed to at least a significant minority of reasonable consumers was that there is clinical proof for the disease treatment, prevention or risk reduction claims at issue. In this case, extrinsic evidence is not required because the establishment claims are in fact apparent from the overall, common-sense, net impression of the words and images of the advertisements themselves.

B. Extrinsic Evidence

Even though only a facial analysis is necessary to determine whether Respondents had indeed made the claims alleged by Complaint Counsel, both Complaint Counsel and Respondents provided extrinsic evidence in support of their arguments regarding claim interpretation. Specifically, Respondents offered the expert report and testimony of Dr. Ronald R. Butters, who was qualified as an expert in linguistics, as to the meaning of Respondents' advertisements. IDF 262, 264. In rebuttal, Complaint Counsel offered the expert report and testimony of rebuttal witness Dr. David Stewart, who is accepted as an expert in advertising, marketing, consumer behavior, and survey methodology, to review Dr. Butters' report and counter his conclusions. IDF 287-89. Complaint Counsel also relied on the Bovitz Survey, a 2009 study of billboard headlines commissioned by Respondents to compare the impact of two

---

testimonials are based on the experiences of a few people and you are not likely to have similar results"); FTC Staff Report, *Effects of Bristol Windows Advertisement with an "Up To" Savings Claim on Consumer Take-Away and Beliefs* (May 2012), *available at* http://www.ftc.gov/opa/2012/06/uptoclaims.shtm (when marketers use the phrase "up to" in their ads, such as making a claim that consumers will save "up to 47%" in energy costs by purchasing replacement windows, the qualifier does not affect consumers' overall takeaway that the percentage savings depicted is typical of what they can expect to achieve).

[13] In Commissioner Ohlhausen's view, the use of qualified terms such as "preliminary studies," or "initial studies" in the main text of an ad is significantly different than including a disclosure like "results not typical" in small print at the bottom of an ad. In her opinion, for some of the exhibits, the qualifying language regarding studies warrants extrinsic evidence before finding implied establishment claims. *See* Commissioner Ohlhausen's Concurring Statement.

advertising campaigns related to a number of the advertisements challenged by Complaint Counsel. ID at 222. Except where noted here and in the accompanying Claims Appendix, we agree with the ALJ's conclusions with respect to the extrinsic evidence provided in this case.

Extrinsic evidence can include results from methodologically sound surveys about the ads in question, the common usage of language, accepted principles from market research concerning consumers' response in general to ads, and the opinions of expert witnesses on how an advertisement might reasonably be interpreted. *See Kraft Inc.*, 114 F.T.C. at 121 (explaining extrinsic evidence includes "reliable results from methodologically sound consumer surveys"); *Thompson Med. Co.*, 104 F.T.C. at 790.

1. Dr. Butters' Expert Report and Dr. Stewart's Analysis

Dr. Butters examined the challenged ads and offered his opinion that none of them conveyed that scientific research proves that the use of the Challenged POM Products successfully treats, prevents or reduces the risk of heart disease, prostate cancer, or ED. IDF 264, 480-83; PX0158 (Butters Expert Report at 0003). He concluded that, at most, the ads would convey that pomegranate juice is a health beverage and that preliminary research suggests there may be health benefits. IDF 486; PX0158 (Butters Expert Report at 0003, 0043.) Additionally, Dr. Butters opined that what people might infer with respect to a food product may differ from what they might infer with respect to a drug regarding treatment claims. IDF 491-92; Butters, Tr. 2817-18. During trial, Dr. Butters testified and proffered his opinion on the interpretation of many of the challenged ads. *See* IDF 496-511. Dr. Stewart provided a useful analysis of Dr. Butters' expert report, but Dr. Stewart did not conduct his own facial analysis of the challenged ads, and because he could not opine on what the ads meant, his analysis has inherent limitations. IDF 513. He explained that Dr. Butters' linguistic approach to ad interpretation fails to take into account the characteristics of the viewer and how consumers use information. Stewart, Tr. 3170-73.

We agree with the ALJ's conclusion that, notwithstanding Dr. Butters' opinion to the contrary, the use of qualified language such as "may" or "can" with respect to the effects of the Challenged POM Products on disease does not modify the messages being conveyed.[14] In fact, we agree that such qualifiers may create the inference of a stronger claim by garnering reader trust and that their meaning can depend on context. ID at 233; IDF 527, 589. We also agree with the ALJ's conclusion that notwithstanding Dr. Butters' opinion to the contrary, the use of humor, parody, and hyperbole in an advertisement does not block communication of a serious message. ID at 233; IDF 487-89. Indeed, it may be the humor that grabs the reader's eye but the serious message that holds the reader's interest. The Commission agrees with the ALJ's conclusion based on Dr. Stewart's testimony that qualifying language with respect to cited studies (such as "preliminary," "promising," "encouraging," or "hopeful") "fails to materially alter the overall net impression that such advertisements were claiming clinical proof." ID at 232; IDF 519. In sum, we find Dr. Butters' linguistic analysis of the advertisements in question to be of limited value in our overall assessment of the net impression of the ads at issue.

[14] Commissioner Ohlhausen believes that the qualifying language in some of the exhibits requires extrinsic evidence before finding implied claims. *See* Commissioner Ohlhausen's Concurring Statement.

2. Bovitz Survey

In 2009, POM engaged the Bovitz Research Group to design a consumer survey to evaluate the relative effectiveness of the then-running "Super Hero" advertising campaign compared to POM's earlier "Dressed Bottle" campaign. The survey exposed survey respondents to POM's billboard advertising, which included taglines related to antioxidants but contained no additional text. Four of the billboard advertisements share headlines and imagery that appear in certain challenged ads in this case. IDF 544, 546, 547, 550, 552. We note at the outset that Complaint Counsel offered the Bovitz Survey as supporting extrinsic evidence only in the context of the testimony of its rebuttal witness, Dr. Stewart. Stewart, Tr. 3205-21; 3241-42.

In determining whether a consumer survey is methodologically sound, we consider whether the survey "draws valid samples from the appropriate population, asks appropriate questions in ways that minimize bias, and analyzes the results correctly." *Thompson Med. Co.*, 104 F.T.C. at 790. The Commission does not require methodological perfection before it will rely on a copy test or other type of consumer survey, but looks to whether such evidence is reasonably reliable and probative. *See Stouffer Foods Corp.*, 118 F.T.C. at 807; *Bristol-Myers Co.*, 85 F.T.C. at 743-44, 744 n.14. Flaws in the methodology may affect the weight that is given to the results of the survey. *See Stouffer Foods Corp.*, 118 F.T.C. at 807-08.

We agree with the ALJ's conclusion that the Bovitz study is not particularly persuasive. The ALJ concluded that the Bovitz Survey's conclusions on consumers' interpretations of billboard messages are entitled to little weight for assessing whether the print advertisements at issue in this case conveyed the alleged claims. ID at 223. The ALJ reasoned that even when the billboard headlines appeared in the challenged print ads, the billboard images did not include the additional text contained in the print ads, such as references to scientific studies, that might modify the message. *Id.*

3. Respondents' Intent

Finally, the ALJ rejected Complaint Counsel's argument that Respondents' intent to make disease claims in their advertisements should be considered in this matter as extrinsic evidence that the claims were made. *See* ID at 216 ("This Initial Decision need not, and does not, determine whether or not Respondents intended to make the disease claims alleged in the Complaint because the evidence is sufficient to conclude that Respondents disseminated advertisements containing the alleged claims, without regard to Respondents' alleged intent."). It is true that a showing of intent to make a particular claim is not required to find liability for violating Section 5. *See, e.g., Chrysler Corp. v. FTC*, 561 F.2d 357, 363, 363 n.5 (D.C. Cir. 1977); *Novartis Corp.*, 127 F.T.C. at 683; *Kraft, Inc.*, 114 F.T.C. at 121. But it is also well established that a showing that an advertiser intended to make particular claims can help demonstrate that the alleged claim was in fact conveyed to consumers. *See Telebrands Corp.*, 140 F.T.C. at 304 (concluding that "ample evidence that respondents intended to convey the challenged claims" provided further support for the conclusion that advertisements made the alleged claims); *Novartis Corp.*, 127 F.T.C. at 683 ("evidence of intent to make a claim may support a finding that the claims were indeed made"); *Thompson Med. Co.*, 104 F.T.C. at 791.

Here, we only consider whether Respondents intended to make the disease claims challenged by Complaint Counsel in their advertisements; whether Respondents intended to make claims about general health benefits in their advertisements is not relevant to our analysis.

We find that the record includes evidence of Respondents' intent to make claims in their advertisements about the Challenged POM Products' effects on heart disease, prostate cancer, and ED. For example, Mr. Resnick testified that POM communicates to consumers the company's "belief that pomegranate juice is beneficial in treating some causes of impotence, for the purpose of promoting sales of its product." IDF 1316 (citing CX1372 at 45 (S. Resnick, Tropicana Dep.)). Separate creative briefs for POMx Pills, dated September 1 and 5, 2006, respectively, stated that their "main creative focus is prostate cancer," and that other versions of the creative brief "should definitely focus on the other benefits of POM – antioxidant, anti-aging, heart health, etc." IDF 1327, 1328. Although we rely principally on a facial analysis of the challenged ads in determining their net impression, evidence of Respondents' intent to convey claims about disease treatment and prevention supports our reading of Respondents' ads.

V. Respondents' Disease Claims Are False or Deceptive

Having determined that a significant number of the advertisements at issue on their face convey the claims challenged by Complaint Counsel, we turn next to whether such claims are false or likely to mislead consumers. There are two analytical routes by which Complaint Counsel can prove that Respondents' ads are deceptive or misleading, and both arise in this case.

The first is to demonstrate that the claims in the ads are false. *See Thompson Med. Co.*, 104 F.T.C. at 818-19. In this case, the claims that Complaint Counsel alleges are false are Respondents' establishment claims. These claims may be deemed false where Respondents represent expressly or implicitly that there is clinical proof that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED but Respondents lacked such proof at the time the representations were made. If Respondents do not have such clinical proof, Respondents' establishment claims are false. *See, e.g., Removatron Int'l Corp.*, 111 F.T.C. 206, 297-99 (1988) ("If an advertisement represents that a particular claim has been scientifically established, the advertiser must possess a level of proof sufficient to satisfy the relevant scientific community of the claim's truth."), *aff'd*, 884 F.2d 1489 (1st Cir. 1989); *Sterling Drug*, 102 F.T.C. 395, 762 (1983) ("when an advertiser represents in its ads that there is a particular level of support for a claim, the absence of that support makes the claim false").

The second approach is through the "reasonable basis" theory, which Complaint Counsel asserts with regard to the efficacy claims in Respondents' ads. This theory rests on the principle that an objective claim about a product's performance or efficacy carries with it an express or implied representation that the advertiser had a reasonable basis of support for the claim. *Thompson Med. Co.*, 104 F.T.C. at 813 n.37. "Consumers find these representations of support to be important in evaluating the reliability of the product claims. Therefore, injury is likely if the advertiser lacks support for the claims." *Id.* For that reason, "[t]he reasonable basis doctrine requires that firms have substantiation before disseminating a claim." *Substantiation Statement*, 104 F.T.C. at 840. To determine what constitutes a reasonable basis, the Commission considers the "*Pfizer* factors," which are factors relevant to the benefits and costs of developing

substantiation for the claim. *See In re Pfizer Inc.*, 81 F.T.C. 23 (1972); *Substantiation Statement*, 104 F.T.C. at 840 (the "determination of what constitutes a reasonable basis depends . . . on a number of relevant factors relevant to the benefits and costs of substantiating a particular claim ...[including,] the type of claim, the product, the consequences of a false claim, the benefits of a truthful claim, the cost of developing substantiation for the claim, and the amount of substantiation experts in the field believe is reasonable").

In the Initial Decision, the ALJ recognized that both the falsity of the establishment claims and the lack of a reasonable basis for Respondents' efficacy claims involved questions of the level of substantiation that Respondents needed to possess. He further recognized that the experts who testified in this case explained that they would find the establishment and efficacy claims to be properly supported with the same level of evidence. *See* ID at 243. Thus, the ALJ consolidated his analysis of the establishment and efficacy claims and appears to have applied the *Pfizer* factors to both types of claims when he evaluated the expert testimony. *See id.* at 243-44. To the extent that the ALJ's approach may be interpreted as applying the *Pfizer* factors to determine the level of substantiation necessary to support the establishment claims, we do not adopt the analysis. *Removatron Int'l Corp.*, 111 F.T.C. at 297 ("[I]f the ad . . . implies a particular level of substantiation to reasonable consumers, application of the *Pfizer* factors is not required."); *Thompson Med. Co.*, 104 F.T.C. at 821-22 n.59; *Bristol-Myers*, 102 F.T.C. at 321, 331.

The ALJ also failed to differentiate the opinions and testimony of the expert witnesses regarding the particular claims that they were addressing. The ALJ correctly recognized that the level of evidence "required to support a claim depends on the claim being made." IDF 688 (citing Stampfer, Tr. 830-31; Miller, Tr. 2195, 2210). *See also* PX0206 at 11 (Miller Expert Report) ("whether clinical science is necessary to substantiate a particular claim would vary according to the strengths of the basic science and the particular claim"). Yet, the ALJ appears to have relied on expert testimony about the level of substantiation necessary for broad, generalized health and nutritional benefits when he determined the level of substantiation needed to address the specific disease treatment, prevention and risk reduction claims at issue in this case. Our review of the record leads us to conclude that, to the extent the ALJ did so, his conclusions are not properly supported.

Throughout this case, Respondents have argued that their scientific studies of the Challenged POM Products support claims about broad health benefits, which may contribute to a reduced risk of disease.[15] Thus, within the category of claims related to disease risk reduction, Respondents would include general dietary recommendations and qualified claims regarding any health benefits of food, which they contend are equivalent to the representations made in their ads.

---

[15] *See, e.g.*, RAns at 5 ("[T]he gist of these ads – their 'net effect' – is to convey the idea that POM's Products are natural foods high in health-enhancing antioxidants, much like other healthy foods, such as broccoli and blueberries, which may improve one's odds of staying in good health but are not medicine to prevent or treat disease."); RA at 26 ("What, then, do the statements in POM's advertisements mean? The plain reading of these messages is that the high antioxidant content of POM juice is likely a good thing, because it can help promote healthy functioning of various natural processes in the body.").

The starting point for Respondents' experts was the position that Respondents put forward on ad interpretation, namely that the challenged ads convey only that the Challenged POM Products generally promote good health. As a result, Respondents' experts provided opinions regarding the level of science needed to substantiate claims about general health benefits, testifying that lower levels of substantiation — for instance, the totality of the evidence, including basic science and pilot studies — are sufficient. *See* PX0025 at 5 (Ornish Expert Report) ("Taken as a whole, the scientific evidence from basic science studies, animal research, and clinical trials in humans indicates that pomegranate juice in its various forms . . . is likely to be beneficial in maintaining cardiovascular health and is likely to help reduce the risk of cardiovascular disease."); PX0192 at 9, 11 (Heber Expert Report) ("It is not appropriate to require the use of double-blind placebo-controlled studies for evaluating the health benefits of foods that have been consumed for their health benefits for thousands of years" and "the body of research on pomegranate juice and extract, revealing how they act in the body, provides support for potential health benefits for heart disease, and prostate cancer."); PX0149 at 6-7 (Burnett Expert Report) ("[T]he basic scientific and clinical evidence is sufficient to support the use of pomegranate juice as a potential benefit for vascular blood flow and the vascular health of the penis. . . . It is also my opinion that further such studies as double blinded, placebo-based tests are not required before permitting this information to be given to the public."); PX0189 at 3 (Goldstein Expert Report) ("[P]hysicians who treat patients concerned with erectile health would not hold pomegranate juice to the standards of safety and efficacy traditionally required by the FDA for approval of a pharmaceutical (including performance of large, double-blind, placebo-controlled pivotal clinical trials) before recommending pomegranate juice to their patients. The available body of scientific literature – including in vitro, in vivo, and preliminary clinical trials – strongly suggests that consuming pomegranate juice promotes erectile health.").

Yet, on cross-examination these experts revealed that even they distinguish the type of evidence that would be necessary to substantiate disease treatment, prevention or risk reduction claims, which are precisely the type of the representations we conclude are made in Respondents' ads. *See, e.g.*, IDF 684 ("Dr. Burnett testified that the standard of substantiation is different for a product that is directly associated as a treatment for erectile dysfunction and for a product that claims to have helpful benefits for or improves one's erectile function."); PX0192 at 40-41 (Heber Expert Report) ("To the extent [Complaint Counsel's expert] Dr. Stampfer claims that pomegranate juice and extract have not been proven absolutely effective to treat, prevent, or reduce the risk of heart disease and prostate cancer, I agree. But . . . [i]n my expert opinion, there is credible scientific evidence that pomegranate juice and pomegranate extracts have significant health benefits for human cardiovascular systems . . . [and] the following effects on prostate biology relevant to reducing the risk of prostate cancer . . ."). Likewise, as the ALJ recognized, claims regarding general health benefits for heart, prostate, or erectile function are not the equivalent of claims to treat, prevent or reduce the risk of heart disease, prostate cancer, and erectile dysfunction. *See* ID at 282, 288, 289.[16]

[16] This key distinction between general health benefit claims and disease treatment, prevention or risk reduction claims is the basis for Commissioner Ohlhausen's Concurring Statement regarding what claims were made in a number of Respondents' advertisements. *See* Commissioner Ohlhausen's Concurring Statement Regarding Exhibit Claims.

Similarly, Complaint Counsel's experts, who testified that RCTs would be necessary to support Respondents' disease treatment and prevention claims, have explained that less rigorous evidence may be sufficient to support some claims regarding health or nutritional benefits of food. *See* IDF 637 (Dr. Stampfer has made public health recommendations regarding diet that were not supported by RCTs), 644-45 (Dr. Sacks testified that RCTs are not necessary to test the benefit of food categories that are included in a diet already tested in an RCT for the same benefit).

In fact, the testimony of experts called by both Complaint Counsel and Respondents was consistent on this issue. They acknowledged the differences in the level of substantiation that would be necessary for general nutritional and health benefit claims compared to the level of substantiation necessary for the specific disease treatment and prevention claims at issue in this case. *See* IDF 631 (citing Stampfer, Tr. 830-31) (explaining if the claim does not imply a causal link, then evidence short of RCTs may support that claim), 649 (explaining even if a product is safe and might create a benefit, like a fruit juice, Dr. Eastham would still require an RCT to justify claims that Respondents are charged with making) (citing Eastham, Tr. 1325-31), 684 ("Dr. Burnett testified that the standard of substantiation is different for a product that is directly associated as a treatment for erectile dysfunction and for a product that claims to have helpful benefits for or improves one's erectile function."); Heber, Tr. 2145-47 (explaining that his prior testimony was that the totality of evidence showed that the Challenged POM Products likely reduced the risk in a "probabilistic sense" rather than "actual"; he did not previously testify that the Challenged POM Products treat prostate cancer, but rather they "help to treat" prostate cancer because he would not opine that the Challenged POM Products should substitute for conventional treatment); PX0206 at 11 (Miller Expert Report) ("an unqualified claim that the product has been shown to slow the progression of PSA doubling times should actually be supported by clinical evidence" whereas a "qualified claim that POM products may be effective ... is reasonable" if additional conditions are met, including there is "no suggestion" that pomegranate alone can "absolutely prevent the disease").

Although there is substantial expert testimony regarding the level of support required for generalized nutritional and health benefit claims, such evidence does not address the issue before us. We need not determine the level of substantiation required to support all health claims, and we therefore decline to make such a finding. We consider only the claims that, as found by the Commission, Respondents made in this case — that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, and ED, and that such claims are scientifically established. The expert evidence was clear that RCTs are necessary for adequate substantiation of these representations.

Accordingly, we reject the ALJ's conclusion that "RCTs are not required to convey information about a food or nutrient supplement where . . . the safety of the product is known; the product creates no material risk of harm; and the product is not being advocated as an alternative to following medical advice." *See* ID at 243. Other than to endorse the Commission's prior statements that health claims in food advertising be supported by

"competent and reliable scientific evidence,"[17] we do not reach the issue regarding the level of substantiation for other unspecified health claims involving food products. We simply reject the ALJ's findings and conclusions regarding any health benefits not specifically challenged in the Complaint.

Just as we limit our findings to the specific disease treatment and prevention claims that are before us, we also reject the ALJ's determination that the level of substantiation needed to support representations that a product treats, prevents or reduces the risk of disease varies according to whether the advertiser offers the product as a replacement for traditional medical care. *See* ID at 243. Again, we address only the level of substantiation needed to support the claims that are at issue in this case and do not address hypothetical claims.

A. Claims That Are False

We turn next with more specificity to Respondents' claims that are alleged to be false. According to the Complaint, and as we found above, Respondents have represented that "clinical studies, research, and/or trials prove" that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, and ED. Compl. ¶¶ 12, 14, 16. When "ads contain express or implied statements regarding the amount of support the advertiser has for the product claim . . . , the advertiser must possess the amount and type of substantiation the ad actually communicates to consumers."[18] *Substantiation Statement*, 104 F.T.C. at 839. Moreover, "[i]f an advertisement represents that a particular claim has been scientifically established, the advertiser must possess a level of proof sufficient to satisfy the relevant scientific community of the claim's truth." *See Thompson Med. Co.*, 104 F.T.C. at 821-22 n.59; *Removatron Int'l Corp.*, 111 F.T.C. at 297.

Because Complaint Counsel bears the burden of showing that these claims are false, *Thompson Med. Co.*, 104 F.T.C. at 818-19, Complaint Counsel must demonstrate that Respondents did not have the amount and type of substantiation they claimed to have had. *See Sterling Drug*, 102 F.T.C. at 762; *Thompson Med. Co.*, 791 F.2d at 194. To meet this burden, Complaint Counsel must establish the standards that clinical studies, research, or trials must meet to pass muster in the view of the relevant scientific and medical communities as support for the claims Respondents were making, and then show that the studies Respondents possessed did not meet those standards. If Respondents do not possess the level of clinical studies, research, or

---

[17] "'[C]ompetent and reliable scientific evidence' has been more specifically defined in Commission orders addressing health claims for food products to mean: tests, analysis, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results." *FTC Enforcement Policy Statement on Food Advertising*, (1994), *available at* http://www.ftc.gov/bcp/policystmt/ad-food.shtm (citing *Gracewood Fruit Co.*, 116 F.T.C. 1262, 1272 (1993); *Pompeian, Inc.*, 115 F.T.C. 933, 942 (1992)) ("*Food Advertising Statement*").

[18] As noted above, for these establishment claims, unlike efficacy claims, we need not perform an evaluation of the various factors set out in *Pfizer* to establish the appropriate level of substantiation because the ads themselves make express or implied substantiation claims. We simply hold Respondents to the level of substantiation that the ads claim. "We treat such claims like any other representations contained in the ad. We verify that it is reasonable to interpret the ad as making them, that the claims were material, and that they are false. If so, they are deceptive under Section 5(a) of the FTC Act." *Thompson Med. Co.*, 104 F.T.C. at 821-22 n.59.

trials demanded by those scientific and medical communities, then Respondents' claims of clinical proof are false. *See, e.g.*, *Sterling Drug*, 102 F.T.C. at 762 ("[W]hen an advertiser represents in its ads that there is a particular level of support for a claim, the absence of that support makes the claim false.").

Based on our review of the entire record, we conclude that a higher level of substantiation is necessary to support Respondents' establishment claims than what the ALJ found. The ALJ found that experts in the relevant fields would require "competent and reliable evidence [that] must include clinical studies although not necessarily RCTs" to support Respondents' claims. *See* ID at 253. We disagree. The Commission finds that experts in the relevant fields would require RCTs (*i.e.*, properly randomized and controlled human clinical trials described in more detail below) to establish a causal relationship between a food and the treatment, prevention, or reduction of risk of the serious diseases at issue in this case.

To determine the standards that the relevant scientific and medical communities would demand, we review the testimony of expert witnesses qualified in the fields of heart disease, prostate cancer, and ED. The Commission finds that the preponderance of the credible expert testimony establishes that the level of substantiation experts in the field would consider necessary to support Respondents' establishment claims – that clinical studies, research, or trials prove that the Challenged POM Products treat and prevent or reduce the risk of heart disease, prostate cancer, or ED – is RCTs. *Cf. Thompson Med. Co.*, 104 F.T.C. at 821 (finding the standard generally adhered to by the medical scientific community for testing the efficacy of a drug is well-controlled clinical tests (or RCTs)). Here, Respondents' advertisements on their face convey the net impression that clinical studies or trials show that a causal relation has been established between consumption of the Challenged POM Products and its efficacy to treat, prevent or reduce the risk of the serious diseases in question. The record testimony in this case indicates that experts in the fields of heart disease, prostate cancer, and ED would find that causation has been shown only if RCTs have been conducted and the appropriate data demonstrates that each study's hypothesis has been fully supported. *See* CX1293 at 8, 9 (Stampfer Expert Report) (observational studies "typically cannot confirm causality" and "best evidence of a causal relationship between a nutrient or drug . . . and a disease outcome in humans is a randomized, double blind, placebo-controlled, clinical trial"); IDF 639 (stating Dr. Sacks testified that most scientists in the fields of nutrition, epidemiology and the prevention of disease believe RCTs "are needed to constitute reliable evidence that an intervention causes a result"); IDF 687 (explaining Dr. Goldstein testified that "RCTs are considered the criterion standard for determining causality"); *accord* Federal Judicial Center, *Reference Manual on Scientific Evidence* 218 (3d ed. 2011) ("[r]andomized controlled experiments are ideally suited for demonstrating causation"). That is, we find that RCTs are required to substantiate Respondents' disease claims because it is necessary to isolate the effect of consuming the Challenged POM Products on the incidence of the disease, and the expert testimony revealed that only RCTs can isolate that effect.

As discussed previously, our conclusion differs from that of the ALJ in that the ALJ relied on expert testimony describing the level of substantiation that would support general claims of "health benefits" associated with the consumption of the Challenged POM Products, rather than focusing on the expert testimony about the level of substantiation needed to support

the specific disease treatment and prevention claims that are conveyed by Respondents' ads. *See* ID at 222. The ALJ recognized that "claims of efficacy can be made only when a causal relationship with human disease is established by competent and reliable scientific evidence." *Id.* at 247. Yet, the ALJ nonetheless relied on expert testimony addressing health benefit claims that do not assert a causal relationship to conclude that clinical evidence that is less than RCTs would support Respondents' claims. *See id.* at 247 (relying on IDF 631 (explaining public health recommendations that are not based on causation could be supported by evidence other than RCTs)). We find that the ALJ's conclusion that clinical evidence that is less than RCTs would substantiate Respondents' disease treatment, prevention, and risk reduction claims is not supported by the record.

Based on the expert testimony, we also find that the RCTs necessary to substantiate the serious disease claims made by Respondents share several essential attributes. First, to show the efficacy of the Challenged POM Products to treat, prevent or reduce the risk of disease, experts in the field would require the studies or trials to show causation, which would require the trial to be well-controlled. *See, e.g.*, CX1293 at 8-10 (Stampfer Expert Report); CX1291 at 11 (Sacks Expert Report); *cf.* Burnett, Tr. 2260-62 (discussing well-controlled studies to be validated by FDA). "A controlled study is one that includes a group of patients receiving the purported treatment . . . and a control group . . . . A control group provides a standard by which results observed in the treatment group can be evaluated. A control group allows investigators to distinguish between real effects from the intervention, and other changes, including those due to the mere act of being treated ('placebo effect'), the passage of time, change in seasons, other environmental changes, and equipment changes." IDF 611 (citations omitted).

Second, subjects should be randomly assigned to the test and control groups. Randomization "increases the likelihood that the treatment and control groups are similar in relevant characteristics, so that any difference in the outcome between the two groups can be attributed to the treatment . . . [and] also prevents the investigator from . . . introduc[ing] bias into the study." IDF 612.

Third, for clinical studies or trials to prove that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED, the studies need to examine variables that are known to be predictive of or measure the incidence of the disease. That is, the studies or trials need to examine disease endpoints or validated surrogate markers that "have been shown to be so closely linked to a direct endpoint that a change in the surrogate marker is confidently predictive of a change in the disease." IDF 621. Validated measures or assessment tools are those that have been established as reliable through rigorous assessments. IDF 621. Study results affecting variables that are not confidently predictive of a change in the incidence of disease do not prove that the Challenged POM Products treat, prevent or reduce the risk of the particular diseases.

Fourth, the testimony indicates that the scientific and medical communities would require that results of the trial be statistically significant to demonstrate that clinical studies prove that the tested product treats or prevents disease. IDF 616 (citing CX1291 at 12-13 (Sacks Expert Report); Burnett, Tr. 2269) ("If the results of the treatment group are *statistically significant* from those of the control group at the end of the trial, it can be concluded that the tested product

is effective.") (emphasis added), 618 (citing CX1291 at 12 (Sacks Expert Report); Eastham, Tr. 1273; Ornish, Tr. 2368; Melman, Tr. 1102-03) (explaining statistical significance means that differences are not due to chance or other causes). Moreover, the population from which the groups draw must be appropriate for the purposes of the study. *See* CX1287 at 12, 15 (Eastham Expert Report) (explaining that in a prostate cancer prevention trial the appropriate population would involve healthy men having no sign of prostate cancer, whereas in a prostate cancer treatment trial, the appropriate sample population would depend on the stage of the disease targeted by the study).

Fifth, the clinical trials should be double-blinded when feasible. Blinding refers to steps taken to ensure that neither the study participants nor the researchers conducting the outcome measurements are aware of whether a patient is in the active group or the control group. IDF 614. Double blinding, which is the blinding of both the subjects and investigators, is optimal to prevent bias arising from actions of the subjects or investigators. IDF 615. The expert testimony revealed in some instances that it may not be possible to conduct blinded clinical trials of food products. In that regard, the experts in the field might demand different well-controlled human clinical trials of foods than they would expect in other areas. The expert testimony in this case indicated that, for clinical tests involving food, participants in the study may be able to determine the products that they are consuming.[19] *See* IDF 641; Sacks, Tr. 1435-36 (describing controlled study testing low sodium diet in which subjects were able to taste the saltiness of the diet); Ornish, Tr. 2328-29, 2356; Goldstein, Tr. 2600-01. In such cases, there may be some flexibility in the double-blind requirement when determining whether a well-controlled human clinical trial satisfies the standard that experts in the field would consider support for particular claims for food. Although we note that Respondents submitted several studies with pomegranate juice that were described as double blind RCTs,[20] and we recognize that double-blinding would lend more credence to a clinical trial, we acknowledge that blinding of subjects may not always be feasible for the reasons stated above. We note, however, that clinical trials involving products such as the POMx pills should not face these types of blinding challenges.

Respondents argue that they should not be required to meet "an impossibly high and legally untenable standard of dispositive proof through the clinical studies" that their products treat, prevent or reduce the risk of disease in order to provide substantiation for their claims. RA at 30. We reject Respondents' argument. Respondents' ads convey a net impression that scientific and medical evidence support their representations. We are simply holding Respondents to their claims by requiring the standard by which the scientific and medical communities would accept their claims of efficacy. We do not impose a standard requiring "dispositive" proof; rather we require the scientific standard for proof, which demands statistically significant results on a metric that is recognized as a valid marker for the particular disease in a controlled human clinical study. According to the expert testimony, statistical

---

[19] This testimony is consistent with the FDA's "Guidance for Industry: Evidence-Based Review System for the Scientific Evaluation of Health Claims – Final," *available at* http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm073332.htm, which states: "When the substance is a food, it may not be possible to provide a placebo and therefore subjects in such a study may not be blinded. Although the study may not be blinded in this case, a control group is still needed to draw conclusions from the study."

[20] *See, e.g.*, IDF 808-818 (Ornish MP study), 849-859 (Ornish CIMT study), 872-883 (Davidson CIMT study), 941-943 (Heber/Hill Diabetes study).

significance with a p-value that is less than or equal to 0.05 is the recognized standard to show that a study's hypothesis has been proven. IDF 618. This is the level of "proof" that Respondents' must possess.

Respondents further argue that statistically significant proof requires studies that are too large and costly. The response to this argument is twofold. First the need for RCTs is driven by the claims Respondents have chosen to make (*i.e.*, establishment claims about a causal link between the Challenged POM Products and the treatment or prevention of serious diseases). Second, the requisite size of a clinical trial – the number of subjects required for an appropriately designed study – is guided by several factors, including the need to produce both clinically and statistically significant results. *See, e.g.*, CX1287 at 15 (Eastham Expert Report) (explaining that clinical and statistical significance for a prostate cancer treatment trial may require a sample population that involves hundreds to thousands of men). A large number of participants is not always necessary, however. RCTs differ widely in size, depending, in part, on what the study is trying to show. If, despite a relatively small size, a well-conducted RCT produces significant results, then the study would constitute evidence of efficacy that would provide the substantiation that experts would accept. The main limitation of smaller studies is that it may prove difficult to detect real differences between the active and control substances, because sampling variance is inversely related to sample size. *Cf.* CX1338, *in camera* (Padma-Nathan, Dep. at 108-09) (larger number of participants may have helped Forest/Padma-Nathan study achieve overall statistical significance). Smaller studies may require a large difference in outcomes between the two arms of a clinical trial to produce statistically significant results. Thus, designers of clinical studies have a natural incentive to make them as large as possible.

Similarly, Respondents argue that it is improper to impose the testing standards for drugs on food products. We do not impose such standards in this case. Although the Commission does not enforce federal drug approval requirements, we note at the outset that our sister federal agency, the Food and Drug Administration, promulgates and enforces regulations regarding investigational new drug approvals, and that those regulations require multiple phases of clinical trials that collectively represent different – and considerably greater – substantiation than the RCTs required here.[21] We note too, that FDA regulations separately require FDA approval of health claims made on behalf of food products, and that approval of such claims requires the submission of well-designed scientific evidence.[22] Respondents' representations claim clinical proof of efficacy for treating, preventing, or reducing the risk of serious diseases (two of which are potentially fatal). Nonetheless, the Commission's determination that experts in the field would require RCTs to support Respondents' health claims does not require the FDA standard of proof for drugs.

---

[21] *See, e.g.*, 21 CFR §§ 312.21-23 (regarding three phases of clinical trials for investigational new drug applications for products not previously tested, where both Phase 2 and Phase 3 trials comprise clinical studies of effectiveness).
[22] *See, e.g.*, 21 CFR § 101.14(c) (validity requirement for food health claims); *see also* FDA, Guidance for Industry: Evidence-Based Review System for the Scientific Evaluation of Health Claims, *available at* http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm073332.htm.

1. Evidence Regarding Substantiation for Heart Disease Claims

We find that the greater weight of credible expert testimony establishes that experts in the field of heart disease would require RCTs to support Respondents' claims that clinical studies establish that the Challenged POM Products treat, prevent or reduce the risk of heart disease. Complaint Counsel's expert, Dr. Frank Sacks, testified that to show that clinical studies, research, or trials prove that a product treats, prevents or reduces the risk of heart disease, it is necessary to rely on appropriately analyzed results of "well-designed, well-conducted, randomized, double-blinded, controlled human clinical studies (RCTs)." CX1291 at 10-11 (Sacks Expert Report). Dr. Sacks also opined that the findings of the studies must be statistically significant; the results must demonstrate significant changes in valid surrogate markers of cardiovascular health that are recognized by the FDA or experts in the field, such as blood pressure, LDL cholesterol, C-reactive protein, HDL cholesterol, and triglycerides. IDF 711, 712, 761-63, 765-66. Similarly, Dr. Meir Stampfer, another expert witness for Complaint Counsel, testified that scientists in the fields of clinical trial epidemiology and the prevention of cardiovascular disease would believe that randomized, double-blind, placebo-controlled studies are needed to show that products such as POM Juice, POMx Pills, and POMx Liquid can prevent, reduce the likelihood of, or treat cardiovascular disease because a well-controlled clinical trial is necessary to establish a causal inference. Stampfer, Tr. 717-18.

Respondents' experts, Dr. David Heber and Dr. Dean Ornish, testified that the preponderance of scientific evidence from basic scientific studies, animal research, and human clinical trials reveals that pomegranates are likely to be beneficial in maintaining cardiovascular health and are likely to help reduce the risk of cardiovascular disease. IDF 954, 959. Yet, as we previously observed, Respondents' experts generally do not address the specific heart disease claims alleged in the Complaint. For example, Dr. Ornish only addressed whether RCTs would be necessary "to test and substantiate health claims of something like pomegranate juice." Ornish, Tr. 2329. He did not specifically address whether *in vitro* and animal studies could provide support for claims that a product treats, prevents or reduces the risk of heart disease. Similarly, Dr. Heber testified about "the juice's ability to promote health" when he explained that experts would look at the totality of science rather than requiring RCTs as the only acceptable evidence. Heber, Tr. 1948-49; *see also* PX0192 at 9, 40 (Heber Expert Report) (explaining "[i]t is not appropriate to require the use of double-blind placebo-controlled studies for evaluating the *health benefits* of foods . . ." and "there is credible scientific evidence that pomegranate juice and pomegranate extracts have *significant health benefits* for human cardiovascular systems, including: 1) decreases in arterial plaque; 2) lowering of blood pressure; and 3) improvement of cardiac blood flow") (emphasis added).

Based on our evaluation of this evidence, we conclude that the expert testimony establishes that to support claims that clinical studies prove that the Challenged POM Products treat, prevent or reduce the risk of heart disease, experts in the field of heart disease would require RCTs.

Respondents have sponsored several *in vitro* and *in vivo* animal studies to examine the effect of the Challenged POM Products on cardiovascular health. The ALJ considered 13 *in vitro* and *in vivo* studies and made findings regarding the results of the studies, as well as the

expert witnesses' assessments of the studies. *See* IDF 732-55. We adopt the ALJ's findings on this basic science and the preclinical studies regarding cardiovascular health. As Judge Chappell observed, experts for both Complaint Counsel and Respondents acknowledge that some of Respondents' *in vitro* studies have shown pomegranate juice's favorable effects on particular mechanisms involved in cardiovascular disease, *see* IDF 745, 746, but experts for both sides also acknowledged that *in vitro* and animal studies do not provide reliable scientific evidence of what effects a treatment will have inside the human body. IDF 752, 753. Thus, while the basic research possessed by Respondents is part of the totality of evidence that must be examined, we conclude, similar to the ALJ, that experts in the field would agree that Respondents' *in vitro* and animal studies need to be replicated in humans to show an effect on preventing or treating a disease and therefore do not provide adequate substantiation for Respondents' heart disease claims alleged in the Complaint. IDF 755.

The Complaint alleges that Respondents claim that clinical studies, research, or trials prove that the Challenged POM Products treat, prevent or reduce the risk of heart disease by (1) lowering blood pressure; (2) decreasing arterial plaque; and/or (3) improving blood flow to the heart. The Initial Decision methodically examines in detail Respondents' ten published clinical studies and several unpublished clinical studies on humans regarding the effect of the Challenged POM Products on cardiovascular health. *See* IDF 756-947; ID at 256-69. For each study, the ALJ describes the methodology, including any shortcomings in design, as well as the results. The ALJ also describes the expert testimony regarding each study. After evaluating each study in detail, Judge Chappell concludes that these studies "do[] not provide competent and reliable scientific evidence to support claims that the Challenged POM Products treat, prevent, or reduce the risk of heart disease." IDF 786 (Aviram ACE/BP Study), 804 (Aviram CIMT/BP Study), 848 (Ornish MP Study), 868 (Ornish CIMT Study), 900 (Davidson CIMT Study), 914 (Davidson BART/FMD Study), 938 (Denver and San Diego Overweight Studies), 947 (Diabetes Studies).

For Respondents' claims that the Challenged POM Products lower blood pressure, the ALJ describes and evaluates the Aviram ACE/BP Study, *see* IDF 774-86, and the Aviram CIMT/BP Study, *see* IDF 787-804, and examines the results of five other studies that measured blood pressure as part of the protocol. The ALJ concludes that the expert testimony regarding the Aviram ACE/BP Study and Aviram CIMT/BP Study is conflicting, but "[t]he greater weight of the persuasive expert testimony on the studies sponsored by Respondents measuring blood pressure demonstrates that the scientific evidence relied upon by Respondents is not adequate to substantiate a claim that the Challenged POM Products treat, prevent, or reduce the risk of heart disease through reducing blood pressure, or that clinical studies show the same." ID at 259.

With respect to claims that the Challenged POM Products reduce arterial plaque, the ALJ describes and evaluates the Aviram CIMT/BP Study, *see* IDF 787-804, the Davidson CIMT Study, *see* IDF 869-900, and the Ornish CIMT Study, *see* IDF 849-68. Again, the ALJ concludes that "[t]he greater weight of the persuasive expert testimony on the studies sponsored by Respondents measuring CIMT demonstrates that the scientific evidence relied upon by Respondents is not adequate to substantiate a claim that the Challenged POM Products treat, prevent, or reduce the risk of heart disease through reducing arterial plaque, or that clinical studies show the same." ID at 265.

For Respondents' claims that the Challenged POM Products improve blood flow, the ALJ describes and evaluates the Ornish MP Study, *see* IDF 805-48. Here, the ALJ concludes that "[t]he greater weight of the persuasive expert testimony on the Ornish MP Study demonstrates that the scientific evidence relied upon by Respondents is not adequate to substantiate a claim that the Challenged POM Products treat, prevent, or reduce the risk of heart disease through improving blood flow, or that clinical studies show the same." ID at 269.

The ALJ also describes and evaluates additional clinical studies regarding heart disease. The ALJ considers the Denver Overweight Study, *see* IDF 915-23, 934-36; the San Diego Overweight Study, *see* IDF 924-33; the Rock Diabetes Study, *see* IDF 939-40, 944; and the Heber/Hill Diabetes Studies, *see* IDF 941-47. Again, the ALJ concludes that the studies do not provide scientific evidence to substantiate a claim that the Challenged POM Products treat, prevent or reduce the risk of heart disease.

We rely on the ALJ's detailed findings regarding each of the studies. Indeed, Respondents do little on appeal to contest the ALJ's findings regarding the particular clinical studies regarding cardiovascular health and heart disease. Instead, Respondents urge us only to overlook particular shortcomings of some of the studies in order to conclude that Respondents possess adequate substantiation for their claims. *See* RR at 7-10. We do not find Respondents' arguments persuasive and we agree with the ALJ's conclusions that each study fails to provide substantiation for Respondents' claim that clinical evidence proves that the Challenged POM Products treat, prevent or reduce the risk of heart disease.

In particular, Respondents encourage us to focus on the improved measurements of blood pressure and arterial plaque in the Aviram ACE/BP and Aviram CIMT/BP studies rather than focus on the small size of the studies. RR at 7-8. Yet, the criticism of the studies is not limited to their size. In the Aviram ACE/BP study, ten elderly, hypertensive patients drank 50 ml of pomegranate concentrate daily for two weeks. IDF 774. The study was unblinded and had no control group. Instead, each patient's "before" measures were compared to the "after" measures. IDF 776. Expert testimony criticized the study because the sample size was too small to provide reliable evidence that the observed effects would be generally applicable to a larger population; the two-week period was too short to provide evidence that the improvements would last; one of the measured endpoints (angiotensin converting enzyme (ACE) activity) is not a validated surrogate marker of cardiovascular disease; and the lack of a control group meant that it is not possible to conclude that consumption of the pomegranate concentrate was the cause of reported improvements in blood pressure levels. IDF 780-81.

Similarly, in the Aviram CIMT/BP study, a group of ten patients with severe carotid artery stenosis drank up to 50 ml of concentrated pomegranate juice daily for one year, and five continued doing so for three years. A second group of nine patients did not consume pomegranate juice and acted as a control group. IDF 790. Respondents emphasize that the study found that members of the group that drank pomegranate juice consumption experienced, after one year, a reduction in carotid intima-media thickness (CIMT) by up to 30% and statistically significant reductions in systolic blood pressure. IDF 791, 794. Expert testimony regarding the study explained, however, that "a qualified scientist would not be able to conclude with any credibility that the Aviram CIMT/BP Study's reported improvements in the treatment group

were caused by their consumption of pomegranate juice and not some other factor because of the lack of a randomized, placebo-controlled group; the fact that the patients in the active and control groups received different treatment; the small sample size, and the lack of any between-group statistical analysis." IDF 798. Even one of Respondents' experts conceded the study was "not at all conclusive, the study suggests a benefit." IDF 802 (quoting Dr. Ornish). We find that the limitations of the Aviram ACE/BP and Aviram CIMT/BP studies go beyond the small sample size. As discussed above, there are several ways in which these two studies do not satisfy the criteria for well-controlled, well-designed clinical studies that are necessary to demonstrate that a product treats, prevents or reduces the risk of heart disease.

Regarding the specifics of the Davidson CIMT Study, Respondents argue that the Study should be recognized for the positive results for patients at the 12-month mark despite the lack of positive results for the patient group at 18 months. RR at 9. Respondents argue that "[a]lthough these results were not replicated at 18 months for the entire patient group, . . . the most likely explanation for the drop-off was the fact that patients may have stopped following the protocol of drinking POM Juice." *Id.* We reject Respondents' arguments. First, "[a]dherence to study product consumption was assessed at each visit by reviewing daily consumption diaries maintained by the subjects." IDF 876. Second, while the Study reported the 12-month results, those results were not the basis for any conclusions. *See* IDF 878 (explaining, for instance, "anterior and posterior wall CIMT values and progression rates did not differ significantly between treatment groups at any time"). Moreover, peer reviewers of the study considering the study for publication concluded "it was a negative study." IDF 880, 881-82, 883. We do not find that the 12-month results of the Davidson CIMT Study provide evidence on which experts in the field of heart disease would rely to establish that there is clinical proof that the Challenged POM Products treat, prevent or reduce the risk of heart disease.

Respondents also argue that the Ornish MP Study provides substantiation for the heart disease claims because the Ornish MP study found that POM Juice caused a statistically significant 35% improvement in blood flow to the heart. Respondents emphasize the testimony of Dr. Ornish that blood flow to the heart is the "bottom line" when it comes to heart disease, and Respondents also point out that the "[s]cientists and clinicians routinely consider biomarkers for heart disease other than the two officially recognized by the FDA." RR at 8. Respondents' argument acknowledges that the Ornish MP Study does not provide evidence that experts in the field of heart disease would accept as support for claims that the Challenged POM Products treat, prevent or reduce the risk of heart disease because the study does not consider surrogate markers that are accepted as correlated to heart disease. IDF 825. As a result, Respondents' argument recognizes the failure of the Ornish MP Study to provide evidence of the issue that is before us. In addition, the Ornish MP Study suffered from significant problems, including that data on all patients was not reported; subjects in the placebo group did not receive a placebo treatment; a group of patients were unblinded before their test dates; the control group differed from the active group at the outset of the study; and the study was ended after three months even though it was designed to last for twelve months. *See* IDF 819-824, 835-837, 843-845. Dr. Ornish admitted many of the problems were not "optimal." IDF 819. As with the other studies, we conclude that the Ornish MP study does not provide clinical proof of the Challenged POM Products' efficacy for heart disease.

2. Evidence Regarding Substantiation for Prostate Cancer Claims

We find that the expert testimony establishes that experts in the field of prostate cancer would require RCTs to support Respondents' claims that clinical studies establish that the Challenged POM Products treat, prevent or reduce the risk of prostate cancer. Complaint Counsel's experts, Dr. James Eastham and Dr. Meir Stampfer, state that to support claims that the Challenged POM Products prevent prostate cancer, or that they have been clinically proven to do so, experts in the field of prostate cancer would require at least one well-designed, randomized, double-blind, placebo-controlled clinical trial involving an appropriate sample population and endpoint. IDF 626, 648. Drs. Eastham and Stampfer also stated that at least one well-designed, randomized, double-blind, placebo-controlled clinical trial would be necessary to support claims that the Challenged POM Products treat prostate cancer, or that they have been clinically proven to do so. IDF 626, 648. Dr. Eastham explained that the appropriate sample population for a cancer prevention trial would involve healthy men, aged 50 to 65, who have no sign of prostate cancer, and that the study must be conducted over a long enough period to see an effect over time. IDF 1092-93. He also testified that "[t]he primary endpoint in a prostate cancer prevention trial for measuring whether a product has been effective is the prevalence or incidence of prostate cancer between the treatment and placebo groups at the conclusion of the study." IDF 1089.

Respondents' expert stated that *in vitro* and animal studies provide evidence that the Challenged POM Products promote prostate health. Dr. Jean deKernion testified that the Challenged POM Products are beneficial to prostate health. IDF 1124. For instance, Dr. deKernion testified that RCTs are not necessary to substantiate "health benefit" claims for prostate health, but he did not address the level of science needed for prostate cancer treatment or prevention claims. *See* IDF 965; *see also* IDF 1126 (explaining deKernion testified there is a high probability that the Challenged POM Products provide a special benefit to men with detectable PSA after radical prostatectomy). Dr. David Heber similarly provided an opinion that *in vitro* studies, animal studies, and clinical evidence provide a strong scientific rationale for claims that pomegranate juice promotes prostate "health." *See* PX0192 at 0027 (Heber Expert Report). Respondents' experts did not specifically address the claims alleged in the Complaint, which we found Respondents to have made. Therefore, we find that experts in the field of prostate cancer would require RCTs to support Respondents' claims that clinical studies establish that the Challenged POM Products treat, prevent or reduce the risk of prostate cancer.

Respondents had conducted four *in vitro* studies and four animal studies relating to prostate cancer by 2009. IDF 1010. As we have previously described, such studies are used to identify potential biologic mechanisms and generate hypotheses for studies in humans, IDF 594-97, and Respondents' *in vitro* and animal studies showed possible mechanism of action of pomegranates in the prostate. *See* IDF 991-1017. But, as experts for both Complaint Counsel and Respondents testified, the results from *in vitro* and animal studies cannot always be extrapolated to what the results would be in humans, so this evidence alone does not provide clinical evidence that shows that the Challenged POM Products treat, prevent or reduce the risk of prostate cancer. IDF 1019 (describing opinions of Dr. Stampfer and Dr. Eastham), 1022 (describing opinion of Dr. deKernion), 1024.

Respondents also possessed two human clinical trials at the time of the hearing before Judge Chappell. In the Initial Decision, the ALJ makes detailed findings regarding the Pantuck Study, IDF 1026-1069, 1086-1094, 1105-1127, and the Carducci Study. IDF 1064-1085, 1096-1099, 1105-1127. We do not repeat the ALJ's detailed findings regarding the human clinical studies. Based on his findings regarding each study, Judge Chappell concluded "[t]here is insufficient competent and reliable scientific evidence to support the conclusion that the Challenged POM Products treat, prevent, or reduce the risk of prostate cancer or that clinical studies, research and/or trials establish these effects." IDF at 1143.

We reach the same conclusions. We note that neither study included a placebo-control group, *see* IDF 1037, 1068-69, so that even though the studies found statistically significant results, one cannot be sure that the effects observed in each study are attributable to consuming the Challenged POM Products. IDF 1083 ("Dr. Carducci . . . testified that without a placebo, he cannot be sure that the effect on [the observed outcome] in the Carducci Study is attributable to POMx."), 1087-88 (Dr. Stampfer and Dr. Eastham testified that without a placebo control group in the Pantuck Study, it is not possible to know whether the outcome would have been observed in the patient group without receiving the Challenged POM Products), 1096 (without a placebo control group in the Carducci Study, it is not possible to conclude POMx caused the change in outcome), 1114, 1118 (Dr. deKernion testified that a control arm is not necessary for a "Phase II study that is exploratory in nature," but "without a placebo, one cannot be certain that the effect on [outcome] seen in the Carducci Study is attributable to POMx.").

Additionally, both the Pantuck Study and the Carducci Study examined men who had been diagnosed with prostate cancer and had been treated with a radical prostatectomy or other radical treatment. Both studies used prostate specific antigen (PSA) doubling time as the primary endpoint for measuring results. The presence of detectable PSA after radical prostatectomy usually indicates cancer is present. IDF 1041. There is conflicting expert testimony regarding whether use of PSA doubling time is an appropriate measure. *See* IDF 1059 (Dr. Pantuck stated "[i]t remains controversial whether modulation of PSA levels represents an equally valid clinical endpoint"); 1060-1063 (explaining an RCT examining another product found that PSA levels changed for both the placebo and active groups, which "suggests caution is required when using changes in PSA [doubling time] as an outcome in uncontrolled trials"); 1101-1104 (describing opinions of Drs. Eastham and Stampfer); 1105-1113 (describing assessments by Drs. deKernion and Heber). Yet, experts for both Complaint Counsel and Respondents testified that PSA doubling time is not an accepted surrogate endpoint by experts in the field of prostate cancer. IDF 1100 (describing opinions of Drs. Eastham and Stampfer), 1111 (describing opinion of Dr. deKernion).

Moreover, both the Pantuck Study and the Carducci Study examined men who had been diagnosed with prostate cancer. Thus, the studies do not examine whether the Challenged POM Products prevent or reduce the risk of prostate cancer. IDF 1084 ("According to Dr. Carducci, the Carducci Study was never designed to prove, and did not prove, that POMx prevents or reduces the risk of prostate cancer."), 1091 (Pantuck Study was designed as a treatment study conducted in men with prostate cancer and does not provide any evidence that POM Juice is a prostate cancer preventative), 1099 (Carducci Study cannot provide support for prevention claims because it evaluated effect of POMx in men who already had prostate cancer).

Given these limitations of the Pantuck and Carducci Studies, like the ALJ we find that experts in the field of prostate cancer would not consider these studies to be clinical proof that the Challenged POM Products treat, prevent or reduce the risk of prostate cancer.

3. Evidence Regarding Substantiation for Erectile Dysfunction (ED) Claims

We find that the expert testimony establishes that experts in the field of ED would require RCTs to support claims that clinical evidence proves a product treats, prevents or reduces the risk of ED. Complaint Counsel's expert, Dr. Melman,[23] opined that in order to make a claim that the Challenged POM Products have been clinically proven to treat, prevent or reduce the risk of ED, at least one well-designed human RCT involving several investigatory sites is required. IDF 654. Dr. Melman also opined that a well-designed human RCT must use a validated tool for measuring treatment outcomes and that the clinical trial must have a sample population that is large enough to produce statistically significant and clinically significant results. IDF 655.

Respondents' expert, Dr. Arthur Burnett, testified that a safe food product, which is not used as a substitute for proper medical treatment, does not require RCTs to substantiate erectile health claims. *See* IDF 683, 684. He testified that a combination of basic science and clinical evidence can support a conclusion that a product improves erectile health and function. *See* IDF 242. Similarly, Respondents' expert, Dr. Goldstein, opined that RCT studies are not required to substantiate claims that pomegranate juice can aid in erectile health and that *in vitro* and animal studies demonstrated a likelihood that pomegranate juice improves erectile health. *See* IDF 686. Yet, Dr. Burnett also testified that "experts in the field of erectile dysfunction would require that a product be scientifically evaluated through rigorous scientific and clinical studies, and believe that animal and *in vitro* studies alone are not sufficient, before concluding that pomegranate juice treats erectile dysfunction in a clinical sense." IDF 1148 (citing Burnett, Tr. 2261-64; 2285-86;

[23] We disagree with the ALJ's assessment that Dr. Melman's opinions are "attenuated," *see* ID at 284; we do not find Dr. Melman's opinions to lack credibility. We first note that Judge Chappell's assessment is not based on his observation of Dr. Melman's courtroom demeanor, but rather on his assessment of the breadth of Dr. Melman's knowledge about ED studies. *See id.* We disagree with the ALJ's assessment in light of the fact that Dr. Melman was part of an international consortium that defined the requirements of clinical trials in the field of ED, his prior role as an editor of *Sexuality and Disability*, and his role as an editorial reviewer for prominent medical and urological journals. Melman, Tr. 1113-1114; CX1289 at 2. The ALJ discounted Dr. Melman's testimony because Dr. Melman was unfamiliar with the Global Assessment Questionnaire (GAQ) used in Respondents' study. We do not find that Dr. Melman's unfamiliarity with the tool reduces the value of Dr. Melman's opinion because, as the ALJ and each expert recognized, the GAQ is not a validated measure for assessing erectile function. IDF 1196 (citing Melman, Burnett, Goldstein); Melman, Tr. 1100-1102 (explaining unvalidated tools have not been shown to be reliable, validated tools are commonly used and unvalidated tools would not be used alone). Moreover, Dr. Melman researched the GAQ to provide his opinion in this case. The ALJ also discounted Dr. Melman's opinion because Dr. Melman supposedly made claims about a gene transfer therapy for ED that was based on only an animal study and one preclinical study of eleven men. *See* ID at 284. Yet, the record shows that these alleged statements are not in conflict with his testimony in this case because Dr. Melman's actions were consistent with traditional scientific protocol. Dr. Melman made a presentation about the animal and preclinical study only to a scientific audience and publication. He did not state that such evidence supported marketing claims to the public. Moreover, he is continuing to test the product before it is marketed. Dr. Melman's publicly reported statements were made only in the context of an unsolicited interview with the popular press when he was approached after the scientific presentation. Melman, Tr. 1149-1157. We find Dr. Melman's testimony to be credible.

2303). *See also* Burnett, Tr. 2284-85 (explaining that the "erectile dysfunction" testimony of Respondents' nutrition expert, Dr. Heber, addressed the idea that the Challenged POM Products are beneficial to erectile health rather than the clinical condition). Because Respondents' experts testified about the support necessary for general claims regarding erectile function or erectile health rather than claims that a product treats, prevents or reduces the risk of ED, we conclude that, on the basis of the record in this case, experts in the field of ED would require RCTs to substantiate the ED claims alleged in the Complaint.

As the ALJ determined, Respondents did not possess the scientific evidence to substantiate their claims that clinical studies prove that the Challenged POM Products treat, prevent or reduce the risk of ED. *See* ID at 285-89. The ALJ systematically examined Respondents' scientific evidence. The ALJ analyzed Respondents' six preclinical *in vitro* and *in vivo* studies, and that analysis is not appealed. *See* IDF 1260-1302. Similar to the basic science evidence for heart disease and prostate cancer, preclinical studies "are used to identify potential biologic mechanisms and generate hypotheses." IDF 594. These results, however, often are not replicated in humans. *Id.* Here, the basic science describes a possible mechanism by which pomegranate juice may affect human penile erections, but the expert testimony indicated that the studies demonstrated only a "benefit to erectile function," *see, e.g.*, IDF 1299, 1298 ("potential benefit . . . to likely improve one's erection physiology"), 1300, but "cannot alone prove that POM Juice treats, prevents, or reduces the risk of erectile dysfunction in humans." IDF 1301.

Respondents relied on one human clinical trial regarding ED, the Forest/Padma-Nathan study.[24] That study was an RCT examining 53 men with mild to moderate ED, using the Global Assessment Questionnaire (GAQ) as the primary outcome measure. The GAQ is not a validated instrument for erectile function. In addition, the GAQ results for the Forest/Padma-Nathan study came close to statistical significance but failed to actually reach statistical significance. IDF 1210-25. The study also used the International Index of Erectile Function (IIEF), which is a validated tool; the IIEF results were "nowhere near approaching statistical significance." IDF 1226. Dr. Padma-Nathan testified that the study concluded there was a potential for beneficial effects on ED, but further studies were needed to confirm such a claim. IDF 1229. Moreover, a peer reviewer considering the study for publication stated that it was "a negative study" and the results should be presented that way, and a published review stated that the study had negative results.[25] IDF 1231, 1232. Thus, we conclude that Respondents' human clinical trial does not provide substantiation for the claim that clinical studies prove that the Challenged POM Products treat, prevent or reduce the risk of ED. *See* IDF 1253. In addition, we note that the Forest/Padma-Nathan study examined men with mild to moderate ED; Respondents do not possess any clinical studies examining the effects of consuming the Challenged POM Products on men without ED to substantiate the claims that the Challenged POM Products prevent or reduce the risk of ED.

---

[24] One cardiovascular study, the Davidson BART/FMD study, also asked a subset of participants to complete an ED questionnaire, but, as the ALJ found, the International Index of Erectile Function (IIEF) results of that study do not support the conclusion that consuming the Challenged POM Products treats, prevents or reduces the risk of ED. *See* IDF 1254-59.

[25] To the extent that the ALJ concluded that the expert testimony regarding the Forest/Padma-Nathan study demonstrates that pomegranate juice provides a positive benefit to erectile health and erectile function, *see* ID at 288, IDF 1250-52, we reject those conclusions because such benefits were not challenged and tried by Complaint Counsel.

Having fully considered and weighed all of the evidence and the expert testimony on Respondents' basic science and clinical trials, the greater weight of the persuasive expert testimony demonstrates that there is insufficient competent and reliable scientific evidence to substantiate a claim that clinical studies, research or trials prove that the Challenged POM Products treat heart disease, prostate cancer, or ED. Similarly, we find that the greater weight of the persuasive expert testimony demonstrates that there is insufficient competent and reliable scientific evidence to substantiate a claim that clinical studies, research or trials prove that the Challenged POM Products prevent or reduce the risk of heart disease, prostate cancer, or ED. Consequently, such claims are false.

Our conclusion is consistent with the ALJ's finding that Respondents' substantiation was inadequate to meet even the lower substantiation standard that he found was necessary to support Respondents' claims. It naturally follows that Respondents' substantiation for the establishment claims is inadequate to satisfy the higher standard we find is demanded by the record.

B. Claims Lacking A Reasonable Basis

We now turn to whether Respondents had a reasonable basis for the product claims at issue in this case. The theory underlying the analysis is that claims about a product's attributes, performance, or efficacy carry with them the express or implied representation that the advertiser had a reasonable basis of support for the claim. *See, e.g., Daniel Chapter One*, 2009 WL 5160000 at *16; *Thompson Med. Co.*, 104 F.T.C. at 813 n.37; *Direct Mktg. Concepts, Inc.*, 569 F. Supp. 2d at 298. "Consumers find these representations of support to be important in evaluating the reliability of the product claims. Therefore, injury is likely if the advertiser lacks support for the claims." *Thompson Med. Co.*, 104 F.T.C. at 813 n. 37.

For each of the ads for which there is an establishment claim that clinical studies or trials prove that the Challenged POM Products treat, prevent or reduce the risk of disease, Respondents also make a corresponding efficacy claim. In addition, for two ads, Figures 5 and 7, we find that Respondents make efficacy claims without also representing that there is clinical proof of the Challenged POM Products' efficacy to treat, prevent or reduce the risk of disease. *See* discussion *infra* Claims Appendix.

We must first determine the level of substantiation the advertiser is required to have before we can determine whether Respondents had a reasonable basis to make their claims. Then, we determine whether Respondents possessed that level of substantiation. *See, e.g., Pantron I Corp.*, 33 F.3d at 1096; *Removatron Int'l Corp.*, 884 F.2d at 1498. Respondents "have the burden of establishing what substantiation they relied on for their product claims. [Complaint Counsel] has the burden of proving that [Respondents'] purported substantiation is inadequate." *QT, Inc.*, 448 F. Supp. 2d at 959. If Respondents cannot meet that substantiation burden, then the ads will be found deceptive.

Starting with *Pfizer Inc.*, 81 F.T.C. 23, our reasonable basis cases have identified several factors that we will weigh in determining the appropriate level of substantiation the advertiser is required to have for objective advertising claims: (1) the type of claim; (2) the type of product;

(3) the benefits of a truthful claim; (4) the ease of developing substantiation for the claim; (5) the consequences of a false claim; and (6) the amount of substantiation experts in the field would agree is reasonable. *See Substantiation Statement*, 104 F.T.C. at 840; *Removatron Int'l Corp.*, 111 F.T.C. at 306-07; *Thompson Med. Co.*, 104 F.T.C. at 821; *Daniel Chapter One*, 2009 WL 2584873 at *84 (FTC Aug. 5, 2009) (Initial Decision). As we explained in *Pfizer*, the analysis to determine the level of substantiation necessary to support the claims in an ad is not a simple tallying of the number of factors that demand higher or lower levels of substantiation; the analysis is a flexible application that considers the interplay of the *Pfizer* factors. *See Pfizer*, 81 F.T.C. at 64 ("The question of what constitutes a reasonable basis is essentially a factual issue which will be affected by the interplay of overlapping considerations such as (1) the type and specificity of the claim made . . . ; (2) the type of product . . .").

Applying those factors in this case leads us to conclude that Respondents' efficacy claims that POM products treat, prevent or reduce the risk of heart disease, prostate cancer, and ED must be substantiated with RCTs.

The first factor that we consider is the type of claim. Respondents made claims regarding serious diseases. The Commission has previously stated in general terms that the substantiation standard for health claims, including structure/function claims, for food products is "competent and reliable scientific evidence."[26] For such claims, competent and reliable scientific evidence means

> tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.[27]

Such a standard is consistent with prior cases that have determined that "claims whose truth or falsity would be difficult or impossible for consumers to evaluate by themselves" require a high level of substantiation. *See Removatron Int'l Corp.*, 111 F.T.C. at 306 n.20 (citing *Thompson Med. Co.*, 104 F.T.C. at 822) (discussion of this *Pfizer* factor explained that consumers' limited ability to evaluate claims that hair removal device's results were permanent "militates in favor of a one-clinical [test] requirement").

But our consideration of the type of claim goes beyond merely identifying Respondents' claims broadly as health claims. Here, the evidence in the record shows that many of Respondents' claims went beyond structure/function claims to represent that the Challenged POM Products treat, prevent or reduce the risk of serious diseases. As previously discussed, Respondents' specific disease claims require proof of causation. As the Commission has found in other cases (*see, e.g.*, *Thompson Med. Co.*, 104 F.T.C. at 321), and as demonstrated by the

---

[26] *Food Advertising Statement.* Health claims in food labeling are those that "characterize the relationship of a substance in a food to a disease or health-related condition" and "structure/function" claims are those that represent the "effect on the structure or function of the body for maintenance of good health and nutrition." *Id.* at n.2.
[27] *Id.* (citing *Gracewood Fruit Co.*, 116 F.T.C. 1262, 1272 (1993); *Pompeian, Inc.*, 115 F.T.C. 933, 942 (1992)).

weight of expert testimony in this case, proof of causation requires RCTs. *See* discussion *supra*, Section V.A.[28]

The second *Pfizer* factor we consider is the type of product. In this case, the products are foods and dietary supplements derived from a fruit that is known to be safe. Therefore, Respondents argue, and the ALJ concurred, that the level of substantiation for a food product should be set at a lower level than for other products such as drugs. However, as previously discussed, the particular claims made by Respondents assert a causal relationship between the Challenged POM Products and the treatment, prevention or reduction of risk of disease. *See, e.g.*, CX1291 at 10-11 (Sacks Expert Report) (explaining controlled studies are necessary to show a product, "including a conventional food or dietary supplement" treats, prevents, or reduces the risk of heart disease). The relative safety of the product does not alter the requirement that the scientific evidence establish causality.

In other cases we have considered the third and fourth *Pfizer* factors in tandem. The third factor is the benefit of a truthful claim. The fourth factor is the ease of developing substantiation for the claim. Our concern in analyzing these factors is to ensure that the level of substantiation we require is not likely to prevent consumers from receiving potentially valuable information about product characteristics. *Thompson Med. Co.*, 104 F.T.C. at 823.

In the discussion of these factors and based on the rationale for their consideration, the ALJ found that in a nutritional context, RCTs can be prohibitively expensive and may not be feasible. ID at 247-48. Thus, in order to prevent limiting information about product characteristics that might provide benefits to consumers, he concluded that where the product is safe and where the advertisement does not suggest that the product be used as a substitute for conventional medical care or treatment, it is appropriate to favor disclosure. *Id.* at 248. But the ALJ's failure to distinguish Respondents' particular disease treatment and prevention claims from those asserting some general health benefits led him to an incorrect conclusion. A determination that RCTs are necessary to support Respondents' specific claims that the Challenged POM Products treat, prevent or reduce the risk of particular diseases will not erect a barrier that will prevent the disclosure to the public of useful nutritional information. We have not determined the level of substantiation that is required to support all health and nutritional claims.[29] Thus, while our reasoning may be informative about our likely approach to evaluate

---

[28] See also *Food Advertising Statement* (explaining the level of substantiation required for claims about a diet-disease relationship: "The NLEA directed FDA to apply [a] 'significant scientific agreement' standard in determining whether there was adequate substantiation to permit health claims for ten specific diet-disease relationships. . . . In evaluating health claims, the Commission looks to a number of factors to determine the specific level of scientific support necessary to substantiate the claim. Central to this analysis is an assessment of the amount of substantiation that experts in the field would consider to be adequate. The Commission regards the 'significant scientific agreement' standard, as set forth in the NLEA and FDA's regulations, to be the principal guide to what experts in the field of diet-disease relationships would consider reasonable substantiation for an unqualified health claim. Thus, it is likely that the Commission will reach the same conclusion as FDA as to whether an unqualified claim about the relationship between a nutrient or substance in a food and a disease or health-related condition is adequately supported by the scientific evidence.").

[29] Regarding support for structure/function claims, the Commission has previously indicated its desire for consistency with the Dietary Supplement Health and Education Act of 1994 (DSHEA): "DSHEA ... requires that structure/function claims in labeling be substantiated and be truthful and not misleading. This requirement is fully consistent with the FTC's standard that advertising claims be truthful, not misleading and substantiated." Dietary

other health claims, our ruling in this case should address only the substantiation of claims regarding the efficacy of particular foods to treat, prevent or reduce the risk of serious diseases.

Moreover, we do not interpret these two *Pfizer* factors to give an advertiser license to make particular claims that go beyond the substantiation it possesses and then ask the Commission to excuse the inadequacy of its support by asserting that advertiser did the best it could because the proper substantiation for the actual claim would be too expensive. *See* Eastham, Tr. 1328-29 (explaining cost does not change scientific burden). As we have previously explained, "[w]here the demands of the purse require such compromises [in methodology], the advertiser must generally limit the claims it makes for its data or make appropriate disclosures to insure proper consumer understanding of the survey's results." *Kroger Co.*, 98 F.T.C. 639, 737 (1981).

We also observe that among the studies that Respondents present as support for their claims are several clinical trials that were designed as RCTs. *See, e.g.*, IDF 808-818 (describing Ornish MP study), 849-859 (describing Ornish CIMT study), 872-883 (describing Davidson CIMT study), 941-943 (describing Heber/Hill Diabetes study). Among the limitations of these studies was that the results were not statistically significant. As discussed above, we determined that these well-controlled human clinical trials do not provide substantiation for Respondents' claims. In our evaluation of the evidence, we interpret the failure of these RCTs to provide support for Respondents' claims as evidence that there is insufficient scientific and clinical evidence of the efficacy of the Challenged POM Products; we do not interpret the results of the particular studies as an indication that the appropriate standard here – that Respondents possess RCTs with statistically significant results – is set too high.

The fifth factor that we weigh is the consequences of a false claim. In this regard, the ALJ stated that he found no evidence that Respondents urged individuals to consume the Challenged POM Products in place of medical treatment. Thus, he concluded the injury is limited to consumers paying a premium for an ineffective product and that such economic injury is not a significant factor in determining the required level of substantiation in this case. ID at 248-49.[30] We disagree with the ALJ that the economic injury from unsubstantiated health benefits is immaterial under *Pfizer*. *See Thompson Med. Co.*, 104 F.T.C. at 824 (significant economic harm "result[s] from the repeated purchase of an ineffective product by consumers who are unable to evaluate" the efficacy claims, even where "there is little potential for the product to cause serious injury to consumers' health"); *FTC v. Pantron I Corp.*, 33 F.3d at 1102 ("[A] major purpose of the Federal Trade Commission Act is to prevent consumers from

---

Supplements: An Advertising Guide for Industry (2001), *available at* http://business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry. The FDA has also signaled its intent to be consistent with the FTC in the application of a standard for such claims: "The FTC has typically applied a substantiation standard of 'competent and reliable scientific evidence' to claims about the benefits and safety of dietary supplements and other health-related products. FDA intends to apply a standard for the substantiation of dietary supplement claims that is consistent with the FTC approach." Guidance for Industry: Substantiation for Dietary Supplement Claims Made Under Section 403(r) (6) of the Federal Food, Drug, and Cosmetic Act (2008), *available at* http://www.fda.gov/food/guidancecomplianceregulatoryinformation/guidancedocuments/dietarysupplements/ucm073200.htm.

[30] The ALJ noted that although these costs may not be insignificant at least for the POM Juice, consumers are at a minimum buying what is considered to be a premium fruit juice. ID at 249.

economic injuries."). Consumers pay a higher price for POM products at least in part because of their ostensible health benefits.[31]

The sixth and final factor that we consider is the amount of substantiation experts in the field would agree is reasonable. As the prior detailed discussion indicated, experts in the fields of heart disease, prostate cancer, and ED would expect RCTs to support Respondents' particular disease claims.

Therefore, based upon our review of the six *Pfizer* factors, the Commission concludes that the proper level of substantiation for Respondents' disease efficacy claims is RCTs. "The inability of consumers to evaluate" the treatment and prevention effects of the Challenged POM Products "by themselves in an uncontrolled environment is a persuasive reason for consumers to expect (and us to require) appropriate scientific testing before efficacy claims are made." *Thompson Med. Co.*, 104 F.T.C. at 826. We note that under this analysis we would expect the same attributes in RCTs as we discussed in Section V.A., *supra* (*i.e.*, randomized controls, valid endpoints, and statistically significant results).

Having determined that Respondents are required to have RCTs to support their claims that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, and ED, and based upon our prior review of the substantiation that Respondents possess, we conclude they lack support for each of their claims.[32] We therefore hold that Respondents' advertising is deceptive for failure to have a reasonable basis. Thus, Respondents' advertising violates Sections 5(a) and 12 of the FTC Act. *See Removatron Int'l Corp.*, 884 F.2d at 1498 (finding that where advertisers lack a reasonable basis, their ads are deceptive as a matter of law).

VI. Respondents' False and Misleading Claims are Material

The ALJ found that a preponderance of the evidence demonstrated that the challenged claims that he determined were false and misleading are material to consumers' decisions to purchase the Challenged POM Products. ID at 292. On appeal, Respondents argue that any false or misleading claims are not material and accordingly that such claims cannot form the basis for liability under the FTC Act. Respondents argue that the lack of materiality is demonstrated by the results of the Reibstein Survey and the fact that none of the challenged advertisements had more than a single run such that consumers were not repeatedly exposed to them. RA at 36-37. Respondents further argue that the Commission should discount their

[31] As the ALJ noted, a one-year supply of POM Juice cost at least $780 and a one-year supply of POMx cost approximately $315, amounts that the ALJ acknowledged were "not insignificant." ID at 249. There is record evidence that consumers paid a premium for POM Products, at least in part because of the ostensible disease-fighting capability of the Challenged POM Products. *See* CX0221 at 0009 ("POM Juice's 16 oz skus are $4+/bottle, roughly a 30% premium to our pomegranate competitors."); CX0283 at 002 ("Health benefits – this is why they put up with the price").

[32] We separately find that Respondents lack support for their claims that (1) the Challenged POM Products treat heart disease, (2) the Challenged POM Products prevent or reduce the risk of heart disease, (3) the Challenged POM Products treat prostate cancer, (4) the Challenged POM Products prevent or reduce the risk of prostate cancer, (5) the Challenged POM Products treat erectile dysfunction, and (6) the Challenged POM Products prevent or reduce the risk of erectile dysfunction.

creative advertisement briefs because they were written by junior employees and only demonstrated an intent to communicate generalized benefits, and that other surveys relied upon by the ALJ as evidence of materiality were methodologically flawed. RA at 37-39. Although we find that the challenged advertisements contain more false and misleading claims than found by the ALJ (as set forth in Section IV), we agree with the ALJ's ultimate conclusion that such claims are material and accordingly run afoul of Section 5 and Section 12 of the FTC Act.

"A misleading claim or omission in advertising will violate Section 5 or Section 12, however, only if the omitted information would be a material factor in the consumer's decision to purchase the product." *Am. Home Prods. Corp.*, 98 F.T.C. at 368. A "material" misrepresentation is defined as one that is likely to affect a consumer's conduct with respect to the product or service. *Deception Statement*, 103 F.T.C. at 182. In determining whether false or misleading claims in an advertisement are "material" to consumers, the Commission may first consider whether a claim is presumptively material, including "express claims, claims significantly involving health or safety, and claims pertaining to the central characteristic of the product." *Novartis Corp.*, 127 F.T.C. at 686 (citing *Deception Statement*, 103 F.T.C. at 182). A respondent may rebut a presumption of materiality by providing evidence that the claim is not material: "Respondent can present evidence that tends to disprove the predicate fact from which the presumption springs (*e.g.*, that the claim did *not* involve a health issue) or evidence directly contradicting the initial presumption of materiality. This is not a high hurdle." *Id.* at 686. If Respondent rebuts the presumption of materiality, then the Commission examines the facts that gave rise to the presumption, any rebuttal evidence, and any other evidence on materiality provided by Complaint Counsel. *Id.* at 686-87. The Commission should also consider an advertiser's intent to make a claim, which, in the case of implied claims like the ones at issue in this case, requires consideration of (though not reliance on) extrinsic evidence. *Id.* at 687-88.

The claims made in the challenged advertisements are health-related claims, which are presumptively material as set forth in *Novartis Corp.* ID at 292; IDF 580-83. Respondents do not refute this. However, the ALJ determined that he need not rely on a presumption of materiality given Respondents' presentation of rebuttal evidence because "the preponderance of the evidence shows that the challenged claims are material." ID at 292. After considering the fact that the claims in the challenged advertisements are health-related, Respondents' own statements and creative briefs, and the three surveys relied upon by Complaint Counsel and Respondents as either evidence of materiality or lack thereof, we agree that the preponderance of the evidence demonstrates that the challenged claims are material.

As set forth above, Respondents do not refute that the claims made in the challenged advertisements are health-related. In fact, their main argument with respect to what kind of claims are made in the advertisements is that the advertisements make claims about the Challenged POM Products' health benefits rather than disease claims. Respondents' own statements and creative briefs provide further evidence of materiality, as set forth in the ALJ's opinion and detailed findings of fact. ID at 292-95; IDF 113, 128, 131, 145-51, 154, 181, 1316-21, 1323-35, 1340-43. For example, Mrs. Resnick testified that POM juice is "health in a bottle," which is its "unique selling proposition." IDF 112; CX1375 at 41-42 (L. Resnick, Tropicana Dep.). Mr. Resnick similarly stated his belief that a large number of POM Juice consumers purchase the product because they believe "that we've proven that . . . [POM Juice]

really does prolong people's lives if they are getting the onset of prostate cancer." IDF 1318 (quoting CX1376 at 218-19 (S. Resnick Ocean Spray Dep.)).

The focus of the ads challenged by Complaint Counsel were POM's disease claims, not the products' taste, price, or other attributes. The products' central characteristic, as depicted in the challenged ads, was their impact on heart disease, prostate cancer or ED. Respondents thought their products impact on health was such a strong selling point that they invested over $35 million to develop supporting evidence that they could use in marketing. ID at 295. As the ALJ explained, under these circumstances, "particularly that POM was aware that among those purchasing the Challenged POM Products were 'people that have heart disease or prostate cancer in their family, or have a fear of having it themselves,' [IDF] 1320, it defies credulity to suggest that Respondents would advertise study results related to these conditions if such advertising did not affect consumer behavior." We agree with the ALJ that it is "no great leap," *Novartis Corp.*, 127 F.T.C. at 687, to find that consumer purchasing decisions would likely be influenced by claims that the Challenged POM Products treat, prevent, or reduce the risk of these diseases.

In support of their contention that the claims were not material, Respondents rely on the Reibstein Survey. The ALJ rejected this argument, citing methodological and other flaws in that survey, including that "it only assessed consumer motivations generally; it did not actually assess whether any of the challenged claims . . . would be important to the survey respondent's decision to purchase the products," and "the survey did not ask any follow-up questions, including of the 35.2% of POM Juice purchasers who stated that they bought or would repurchase POM Juice because it was 'healthy.'" ID at 295-96; IDF 1354, 1361, 1373, 1375. We agree with the ALJ's assessment of the Reibstein Survey.

Accordingly, the Commission holds that Respondents' misleading claims were material.[33]

VII. First Amendment Analysis

Respondents contend that a finding of liability would violate the First Amendment. They argue that the ALJ ignored Supreme Court case law that defines what it means for commercial speech to be false or misleading. We disagree. As Respondents acknowledge, *see* RA at 19, commercial speech must at least "concern lawful activity and not be misleading" to qualify for constitutional protection. *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 566 (1980); *see also, e.g., In re R.M.J.*, 455 U.S. 191, 200 (1982) ("False, deceptive or misleading advertising remains subject to restraint.").

Respondents first contend that the Commission cannot determine that ads are "actually misleading" unless there is empirical or extrinsic evidence that consumers were deceived. Next, Respondents contend that the FTC cannot judge an advertisement to be "inherently misleading" on its face when the ad states accurate and verifiable facts. Respondents then argue that based on the evidence the Commission may only determine that Respondents' ads are "potentially

[33] In light of this conclusion based on the foregoing considerations that Respondents' claims were important to consumers in making purchasing decisions, the Commission need not decide whether the OTX A&U Study or the Zoomerang study, on which Complaint Counsel relies, offer further evidence of materiality.

misleading." If the ads are only potentially misleading, according to Respondents' logic, then precedent establishes that, at most, the FTC could require limited disclaimers that are tailored to satisfy the test in *Central Hudson*, because a disagreement about the meaning of scientific evidence cannot justify a bar of Respondents' health claims. We address Respondents' arguments in turn.

A. Actually Misleading

Contrary to Respondents' claim, empirical or extrinsic evidence is not necessarily required for the Commission to conclude that Respondents' ads are actually misleading. Respondents mischaracterize the law in arguing that the Commission is limited to finding an advertisement is actually misleading only in instances where extrinsic or empirical evidence exists of actual deception. In terms of First Amendment jurisprudence, the Commission's determination of whether particular ads establish that the ads are "actually misleading" does not require extrinsic or empirical evidence. *See Kraft, Inc.*, 970 F.2d at 319, 325 (in a case where "the Commission found implied claims based solely on its own intuitive reading of the ads (although it did reinforce that conclusion by examining the proffered extrinsic evidence)," explaining "[t]o begin with, the Commission determined that the ads were *actually* misleading, not potentially misleading, thus justifying" the Commission's remedy); *Daniel Chapter One*, 2009 WL 5160000 at *20, n.2 (explaining "implied claims . . . have been specifically adjudicated in the present case to be actually misleading" in a case where Complaint Counsel did not introduce extrinsic evidence).

Just as in *Kraft* and *Daniel Chapter One*, in this case, the Commission's findings based on its own expertise – Respondents disseminated advertising or promotional material that contained implied claims, Respondents lacked substantiation to support those claims, and the claims are material – legally establish that Respondents' advertising is actually misleading. Here, in 34 ads, Respondents represented to consumers that clinical studies proved that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED when, in fact, well-controlled clinical studies did not establish such efficacy for the particular diseases; these claims that clinical research or studies proved the efficacy of the Challenged POM Products were false. Therefore, Respondents' ads were deceptive and actually misleading. In addition, in 36 ads, Respondents represented that the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED when Respondents did not possess a reasonable basis to support such claims. Again, Respondents' ads are deceptive as a matter of law. *See FTC v. Direct Mktg. Concepts, Inc.*, 624 F.3d 1, 8 (1st Cir. 2010) ("Where the advertisers lack adequate substantiation evidence, they necessarily lack any reasonable basis for their claims. And where the advertisers so lack a reasonable basis, their ads are deceptive as a matter of law.") (citation omitted).

The proposition that the First Amendment requires extrinsic evidence in every case has been raised and rejected by the Supreme Court and courts of appeals. *See, e.g.*, *Zauderer*, 471 U.S. at 652-53 (stating that no First Amendment concerns are raised when facially apparent claims are found without "conduct[ing] a survey of the . . . public" to determine that an ad is misleading); *Kraft, Inc.*, 970 F.2d at 321 ("Kraft's first amendment challenge is doomed by the Supreme Court's holding in *Zauderer*, which established that no first amendment concerns are

raised when facially apparent implied claims are found without resort to extrinsic evidence."); *Daniel Chapter One*, 2009 WL 5160000 at *14-15 ("Respondents repeatedly assert . . . the ALJ was obliged by the Due Process Clause and the First Amendment of the Constitution to consider 'extrinsic' evidence. More specifically, Respondents claim that 'Complaint Counsel should have been required to produce evidence that consumers were actually misled by Respondents' promotional efforts and representations[.]' . . . That is not the law. Federal courts have long held that the Commission has the common sense and expertise to determine 'what claims, including implied ones, are conveyed in a challenged advertisement, so long as those claims are reasonably clear.'") (citation omitted). Indeed, even the case which Respondents cite for their claim that empirical evidence is necessary, *Peel v. Att'y Registration & Disciplinary Comm'n*, 496 U.S. 91 (1990), relied on a facial analysis of the ads – not empirical evidence – to find that the ads were not actually misleading. *Id.* at 105-06 (describing evaluations and explaining "two state courts that have evaluated lawyers' advertisements of their certifications as civil trial specialists by NBTA have concluded that the statements were not misleading or deceptive *on their face*, and that, under our recent decisions, they were protected by the First Amendment") (emphasis added).

Once the Commission has determined that Respondents' ads are actually misleading, no further analysis is necessary because misleading commercial speech is not protected by the First Amendment. Each of the cases cited by Respondents acknowledges that '[t]he Federal Government [is] free to prevent the dissemination of commercial speech that is false, deceptive, or misleading." *Zauderer*, 471 U.S. at 638. The three-part analysis for determining whether regulation of commercial speech is constitutional under *Central Hudson* – whether the regulation is based on a substantial governmental interest, whether the regulation directly advances the governmental interest asserted, and whether the regulation is not more extensive than necessary to serve that interest – is applicable only if a threshold inquiry determines that the speech in question is not false or misleading. *See Cent. Hudson Gas & Elec. Corp.*, 447 U.S. at 566; *Edenfield v. Fane*, 507 U.S. 761, 768 (1993); *Daniel Chapter One*, 2009 WL 5160000 at *19-20. We nonetheless address Respondents' additional First Amendment arguments.

B. Inherently Misleading

Respondents contend that "an advertisement cannot be inherently misleading on its face when it states objectively accurate and verifiable facts," but also admit "[a]n advertisement that states accurate and verifiable facts may, in some instances, be potentially misleading." RA at 20. Indeed, Respondents' admission is the more accurate description of the law. Courts have regularly found "that even literally true statements can have misleading implications" and challenging such deception does not violate the First Amendment. *Kraft Inc.*, 970 F.2d at 322 (citing *Zauderer*, 471 U.S. at 652; *Thompson Med. Co.*, 791 F.2d at 197; *Removatron Int'l Corp.*, 111 F.T.C. at 292-95; *Am. Home Prods. Corp.*, 695 F.2d at 687).

It appears that Respondents' argument is that when addressing advertising that is considered inherently misleading on its face, each element of the ad is to be evaluated in isolation for its accuracy. The cases that Respondents cite – *R.M.J.*, 455 U.S. at 205, *Zauderer*, 471 U.S. at 645; *Peel*, 496 U.S. at 100; *Ibanez v. Fla. Dep't of Bus. & Prof'l Regulation, Bd. of Accountancy*, 512 U.S. 136, 144 (1994) – addressed bans on statements in professional

advertising where the regulatory bodies found advertising to be misleading based on simple affirmative representations, such as stating the jurisdictions where the attorney was licensed or certifications that the attorney held. The Court struck down the regulations because it found that, for example, so long as the attorney was still licensed in the jurisdiction, providing the information to the public was not misleading because consumers could easily confirm the licensing or certification.

Respondents assert that the statements in their ads also are objectively accurate and verifiable facts. Respondents point to statements in their ads that the Challenged POM Products are high in antioxidants and to the citations of their studies to explain that the studies were conducted by world-renowned researchers, the results were published in peer-reviewed journals, and the statements about the disease-specific findings as proof the statements, like those in *R.M.J.*, are objectively are accurate and verifiable. We agree that many of the facts in Respondents' ads are verifiable. However, there are many omissions of material facts in Respondents' ads that consumers cannot verify independently. For example, consumers cannot verify that one of the five studies referenced in the ads, IDF 126, was rejected as an abstract by the American Heart Association and was rejected by the Journal of the American Medical Association because of shortcomings of the research, and was only accepted for publication in the American Journal of Cardiology without peer review. IDF 816-818. Similarly, consumers could not verify that the results of a much larger, well-designed, well-controlled study – the Davidson CIMT Study, which was completed in 2006 and showed, at most, a 5% decrease in arterial plaque in some patients measured at an interim point – were inconsistent with the statement in ads running through 2009 (*e.g.*, CX0029, CX0280, CX0328/CX0331/CX0337, CX0473) that asserted "Pomegranate juice consumption resulted in significant reduction in IMT (thickness of arterial plaque) by up to 30% after one year" based on the unblinded Aviram CIMT/BP study because Respondents delayed publication of the negative results. *See* CX0716 at 0033 (under study protocol, Respondents' approval was needed to present results of the study); S. Resnick, Tr. 1685-96 (explaining that Davidson was denied authorization to submit study results to the American Heart Association meeting in 2007 because of the study's inconsistent findings, but later allowing Davidson to submit the study for publication in 2008); CX1336 at 144, 165-68, 180-81 (Davidson Dep.). We conclude that many of Respondents' representations are qualitatively different from the verifiable statements in the professional advertising cases that Respondents cite.

C. Potentially Misleading

Finally, Respondents argue that, because their ads are not actually misleading or inherently misleading, a position that this opinion has already rejected, then their ads can only be evaluated as potentially misleading, and potentially misleading commercial speech cannot be prohibited. Respondents assert that the D.C. Circuit's holding in *Pearson v. Shalala*, 164 F.3d 650 (D.C. Cir. 1999), leads to the conclusion that Respondents' representations cannot be banned on the basis of a genuine dispute about the level or meaning of scientific evidence. We do not interpret *Pearson v. Shalala* to preclude us from finding that Respondents' claims are misleading because they lack substantiation, even if the Commission's conclusion were evaluated as a finding that Respondents' ads are potentially misleading, rather than actually misleading.

In *Pearson*, manufacturers of dietary supplements sought pre-approval from the FDA for four health claims that the manufacturers wanted to make in labeling for their products. The FDA refused to approve the claims on the grounds that they were not supported by the "significant scientific agreement" standard of evidence under that agency's regulatory scheme. The FDA, consistent with agency practice, refused to consider the manufacturers' argument that the use of disclaimers could prevent these four health claims from being misleading. On appeal from a district court decision upholding the constitutionality of the FDA's determination, the D.C. Circuit reversed. When considering the government's argument that health claims for dietary supplements are potentially misleading to consumers if significant scientific agreement does not support the claims, the D.C. Circuit recognized that the government has a substantial interest in ensuring the accuracy of consumer information in the marketplace and that banning potentially misleading health claims would appear to directly advance that interest. *Id.* at 655-56. The court, however, went on to hold that the government did not meet its burden of proving that there was a reasonable fit between banning these claims and the government's interest in preventing fraud. *Id.* at 657. The D.C. Circuit concluded that potentially misleading claims could be remedied by "prominent" disclaimers. *Id.* at 658, 659.

In this case, we reviewed Respondents' claims in light of any disclaimers or disclosures that Respondents actually made in their ads. Respondents' disclaimers, disclosures, or qualifications to their claims are much less that what the D.C. Circuit hypothesized would be sufficient to prevent health claims with disputed scientific support from being misleading.[34] If Respondents' had made disclaimers such as those described in *Pearson* (*i.e.*, "the evidence in support of this claim is inconclusive," *id.* at 659), the Commission would have considered the representations in the ads in light of such statements. Without such disclaimers, Respondents' ads are deceptive and misleading.

In addition, the Commission's approach to address misleading advertising, which is a case-by-case adjudication *after* ads have been disseminated, differs from regulatory efforts that prohibit categories of speech or rely on *prior* approval of the language to be used. The latter serve as illustrations of "bars" on commercial speech and are inapplicable to the detailed *ex post* analysis we engage in here, based on a full record about the ads in question. *See Kraft Inc.*, 970 F.2d at 317 (explaining that "a prophylactic regulation applicable to all lawyers, completely prohibiting an entire category of potentially misleading commercial speech" at issue in *Peel*, is sufficiently distinct for constitutional purposes from "an individualized FTC cease and desist order prohibiting a particular set of deceptive ads") (citation omitted); *Daniel Chapter One*, 2009 WL 5160000 at *15 (citing *Kraft, Inc.* to explain that FTC finding that ads are misleading in administrative adjudication does not violate First Amendment). As the ALJ explained in this case, "Respondents' generalized assertion that none of its commercial speech should be 'barred' is without merit. Requiring adequate substantiation for advertising claims does not 'bar' commercial speech, but serves to prevent dissemination of misleading claims." ID at 323 n.32 (internal citation omitted). The FTC's case-by-case adjudication, which examines whether an advertiser made limited claims or provided appropriate disclaimers, neither bars nor discourages

[34] Commissioner Ohlhausen's view is that, with regard to some exhibits, the Respondents included sufficient qualifying language to at least raise the need for extrinsic evidence before finding implied misleading claims. *See* Commissioner Ohlhausen's Concurring Statement.

the free flow of commercial speech that would expand consumer knowledge regarding the goods and services available in the market.

VIII. Fifth Amendment Analysis

In Respondents' Answering Brief, Respondents argue for the first time that a finding that RCTs are required to substantiate Respondents' claims violates constitutional due process principles because the Commission would be retroactively applying a standard that deviates from the Commission's current approach articulated in both FTC policy statements and case law. RAns at 24-28. As set forth above, the Commission finds that the required substantiation for Respondents' disease claims about the Challenged POM Products is RCTs. Given that this substantiation finding is a fact-based determination based on the experts' opinion of what constitutes competent and reliable scientific evidence for the claims at issue, and that basing this factual determination on expert testimony follows clearly established legal precedent, we reject Respondents' claim that such a finding raises due process concerns.

"A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required. This requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment." *FCC v. Fox Television Stations, Inc.*, 132 S. Ct. 2307, 2317 (2012) (citations omitted). A number of the Commission's policy statements provide support for the principle that determining what constitutes sufficient substantiation for particular claims is a fact-based analysis that rests in large part on scientific expert opinion. The *Substantiation Statement* discusses the fact that extrinsic evidence may be useful to determine the proper level of substantiation (including expert testimony or consumer surveys) regarding substantiation of implied efficacy claims: "Extrinsic evidence, such as expert testimony or consumer surveys, is useful to determine what level of substantiation consumers expect to support a particular product claim and the adequacy of evidence an advertiser possesses." *Substantiation Statement*, 104 F.T.C. at 840. The *Food Advertising Statement* provides additional (and more detailed) support for the Commission's reliance on competent and reliable scientific evidence and expert determination of what constitutes such evidence for particular claims:

> Like FDA, the Commission imposes a rigorous substantiation standard for claims relating to the health or safety of a product, including health claims for food products. The Commission's standard that such claims be supported by "competent and reliable scientific evidence" has been more specifically defined in Commission orders addressing health claims for food products to mean:
>
> > tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
>
> Thus, both the Commission and FDA look to well-designed studies, including clinical research and other forms of reliable and probative scientific evidence, in evaluating health claims for foods. (footnotes omitted).

. . .

> In evaluating health claims, the Commission looks to a number of factors to determine the specific level of scientific support necessary to substantiate the claim. Central to this analysis is an assessment of the amount of substantiation that experts in the field would consider to be adequate. The Commission regards the "significant scientific agreement" standard, as set forth in the NLEA and FDA's regulations, to be the principal guide to what experts in the field of diet-disease relationships would consider reasonable substantiation for an unqualified health claim.

Food Advertising Statement at § IV.A; *see also id.* at n.79 ("This approach is consistent with the Commission's approach to evaluating the substantiation for claims made for drug products and medical devices regulated by FDA.").

A number of cases and Commission decisions reiterate the principle that the proper level of substantiation is a factual determination which is rooted in a reliance on expert testimony. *See, e.g.*, *Bristol-Myers Co.*, 102 F.T.C. at 332-38; *QT, Inc.*, 448 F. Supp. 2d at 961-62. Of particular relevance to this case is *Thompson Medical Company*, where the Commission applied the *Pfizer* factors to determine that well-controlled clinical tests (or RCTs) were required as a reasonable basis for efficacy claims regarding a topical analgesic. *Thompson Med. Co.*, 104 F.T.C. at 826. In addition to determining that the type of claim made, as in this matter, was one "whose truth or falsity would be difficult or impossible for consumers to evaluate by themselves," the Commission determined that experts in the field would require well-controlled clinical trials as reasonable substantiation for the efficacy of an analgesic. *Id.* at 822.

In sum, the Commission's determination that RCTs are required to substantiate Respondents' disease claims is founded on the well-established principle that determining the proper level of substantiation is a fact-based and case-specific analysis based on expert testimony as to what constitutes competent and reliable scientific evidence for the claims at issue. Respondents were on notice of this long-standing standard. Therefore, our decision in this case does not raise due process concerns.

IX. Media Interviews

The four media interviews in question on appeal include appearances by Mrs. Resnick on *The Martha Stewart Show* and *The Early Show*, sharing recipes and marketing ideas related in part to POM; a magazine interview with Mrs. Resnick in *Newsweek,* in part promoting the sale of her book about the POM business; and a television interview with Mr. Tupper on FOX Business discussing the current relevance of the pomegranate and pomegranate juice. ID at 208.

The ALJ found that the four media interviews challenged by Complaint Counsel do not constitute advertisements within the meaning of the FTC Act so that the Initial Decision does not evaluate whether any claims made during the interviews are deceptive or misleading. ID at 210. We do not adopt the predicate for the ALJ's ruling – that the media interviews must be advertisements (rather than deceptive commercial speech more broadly) in order to form the basis for liability under Section 5 of the FTC Act. Instead, given the limited evidence regarding the circumstances surrounding the context of these interviews and the numerous other deceptive

claims made by Respondents, the Commission declines to base liability on the four media interviews in question.

In focusing solely on whether or not an advertisement must be paid for in order to fall within the scope of Section 12 as "advertisements," the ALJ did not consider whether statements made during the media interviews violate Section 5 of the FTC Act as deceptive commercial speech.[35] Section 5(a)(2) of the FTC Act states, "[t]he Commission is hereby empowered and directed to prevent persons, partnerships, or corporations . . . from using unfair methods of competition in or affecting commerce and unfair or deceptive act or practices in or affecting commerce." In order to determine as a preliminary matter whether respondents are engaging in commercial speech, we consider a number of factors.

In *In re R.J. Reynolds Tobacco Company*, 111 F.T.C. 539, 547 (1988), the Commission held that respondents' advertisement discussing a "scientific study" that allegedly assessed the hazards of cigarette smoking constituted deceptive commercial speech, reversing the ALJ's ruling granting respondents' motion to dismiss on the grounds that the advertisement did not constitute commercial speech. In considering whether the advertisement constituted commercial speech, the Commission considered (1) the content of the speech, *i.e.*, whether it contained a message promoting the demand for a product or service; (2) whether the speech referred to a specific product or service; (3) whether the speech included information about attributes of a product or service, such as type, price, or quality, including information about health effects associated with the use of a product; (4) the means used to publish the speech, including whether it is paid-for advertising; and (5) the speaker's economic or commercial motivation. *Id.* at 544-46. The Commission stated:

> Evidence that may be relevant to deciding whether the Reynolds advertisement is commercial speech includes facts concerning the publication or dissemination of the advertisement, such as whether it was paid-for, where and in which publications it was disseminated, whether it was placed in editorial space (such as an op-ed page) or advertising space in the publication, whether it was prepared as a letter to the editor, whether it was sent to representatives of the media for selection on merit by editorial boards, and to whom it was disseminated outside the media.
>
> Evidence about the promotional nature of the advertisement also may be relevant. Therefore, it might be useful to consider the circumstances surrounding the development of the advertisement, such as whether it was targeted to consumers or legislators; whether it was intended to affect demand for Reynolds' cigarettes or brands or to affect particular legislative or regulatory proposals; whether the advertisement was subjected to copy

[35] Notwithstanding Respondents' claims to the contrary, deceptive commercial speech is not constitutionally protected. *See Cent. Hudson Gas & Elec. Corp.*, 447 U.S. at 566 ("For commercial speech [to be protected by the First Amendment], it at least must concern lawful activity and not be misleading."). Where the Commission finds that claims disseminated through commercial speech lack proper substantiation, such findings establish as a matter of law that such claims are deceptive and thus not protected by the First Amendment. *See Direct Mktg. Concepts, Inc.*, 624 F.3d at 8 ("Where the advertisers lack adequate substantiation evidence, they necessarily lack any reasonable basis for their claims. And where the advertisers so lack a reasonable basis, their ads are deceptive as a matter of law.") (citation omitted).

> testing or to review by focus groups and, if so, the nature of the questions used in the copy tests or focus group sessions; and the results of those procedures both in terms of what they showed and what changes, if any, Reynolds made in response to those showings. Evidence relating to the message(s) Reynolds itself intended to convey through the advertisement also may be relevant. In addition, Reynolds' share of the cigarette market may be relevant to deciding whether including a brand name reference is a prerequisite to a determination that the advertisement constitutes commercial speech.

Id. at 550. In other words, the evidence considered by the Commission in *R.J. Reynolds Tobacco Company* focuses in large part on the "means" used to publish the speech, as well as where and in which publications it was disseminated and where it was placed within such publications. These factors may apply differently when determining whether statements fall within the definition of commercial speech outside of the advertising context. *Compare Cent. Hudson Gas & Elec. Corp.*, 447 U.S. at 562-563 ("'commonsense' distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech") *with id.* at 546 (discussing case decided by Court on the same day, *Consol. Edison Co. v. Public Serv. Comm'n*, 447, U.S. 530, 544 (1980), holding that "[PSC]'s suppression of bill inserts that discuss controversial issues of public policy directly infringes the freedom of speech protected by the First and Fourteenth Amendments."); *see also Oxycal Labs. v. Jeffers*, 909 F. Supp. 719, 724 (S.D. Cal. 1995) (denying request for injunction pursuant to the Lanham Act after determining that statements in a book about the carcinogenic effects of plaintiffs' vitamins did not constitute commercial speech even though the book also promoted defendants' products: "The Court finds that the main purpose of [defendant's] Book is not to propose a commercial transaction, and [defendant's] writing is not solely related to the economic interests of the speaker and its audience.").

The factual record in this case, however, lacks evidence about several of the commercial speech factors described in *R.J. Reynolds Tobacco Company.* Specifically, in considering the "means" by which such statements were made, we consider that these statements were made in the context of much longer interviews with the media, that the interviewer rather than the interviewee may have a certain amount of control over the content of the speech based on the content of the questions, and that the interviewer may have his or her own agenda that does not focus on advancing the commercial interests of Respondents. Here, the record is devoid of answers to key questions. The record does not reveal, for example, whether and how each of these interviews came to pass or any understanding between the media organizations and Respondents regarding the content of the interviews. Also lacking in the record is evidence about how the media interviews were arranged or procured, and whether Respondents paid for them. These factors are not necessarily all required or dispositive, and may be considered on a sliding scale. However, absent answers to these questions, we cannot make an informed determination with respect to the media interviews at issue.

Moreover, in light of the number of deceptive claims made in the other challenged exhibits by Respondents, we need not base Respondents' liability in this case on these four media appearances. We follow a precedent of restraint exhibited in other decisions where liability has been found on other grounds. *In re Rubbermaid*, 87 F.T.C. 676, 1976 WL 179998 at *20 (F.T.C. Apr. 13, 1976) ("Because we have found the contracts to be generally violative of

Section 5 [as alleged in Count I's charge of illegal price maintenance], there is no need to reach Count II's charge of violations with regard to transactions between certain States, and we decline to do so.").

X. Remedy

A. Cease and Desist Order

The ALJ determined that a cease and desist order is warranted against all Respondents, finding that Respondents' conduct is transferable, serious, and deliberate. ID at 309-13. On appeal, Respondents argue that injunctive relief is not warranted with respect to the Challenged POM products because POM has already stopped running the ads found to contain claims. In addition, Respondents argue that the remedy is not necessary because they began implementing a new review process for POM ads in 2006 and only a handful of ads and web captures of offending claims were made after that implementation. RA at 39-40. At the outset, the Commission rejects Respondents' argument that a cease and desist order is not warranted because some of the advertisements, representing a small subset of the advertisements that the Commission finds to contain false or misleading claims, were issued in or prior to 2006. The Commission also agrees with the ALJ's conclusion that a cease and desist order is appropriate with respect to all Respondents and adopts the ALJ's findings with respect thereto.

In considering whether a cease and desist order is appropriate, the Commission must determine that an order is both sufficiently clear and reasonably related to the unlawful practices at issue. *See Colgate-Palmolive Co.*, 380 U.S. at 392, 394-95. Specifically, when determining whether an order is reasonably related to the unlawful practices, the Commission should consider "(1) the seriousness and deliberateness of the violation; (2) the ease with which the violative claim may be transferred to other products; and (3) whether the respondent has a history of prior violations." *Stouffer Foods Corp.*, 118 F.T.C. at 811; *see also Telebrands Corp.*, 457 F.3d 354, 358 (4th Cir. 2006); *Kraft, Inc.*, 970 F.2d at 326. "The reasonable relationship analysis operates on a sliding scale — any one factor's importance varies depending on the extent to which the others are found. . . . All three factors need not be present for a reasonable relationship to exist." *Telebrands Corp.*, 457 F.3d at 358-59.

We agree with the ALJ's conclusion that Respondents' actions were serious and deliberate. Respondents claimed the Challenged POM Products treat, prevent or reduce the risk of heart disease, prostate cancer, or ED. Respondents made serious yet unsupported claims about three diseases, some of which can be life-threatening. Respondents also made numerous deceptive representations and were aware that they were making such representations despite the inconsistency between the results of some of their later studies and the results of earlier studies to which Respondents refer in their ads. *See supra* Section V; *see also Standard Oil Co. v. FTC*, 577 F.2d 653, 662 (9th Cir. 1978) ("Among the circumstances which should be considered in evaluating the relation between the order and the unlawful practice are whether the respondents acted in blatant and utter disregard of the law.").

The Commission finds that a greater number of ads than those identified by the ALJ convey the claims alleged by Complaint Counsel. Nevertheless, injunctive relief, such as that

ordered by Judge Chappell, is justified even if based only on the smaller number of ads where the ALJ found Respondents conveyed the claims. Thus, whether based on the ALJ's findings or our findings, Complaint Counsel has demonstrated that Respondents disseminated numerous advertisements making the claims alleged in the Complaint. It is unnecessary to find that all of the challenged ads made the alleged claims in order to warrant injunctive relief for deceptive advertising. *Bristol-Myers Co.*, 102 F.T.C. at 321 n.5 ("Although we find a smaller number of violative ads than did the ALJ, there is certainly an adequate number to support the order . . . ."); *Fedders Corp.* 85 F.T.C. 38, 71-72 (1975) ("The Commission has previously issued orders in cases involving no more than one or a few deceptive advertisements.").

We also agree with the ALJ's conclusion that the kind of claims made by Respondents in this case would be transferable to other products. A violation is transferrable where other products could be sold utilizing similar techniques. *Colgate-Palmolive Co.*, 380 U.S. at 394-95; *Sears, Roebuck & Co. v. FTC*, 676 F.2d 385, 392, 394-95 (9th Cir. 1982). Here, Respondents could use similar marketing techniques to make disease claims about other food products, including the other food products Respondents currently sell. By way of analogy, in the context of drug products, "misrepresenting that doctors prefer a product, or that tests prove the product's superiority, is a form of deception that could readily be employed for any non-prescription drug product." *Am. Home Prods. Corp.*, 695 F.2d at 708; *see also Daniel Chapter One*, 2009 WL 2584873 at *104 ("In this case, the claims that the Challenged Products prevent, treat, or cure cancer, and the use of testimonials by doctors and consumers to make such claims, could readily be employed for any dietary supplement."). Although, as set forth by the ALJ, Respondents do not have a history of prior violations, ID at 314, the other factors strongly weigh in favor of restraining Respondents' conduct in the future.

B. Fencing-In Provisions

It is well established that the Commission may issue orders containing fencing-in provisions, that is, "provisions that are broader than the conduct that is declared unlawful." *Telebrands Corp.*, 457 F.3d at 357 n.5; *see also, e.g., Colgate-Palmolive Co.*, 380 U.S. at 394-95; *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952). As the Supreme Court recognized in *Ruberoid*, the Commission's orders need not be restricted to the "narrow lane" of a respondent's past actions; the Commission may effectively "close all roads to the prohibited goal, so that its order may not be by-passed with impunity." *Ruberoid Co.*, 343 U.S. at 473.

Consequently, the Order we impose applies to the Challenged POM Products as well as to any other food, drug, or dietary supplement products sold by POM and the other Roll entities. *See* Order, Definitions, ¶ 4 ("Covered Product" means any food, drug, or dietary supplement, including, but not limited to the POM Products."). Courts have agreed that fencing-in provisions that extend to products beyond those involved in the violations are appropriate. *See, e.g., Colgate-Palmolive Co.*, 380 U.S. at 394-95; *Telebrands Corp.*, 457 F.3d at 361-62; *Kraft, Inc.*, 970 F.2d at 326-27; *Am. Home Prods. Corp.*, 695 F.2d at 704-10. As our prior analysis indicated, and as the ALJ recognized, the kind of claims made by Respondents in this case would easily be transferable to other products. *See* discussion *supra*, Section X.A; ID at 310-12. As the ALJ explained, it is not material that the Challenged POM Products are only a small portion of the products sold by Respondents when the advertising claims made for the Challenged POM

Products are readily transferable to the other categories of products covered by the Order, particularly when Respondents have acknowledged that they have sponsored research of the health benefits of other products they sell, such as Wonderful Pistachios and FIJI Water. *See* ID at 311.

In addition, we hold that the Respondents must have at least two RCTs before making any representation regarding a product's effectiveness in the diagnosis, treatment, or prevention of any disease.[36] *See* Order, Part I. Although we did not need to decide how many RCTs are necessary to substantiate Respondents' disease claims in order to establish liability, we specify a two RCT requirement in the Order for two reasons.

First, such a requirement is consistent with Commission precedent, *see Thompson Med. Co.*, 104 F.T.C. at 831-32 ("no lesser standard than two well-controlled clinical tests is appropriate as a general rule for any analgesic product"), and expert testimony in the record before us recognized the need for consistent results in independently-replicated studies. As one expert explained, "[e]ven with the safeguards contained in an RCT, the results contained in any one study may be due to chance or may not be generalizable due to the uniqueness of the study sample." *See* CX1291 at 14-15 (Sacks Expert Report); Sacks, Tr. 1446-47.

Second, Respondents have a demonstrated propensity to misrepresent to their advantage the strength and outcomes of scientific research, as reflected by our conclusion that they made false and misleading claims about serious diseases, including cancer, in a number of the advertisements before us. Like the ALJ, *see* ID at 312, the Commission finds that Respondents have engaged in a deliberate and consistent course of conduct – no mere isolated incident or mistake – in deceptively touting the Challenged POM Products' purported ability to affect diseases and the scientific studies ostensibly showing such effects. To ensure that Respondents do not bypass our order, we therefore require that they have two substantiating RCTs before they again advertise that one of their products prevents, reduces the risk, or treats any disease.

In imposing a requirement of two RCTs, we reject Complaint Counsel's argument that our Order should prohibit Respondents from making disease-related establishment and efficacy

---

[36] Commissioner Ohlhausen disagrees with the majority's view that two RCTs are warranted in the order as fencing-in relief. She would require only one RCT and would regard that study in view of other available scientific evidence. Requiring a second RCT is not reasonably related to the violations at issue in this case because a second study would not cure any particular statistical or methodological problems. As stated in Section I of this opinion, the Commission did not reach the question of the number of trials that are needed to establish liability. Repetition or replication of poorly designed studies does not make those studies sound. Moreover, although it might provide the Commission with some subjective comfort, requiring two RCTs does so at the expense of limiting consumer access to potentially useful information. The product at issue is an admittedly safe food product – a type of fruit juice. To set an unnecessarily high bar for such a product is in tension with the balanced approach to substantiation set forth in the Commission's own *Pfizer* factors and with our policy commitment to avoid imposing "unduly burdensome restrictions that might chill information useful to consumers in making purchasing decisions." FTC Staff Comment Before the Food and Drug Administration In the Matter of Assessing Consumer Perceptions of Health Claims, Docket No. 2005N-0413 (2006), *available at* http://www.ftc.gov/be/V060005.pdf. To set an especially high bar without an adequate rationale also raises First Amendment concerns. As the court in *Pearson* noted, "[t]he government insists that . . . the commercial speech doctrine does not embody a preference for disclosure over outright suppression. Our understanding of the doctrine is otherwise." *Pearson*, 164 F.3d at 657 (citing *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977)).

claims about the Challenged POM Products unless such claims are pre-approved by the FDA. According to Complaint Counsel, FDA pre-approval would be reasonably related to the challenged acts "[b]ecause the level of evidence required to support disease treatment, prevention, and reduction of risk claims found in this matter are similar to FDA's evidentiary standards[.]" CCA at 37-38. We agree with the ALJ's conclusion, *see* ID at 317, that FDA pre-approval is not warranted as part of the remedy in this case.

Complaint Counsel argues that requiring FDA pre-clearance before Respondents may again advertise that their products treat, prevent, or reduce the risk of a disease would offer a number of benefits, including a clear, bright-line standard that would be easy to enforce and, at the same time, provide certainty for Respondents. CCA at 41. The order we issue today sufficiently accomplishes those goals by requiring at least two RCTs.[37]

The requirement for two RCTs in Part I of the Order applies only to claims for disease prevention, risk reduction, and treatment; future representations relating to efficacy or health benefits of covered products that fall short of disease claims are covered by Part III of the Order. That provision requires substantiation consisting of competent and reliable scientific evidence (as defined in that Part), that must be sufficient in quality and quantity when considered in the light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true.

C. Appropriateness of Applying the Final Order to Matthew Tupper

Respondent Matthew Tupper argues that he should not be held individually liable or subject to any order in this case. We agree with the ALJ's legal conclusions and factual findings holding Matthew Tupper individually liable and determining that he should be subject to a Final Order along with the other Respondents.

Courts and the Commission consistently have held that to find an individual liable for deceptive acts or practices, the individual must either have participated directly in or had the authority to control the acts or practices at issue; both participation and control are not required. *See QT*, 512 F.3d at 864 ("[The individual respondent] not only participated in the false promotional activities but also had the authority to control them. Either participation or control suffices."); *FTC v. Freecom Commc'ns, Inc.*, 401 F.3d 1192, 1204 (10th Cir. 2005) ("To justify the imposition of injunctive relief against [an] individual, the FTC is required to show the individual participated directly in the business entity's deceptive acts or practices, *or had the authority to control* such acts or practices."); *FTC v. Publ'g Clearing House, Inc.*, 104 F.3d 1168, 1170 (9th Cir. 1997); *FTC v. Amy Travel Serv. Inc.*, 875 F.2d 564, 573 (7th Cir. 1989); *FTC v. Consumer Alliance, Inc.*, 2003 WL 22287364 at *5 (N.D. Ill. Sept. 30, 2003).

Even though participation and control are not both required, the record shows that Mr. Tupper both participated directly in and had the authority to control the acts or practices at issue.

[37] In exercising its substantial discretion to fashion relief appropriate to the circumstances of a particular case, the Commission has in several settlements of false advertising claims imposed a FDA pre-approval requirement. Our ruling today does not foreclose that we may again conclude, in an appropriate case, that FDA pre-approval would be an appropriate remedy.

With respect to his participation in the acts at issue, Mr. Tupper "implement[ed] POM's direction with regard to health benefit advertising and the use of science in connection with the advertising." ID at 305; IDF 51. Mr. Tupper participated in meetings reviewing advertising concepts and content, and reviewed, edited, and in some cases had the final say on advertising concepts and advertising copy. ID at 305; IDF 156, 160, 162, 1410, 1416, 1419-20. Mr. Tupper also participated in reviewing creative briefs, providing specific medical language for use in advertisements, drafting magazine cover wraps found by the ALJ (and here by the Commission) to have made the claims alleged by Complaint Counsel, and reviewing press releases. ID at 305; IDF 306-10, 581, 1417, 1421, 1430-31. Mr. Tupper was heavily involved in the direction of POM's medical research. ID at 305; IDF 53, 119, 142, 144, 1412, 1424-29. Mr. Tupper, in his capacity as an officer of POM, also had the authority to control its challenged practices. ID at 306-07 ("in his capacity as an officer [of POM], Mr. Tupper, together with others, formulated, directed, or controlled the policies, acts, or practices of POM."); IDF 37-38, 42. Mr. Tupper managed the day-to-day affairs of POM, including its marketing team, oversaw and administered its budget, signed checks and contracts on behalf of the company, and had the authority to determine which advertisements should run. ID at 306; IDF 25, 44, 45, 1406. He also had numerous employees report to him directly and had the authority to hire and fire POM employees, including the head of POM's marketing department. ID at 306-07; IDF 46-50.

In sum, the ordered relief is reasonably related to the deceptive acts and practices of all the Respondents, including Mr. Tupper.

XI. Conclusion

For all the foregoing reasons, we conclude that the Respondents have violated Sections 5(a) and 12 of the FTC Act and we affirm the ALJ's finding as to liability. Consequently, we issue a Final Order to address Respondents' conduct.

Opinion of the Commission, Final Order, and Concurring Statements of Commissioner Rosch and Commissioner Ohlhausen Issued On January 10, 2013

Exhibit V

to JFI's Notice of Reliance

Federal Trade Commission
Protecting America's Consumers

In the Matter of POM Wonderful LLC and Roll Global LLC, as successor in interest to Roll International Corporation, companies, and Stewart A. Resnick, Lynda Rae Resnick, and Matthew Tupper, individually and as officers of the companies

FTC File No. 082-3122
Docket No. 9344

January 16, 2013

- Opinion of the Commission, By Commissioner Maureen K. Ohlhausen
  - POM Claims Appendix (Appendix A)
  - POM Figures Appendix (Appendix B)
  - POM Figures 34-39 (Appendix B Video Files)
  - Summary Table of Commission Findings Regarding POM Exhibits
- Concurring Statement of Commissioner Ohlhausen
- Concurring Statement of Commissioner Rosch
- Final Order
- News Release

November 27, 2012

- Commission Order Extending Timetable for Issuing Final Decision and Order

September 10, 2012

- Corrections to Complaint Counsel's Compilation of Materials for Oral Argument

August 23, 2012

- Transcript of Oral Argument Before the Commission [PDF – 91 pages]

August 21, 2012

- Notice of Appearance by Counsel for Respondent Matthew Tupper

August 16, 2012

- Complaint Counsel's Compilation of Materials to Present During Oral Argument [PDF - 41 pages]

July 27, 2012

- Complaint Counsel's Reply Brief to Respondents' Answering Brief
- Reply Brief of Respondents Pom Wonderful LLC, Roll Global, Stewart A. Resnick, and Lynda Rae Resnick
- Respondent Matt Tupper's Reply to Complaint Counsel's Answering Brief

July 25, 2012

- Commission Order Ruling On Motion To Reopen the Record and Motion For Leave To File A Reply

July 18, 2012

APPENDIX B
POM Figures Appendix

Figure	Exhibit Number	Date	Description
1	CX0013	01/09/2003	January 2003 POM Juice Press Release
2	CX0016	10/12/2003	"Drink and be healthy." Ad
3	CX0029	11/01/2004	"10 Out of 10 People Don't Want to Die" Ad
4	CX0031	12/01/2004	"Floss your arteries. Daily." Ad
5	CX0033	12/30/2004	"Life support." Ad
6	CX0034	02/01/2005	"Amaze your cardiologist." Ad
7	CX0036	03/10/2005	"Cheat death." Ad
8	CX0044	09/16/2005	September 2005 POM Juice Press Release
9	CX0065	07/10/2006	July 2006 POMx Press Release
10	CX1426 at 0038-42 Ex. I	2007	"Antioxidant Superpill." Brochure
11	CX0103	03/01/2007	"Decompress." Ad
12	CX0109	04/01/2007	"Heart therapy." Ad
13	CX0120	05/28/2007	"One small pill for mankind." Ad
14	CX0122	06/01/2007	"Science, not fiction." Ad
15	CX0128	06/27/2007	June 2007 POM Juice Press Release
16	CX1426 Ex. M	Summer 2007	POMx Heart Newsletter
17	CX1426 Ex. N	Fall 2007	POMx Prostate Newsletter
18	CX0169/ CX1426 Ex. L	01/06/2008	"The power of POM" Ad
19	CX 0180/ CX1426 Ex. K	02/03/2008	"The antioxidant superpill." Ad
20	CX0192	05/01/2008	"What gets your heart pumping?" Ad
21	CX0314	08/25/2008	"Drink to prostate health." Magazine Wrap
22	CX0260/ CX1426 Ex. B	12/01/2008	"Drink to prostate health." Ad
23	CX0274/ CX1426 Ex. C	02/01/2009	"I'm off to save PROSTATES!" Ad
24	CX0279	03/01/2009	"Science, not fiction." Ad
25	CX0280	03/12/2009	"Love Long Enough." Ad
26	CX0475/CX1426 Ex. A	September 2009	"Super Health Powers" Juice Bottle Hang Tag
27	CX0372/ CX0379/ CX0380	09/02/2009	"Lucky I have super Health Powers" Magazine Wrap
28	CX0331/ CX1426 Ex. J	09/27/2009	"Healthy. ~~Wealthy.~~ And Wise." Ad
29	CX0328	11/08/2009	"Your New Health Care Plan." Ad
30	CX0337	01/03/2010	"The First Bottle You Should Open in 2010" Ad
31	CX0342/ CX0353	02/22/2010	"Take Out a Life Insurance Supplement" Ad
32	CX0348/ CX0350	04/01/2010	"24 Scientific Studies" Ad
33	CX0351/ CX0355	06/01/2010	"The Only Antioxidant Supplement Rated X" Ad

Figure 1

FOR MORE INFORMATION:
Fiona Posell
(310) 966-5810
fposell@pomwonderful.com

FOR IMMEDIATE RELEASE

Editor's Note: Copies of the medical research, digital photos, interviews and juice samples are available upon request.

CONSUMER DEMAND FOR POM WONDERFUL'S REFRIGERATED ALL-NATURAL POMEGRANATE JUICE GROWS AS THE HEALTH BENEFITS OF POMEGRANATE JUICE BECOME RECOGNIZED.

Scientific support indicates that drinking pomegranate juice provides the body with an active source of antioxidants and shows promise against cardiovascular disease.

LOS ANGELES (January 9 - 2003) - POM Wonderful®, the first company to sell a refrigerated super-premium pomegranate juice, today released information from published medical research regarding the important health benefits associated with its pomegranate juice. It was announced that the antioxidant activity of POM Wonderful pomegranate juice exceeds that of other popular beverages known for their antioxidant properties including red wine, cranberry juice, blueberry juice, orange juice, white wine, red grape juice, white grape juice, apple juice, and grapefruit juice. The antioxidant activity of pomegranate juice is high due to the polyphenols it contains. Polyphenols are powerful, natural antioxidants. Antioxidants may be useful in counteracting premature aging, Alzheimer's, and cancer.

The research shows that the antioxidants found in pomegranate juice may also be more important than previously thought in promoting optimum cardiovascular health. Medical research shows that daily consumption of just 1.5 mmol of polyphenols from pomegranate juice (the equivalent of an 8 fl oz serving of POM Wonderful pomegranate juice) confers heart health benefits by lessening factors that contribute to atherosclerosis (plaque in the arteries).[1] According to the American Heart Association, cardiovascular diseases rank as America's No. 1 killer. In addition, 61.8 million Americans have some form of cardiovascular disease such as diseases of the heart, high blood pressure, and hardening of the arteries.[2]

General Antioxidant Effects

Free radicals are produced as a result of normal metabolic processes, pollution and chemicals in the foods we eat. They attack and damage molecules in the body so that their function is altered. One molecule that is particularly susceptible to attack is LDL (low-density

lipoprotein) cholesterol. Once attacked and damaged, LDL is said to be oxidized. LDL oxidation is a key factor in the formation of plaque in the arteries, also called atherosclerosis. One of the best ways to defend against the damaging effects of free radicals is to consume foods and beverages that are rich in antioxidants.

Two studies have shown the superior potency of pomegranate antioxidants compared to other popular beverages. In the first study, which used four well-established tests of antioxidant activity, pomegranate juice squeezed from the Wonderful variety of pomegranates had twice the antioxidant activity of both red wine and green tea. Furthermore, pomegranate juice was shown to contain antioxidant compounds not present in either of the other beverages.[3] In a second study, ten beverages known for their antioxidant capacity were tested for their total polyphenol content and their ability to prevent the oxidation of LDL cholesterol (a factor in atherosclerosis). Beverages tested included pomegranate juice (from the Wonderful variety), red wine, apple juice, orange juice, white wine, red grape juice, white grape juice, cranberry juice, blueberry juice, and grapefruit juice. Pomegranate juice surpassed all the other juices in total polyphenol content. It was also the best inhibitor of LDL oxidation.[2]

Effects on Heart Health

The heart is one of the most susceptible of all the organs to premature aging and free radical oxidative stress. Though vulnerable to the effects of oxidative stress, the heart is also receptive to the benefits of antioxidants.[4] New research is showing that antioxidants can play a highly beneficial role in reducing one of the major risk factors in heart disease: atherosclerosis (plaque in the arteries). The progression of atherosclerosis depends on several steps including the oxidation of LDL cholesterol, the uptake of oxidized cholesterol into macrophage cells, clumping of LDL molecules together, and the adhesion of LDL molecules to the inner walls of the blood vessel. In one human study, drinking pomegranate juice containing 1.5 mmol of polyphenols daily for two weeks lowered the susceptibility of LDL cholesterol to oxidation, clumping and adhesion. Furthermore, it increased blood levels of an enzyme, paraoxonase, which protects against oxidation. An additional human study showed that consuming pomegranate juice reduces another enzyme: ACE (angiotensin converting enzyme). Inhibition of ACE lessens the progression of atherosclerosis and it is this enzyme that is targeted by blood pressure medications. Pomegranate juice inhibited ACE by 36% after two weeks of juice consumption. It also caused a 5% decrease in systolic blood pressure, and high blood pressure is a known risk factor for atherosclerosis.[5]

Studies in mice have revealed additional exciting results. When mice predisposed to

atherosclerosis were given pomegranate juice for 11-14 weeks, the level of LDL oxidation and the uptake of LDL cholesterol into macrophage cells was reduced. Remarkably, the production of atherosclerotic lesions and foam cells (indicators of advanced atherosclerosis) was also reduced by almost half compared to controls.[6] A subsequent study showed that pomegranate juice could actually reduce the size of existing atherosclerotic lesions after two months of pomegranate juice consumption, in effect, reversing atherosclerosis.[7]

About POM Wonderful

POM Wonderful, a subsidiary of Roll International Corporation, cultivates the Wonderful variety of pomegranates in orchards located in the sunny San Joaquin Valley, southwest of Kettleman City, in Central California. The Wonderful variety of pomegranate is renowned for its exquisite sweet flavor, beautiful color, and bountiful juice. In addition to selling fresh pomegranates throughout the United States, POM Wonderful has also created a unique, healthy, refreshing super-premium pomegranate juice that is now on sale in the refrigerated produce section of over 900 grocery stores and supermarkets in Southern California, including Von's, Ralph's, Stater Brothers, Bristol Farms, and Gelson's. POM Wonderful uses the juice from its fresh pomegranates to make its juice. Pomegranate juice can be enjoyed as a beverage, a drink mixer and in recipes. Each 8 fl oz serving of pomegranate juice contains the juice from approximately two pomegranates. POM Wonderful's pomegranate juice is currently available in four flavors, Pure POM, POM Mango, POM Tangerine and POM Blueberry and two sizes - 15.2 fl oz and 24 fl oz. The 15.2 fl oz size retails for approximately $3.49, and the 24 fl oz size retails for approximately $5.79. POM Wonderful pomegranates and POM Wonderful pomegranate juice products promise consistent quality and superb taste. Only fruit and juice that meet the company's strict quality standards appear in store produce sections. POM Wonderful prides itself on the quality of its farming operation the sensitivity with which the fruit is hand picked and carried to its sorting and modern juicing facilities, and ultimately delivered to your table. POM Wonderful's mission is to educate consumers about the splendor and versatility of this luscious fruit, as well as its refreshing taste and health benefits. To learn more, visit www.pomwonderful.com.

POM Wonderful is a registered trademark of POM Wonderful LLC.

Citations

[1]Aviram M, Dornfeld L, Kaplan M, Coleman R, Gaitini D, Nitecki S, Hofman A, Rosenblat M, Volkova N, Presser D, Attias J, Hayek T, Fuhrman B. Pomegranate juice flavonoids inhibit low-density lipoprotein and cardiovascular diseases: studies in atherosclerotic mice and humans. Drugs Under Experimental and Clinical Research 2002, 28(2/3):49-62.

[2]CDC/NCHS and The American Heart Association, 2002.

[3]Gil MI, Tomas-Barberan FA, Hess-Pierce B, Holcroft DM, Kader AA. Antioxidant activity of pomegranate juice and its relationship with phenolic composition and processing. J Agri Food Chem. 2000, 48:4581-4589.

[4] Sinatra ST, DeMarco J. Free radicals, oxidative stress, oxidized low density lipoprotein

(LDL), and the heart: antioxidants and other strategies to limit cardiovascular damage. Conn Med 1995 Oct;59 (10):579-88.

[5]Aviram M and Dornfeld L. Pomegranate juice consumption inhibits serum angiotensin converting enzyme activity and reduces systolic blood pressure. Atherosclerosis 2001, 158:195-198.

[6]Aviram M, Dornfeld L, Rosenblat M, Volkova N, Kaplan M, Coleman R, Hayek T, Presser D and Fuhrman B. Pomegranate juice consumption reduces oxidative stress, atherogenic modifications to LDL, and platelet aggregation: studies in humans and in atherosclerotic apolipoprotein E-deficient mice. Amer J Clin Nutr 2000, 71(5):1062-1076.

[7]Kaplan M, Hayek T, Raz A, Coleman R, Dornfeld L, Vaya J and Aviram M. Pomegranate juice supplementation to atherosclerotic mice reduces macrophage lipid peroxidation, cellular cholesterol accumulation and development of atherosclerosis. J Nutr 2001, 131(8): 2082-2089.

###

Figure 2

VMS ID: 03102286
RUN DATE: 10/1[illegible]/2003

NEW

Drink and be healthy.

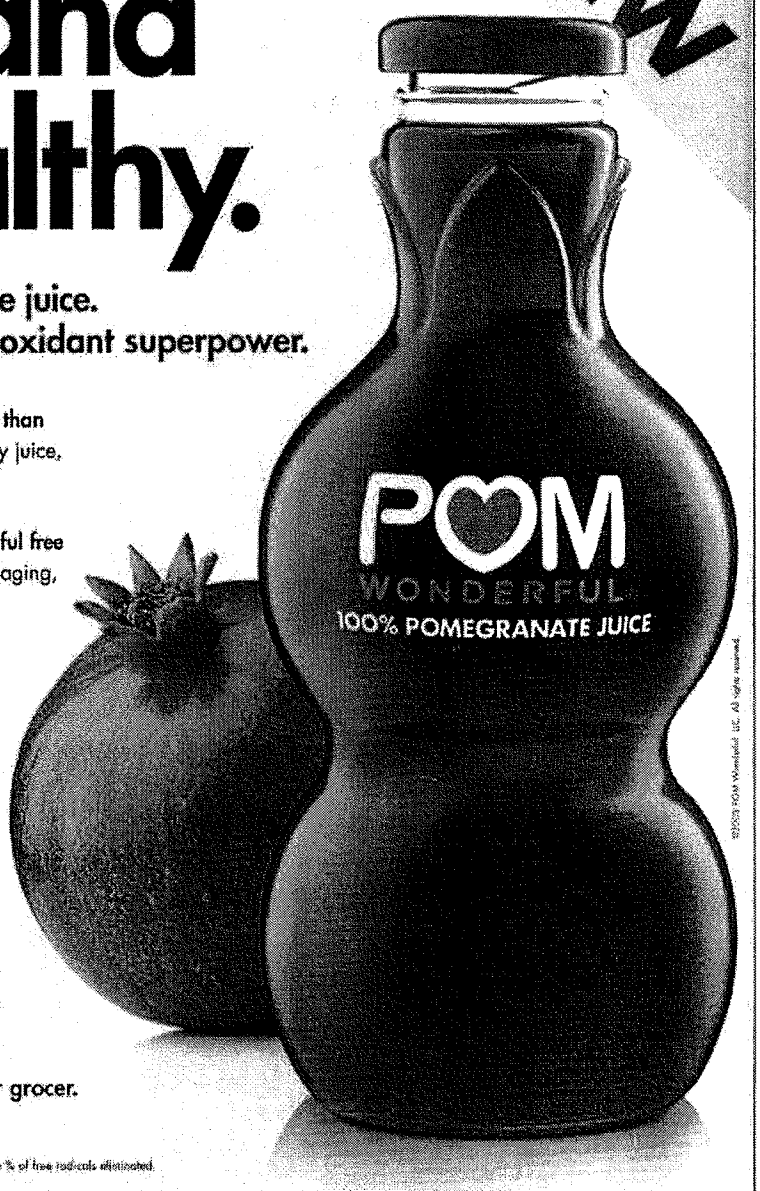
100% all-natural pomegranate juice.
The delicious, refreshing antioxidant superpower.

- **More naturally occurring antioxidant power than any other drink,** including red wine, blueberry juice, cranberry juice, orange juice and green tea.
- **Antioxidants guard your body against harmful free radicals** that can cause heart disease, premature aging, Alzheimer's disease, even cancer.

Most Powerful Antioxidant*

71%	46%	33%	20%	12%	10%
POM Wonderful	Red Wine	Blueberry Juice	Cranberry Cocktail	Orange Juice	Green Tea

- **Medical studies have shown that drinking 8oz. of POM Wonderful** pomegranate juice daily minimizes factors that lead to atherosclerosis (plaque buildup in the arteries), a major cause of heart disease.



In the refrigerated produce section of your grocer.
www.pomwonderful.com

*Chart compares ability of various juices to eliminate harmful free radicals; units are % of free radicals eliminated.
Source: Aviram, M., Technion Faculty of Medicine. Data on file.

©2003 POM Wonderful LLC. All rights reserved.

MFR. COUPON | EXP. 02.29.04

SAVE $1.00

on any flavor, any size

POM Wonderful®

100% Pomegranate Pomegranate Tangerine
Pomegranate Blueberry Pomegranate Cherry

In the refrigerated produce section

RETAILER: We will reimburse you the face value of this coupon plus 8 cents handling, provided you and the consumer have complied with the terms of this offer. Invoices proving purchase of sufficient stock of our brand to cover presented coupons must be shown on request. Any other application may constitute fraud. Coupon void where prohibited, taxed or restricted. Consumers must pay any sales tax. Cash value 1/[illegible] cent. Reproduction of this coupon is expressly prohibited. Mail coupons to: POM Wonderful, LLC., CMS Dept. 24150, One Fawcett Drive, Del Rio, TX 78840. POM Wonderful is a registered trademark of POM Wonderful LLC. ©2003 POM Wonderful LLC. All rights reserved.

5 24150 20076 4 (8100) 8 41012

VMS-0000198

CX0016_0001

Figure 3

advertisement

POMEGRANATE JUICE.

STUDIES SHOW THAT 10 OUT OF 10 PEOPLE DON'T WANT TO DIE

IT'S NOT EASY BEING ALIVE IN TODAY'S POLLUTED, STRESSED OUT WORLD. Here's a tip: with more naturally occurring antioxidant power than any other drink, a glass of POM Wonderful® Pomegranate Juice a day might be just what the doctor ordered.

Fighting Free Radicals

Let's start with the problem: free radicals...unstable little molecules that can accelerate aging, lead to heart disease and stroke, and have even been implicated in cancer. Where do they come from? Everywhere. Free radicals are formed by exposure to air pollution, alcohol, pesticides, sunlight, tobacco smoke, drugs, even fried foods. Of course, when you're very young, your body's self-repair mechanism can neutralize the activity of many free radicals. But by the time you're in your twenties, those mechanisms just don't work as well. That's where antioxidants come in. They neutralize free radicals, helping to prevent the cell and tissue damage that leads to disease. Which brings us back to POM Wonderful Pomegranate Juice.

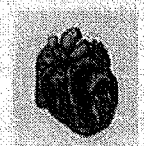


fig.1 THE HEART

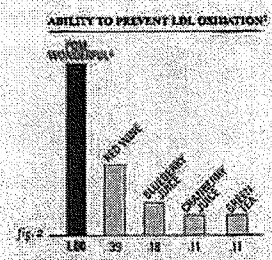
Not All Antioxidants are Equal

Since our bodies don't produce enough antioxidants to do the job on their own, we need a little outside help. POM Wonderful Pomegranate Juice, with a higher

In the refrigerated produce section of your grocer.

©2004 POM Wonderful, LLC. All rights reserved. POM Wonderful and Antioxidant Superpower are trademarks of POM Wonderful, LLC.

advertisement



level of antioxidants than any other drink, is a real Antioxidant Superpower.™

Our Research: Heartening

We've been working with a number of top scientists, including a Nobel Laureate, for 6 years now and our seven published, peer-reviewed papers reveal heartening results. Here's the story: Free radicals are the culprits that turn LDL – or "bad" cholesterol – into that sticky stuff that becomes the plaque that clogs your arteries. Our scientific research shows that pomegranate juice is 8 times better than green tea at preventing formation of oxidized (sticky) LDL.[1] And a clinical pilot study shows that an 8 oz. glass of POM Wonderful 100% Pomegranate Juice, consumed daily, reduces plaque in the arteries up to 30%.[2]

The Heart Stopping Truth

Remember: heart disease is America's number one killer. For women as well as men. 98% of heart attacks are due to atherosclerosis, or too much plaque in the arteries. That same plaque increases your chance of stroke. One final scary statistic: half of patients who have a severe heart attack have normal cholesterol levels. In other words, we're all at risk.

Just a Glass a Day

To keep your heart healthy: exercise regularly. Eat a healthy diet. And drink 8 ounces of POM Wonderful Pomegranate Juice. Make every day a good day to be alive.

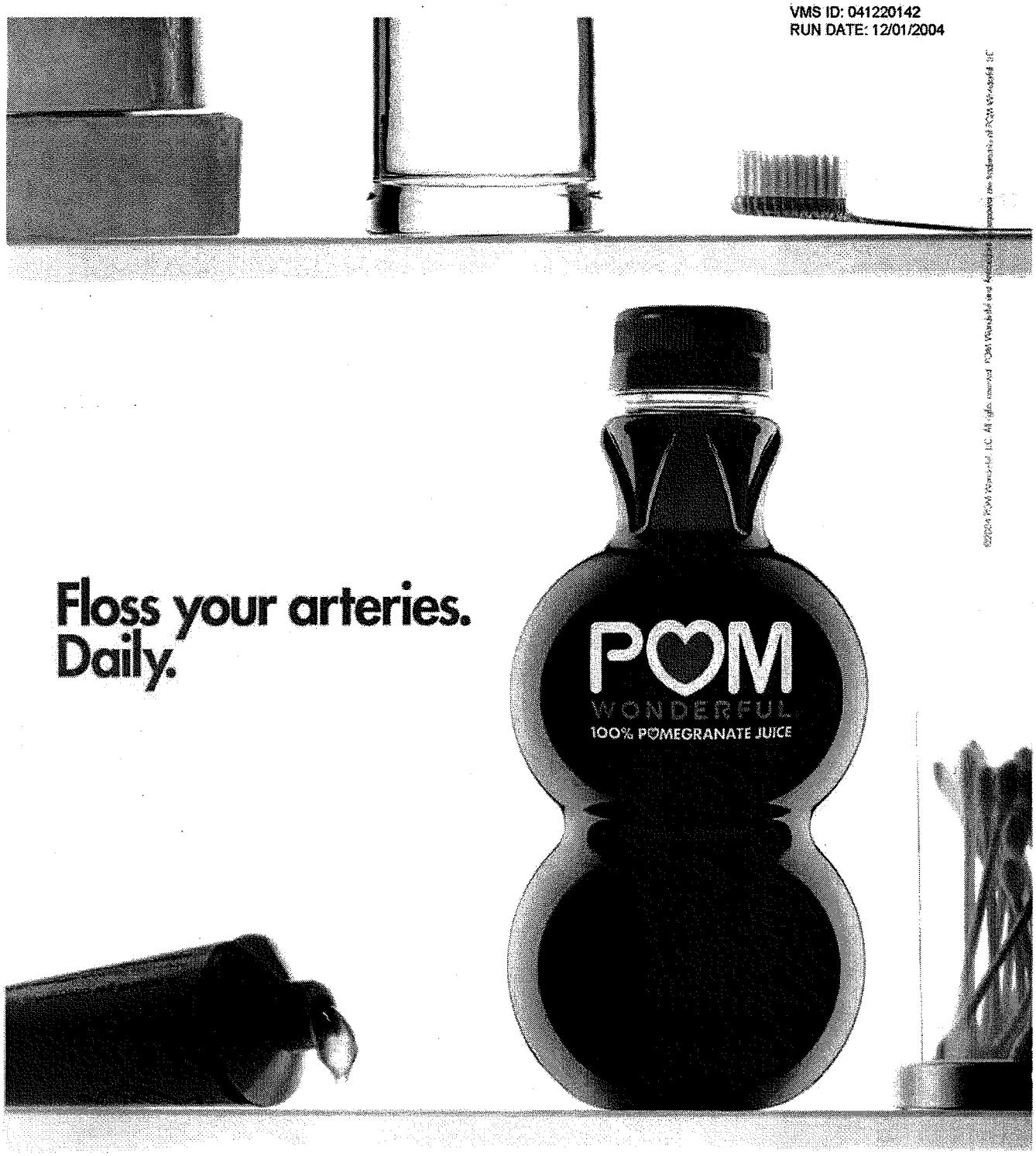
[1]Aviram, M., Drugs Under Experimental and Clinical Research, 2000. Indexed values, based on relative amount of oxidized LDL created. [2]Aviram, M., Clinical Nutrition, 2004.

POM Wonderful Pomegranate Juice
Is the Antioxidant Superpower.™ Drink a glass a day!

For more medical research on the Antioxidant Superpower, visit pomwonderful.com

Figure 4

VMS ID: 041220142
RUN DATE: 12/01/2004



Floss your arteries. Daily.

Clogged arteries lead to heart trouble. It's that simple. That's where we come in. Delicious POM Wonderful Pomegranate Juice has more naturally occurring antioxidants than any other drink. These antioxidants fight free radicals—molecules that are the cause of sticky, artery clogging plaque. Just eight ounces a day can reduce plaque by up to 30%!* So every day: wash your face, brush your teeth, and drink your POM Wonderful.

POM WONDERFUL®

POM Wonderful Pomegranate Juice. The Antioxidant Superpower.™

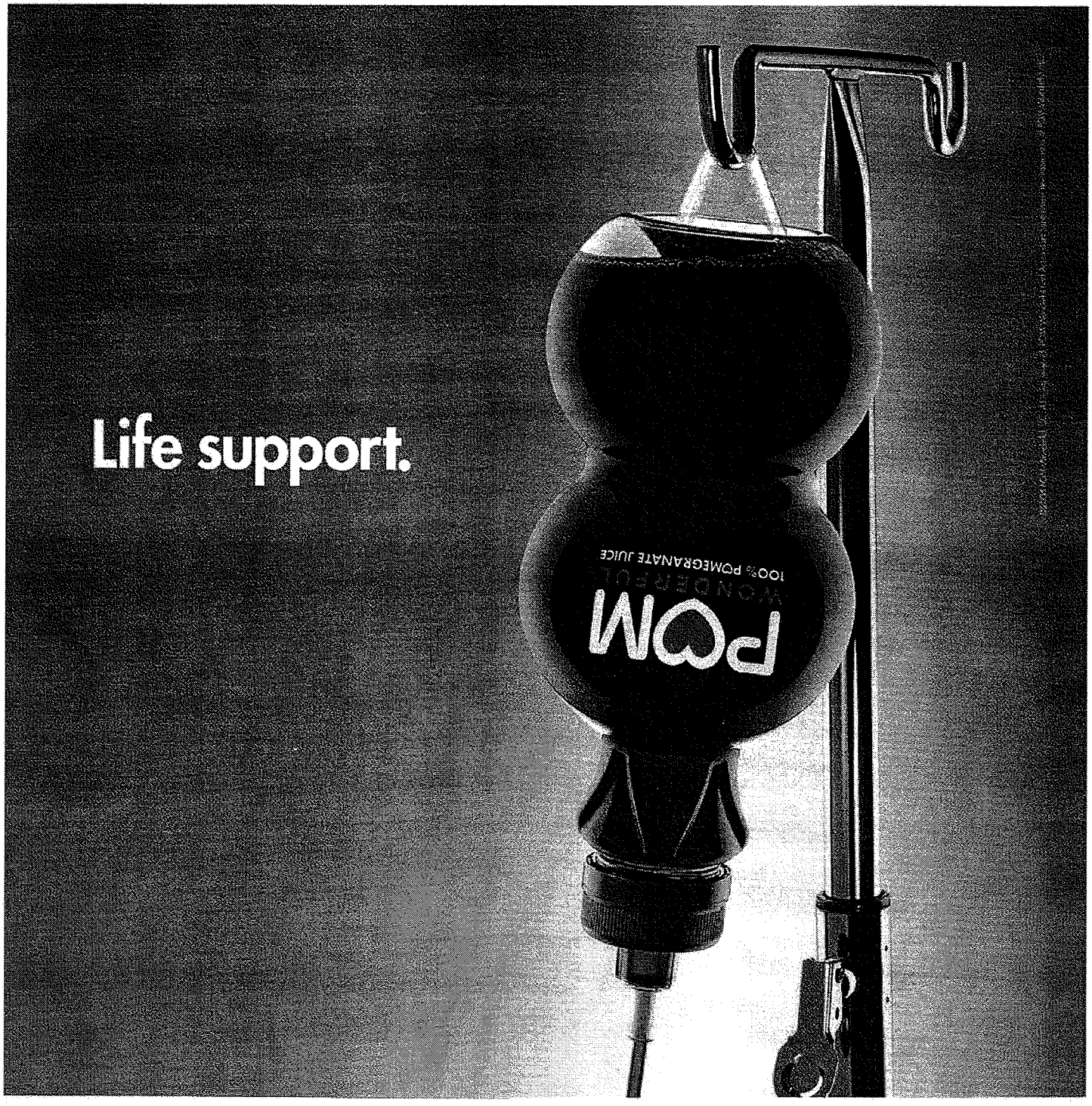
*Aviram, M. Clinical Nutrition, 2004. Based on clinical pilot study.

©2004 POM Wonderful, LLC. All rights reserved. POM Wonderful and Antioxidant Superpower are trademarks of POM Wonderful LLC.

VMS-0000212

CX0031_0001

Figure 5



POM Wonderful Pomegranate Juice fills your body with what it needs. On top of being refreshing and delicious, this amazing juice has more naturally occurring antioxidants than any other drink. These antioxidants fight hard against free radicals that can cause heart disease, premature aging, Alzheimer's, even cancer. Just drink eight ounces a day and you'll be on life support—in a good way.

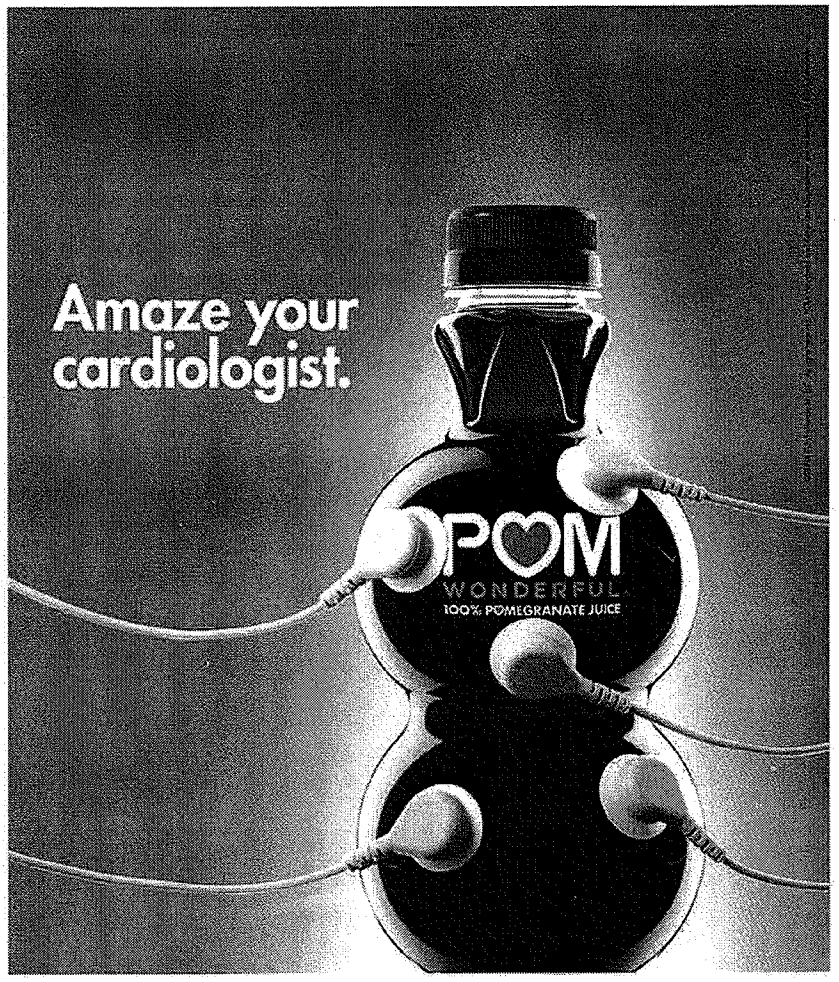
POM Wonderful Pomegranate Juice. The Antioxidant Superpower.™

POM WONDERFUL®

pomwonderful.com

Figure 6

VMS ID: 050220377
RUN DATE: 02/01/2005


Amaze your cardiologist.

Ace your EKG: just drink 8 ounces of delicious POM Wonderful Pomegranate Juice a day. It has more naturally occurring antioxidants than any other drink. Antioxidants fight free radicals... nasty little molecules that can cause sticky, artery clogging plaque. A glass a day can reduce plaque by up to 30%!* Trust us, your cardiologist will be amazed.

POM Wonderful Pomegranate Juice. The Antioxidant Superpower.*

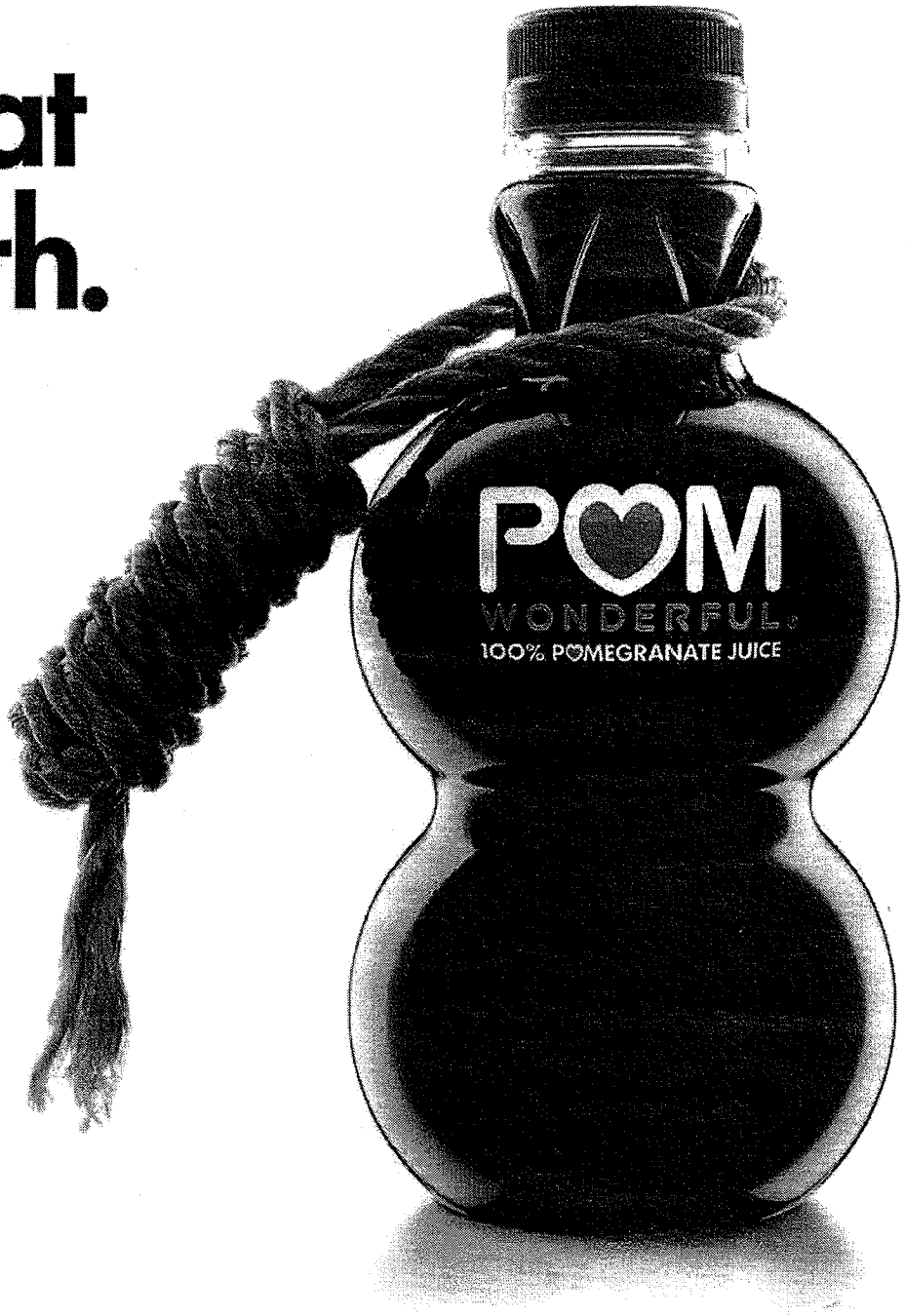
POM WONDERFUL

pomwonderful.com

*[illegible]

Figure 7

Cheat death.



Dying is so dead. Drink to life with POM Wonderful Pomegranate Juice, the world's most powerful antioxidant. It has more antioxidants than any other drink and can help prevent premature aging, heart disease, stroke, Alzheimer's, even cancer. Eight ounces a day is all you need. The sooner you drink it, the longer you will enjoy it.

POM Wonderful Pomegranate Juice. The Antioxidant Superpower.™

POM WONDERFUL®
pomwonderful.com

©2005 POM Wonderful, LLC. All rights reserved. POM Wonderful and Antioxidant Superpower are registered trademarks of POM Wonderful, LLC.

Figure 8

Pomegranate Juice May Affect the Progression of Coronary Heart Disease

LOS ANGELES--(BUSINESS WIRE)--Sept. 16, 2005--Men and women with coronary heart disease who drink one glass of pomegranate juice daily may improve blood flow to their heart, according to a new study.

This research is the first randomized, double-blind, placebo-controlled trial showing that pomegranate juice may affect the progression of coronary heart disease, which is the #1 cause of death in the U.S. and in most of the world. Promising results from this research will be published in the September 16th issue of the American Journal of Cardiology, one of the leading peer-reviewed cardiology journals (www.ajconline.org).

Researchers from the non-profit Preventive Medicine Research Institute, University of California, San Francisco, and California Pacific Medical Center studied patients with coronary heart disease who had reduced blood flow to the heart. These 45 patients were randomly assigned into one of two groups: one group who drank a glass of pomegranate juice each day (240 ml/day, which is approximately 8.5 oz/day) or to a placebo group, who drank a beverage of similar caloric content, amount, flavor and color.

After only three months, blood flow to the heart improved approximately 17% in the pomegranate juice group but worsened approximately 18% in the comparison group (i.e., a 35% relative between-group difference). These differences were statistically significant. This benefit was observed without changes in cardiac medications or revascularization in either group. Also, there were no negative

FTC EXHIBIT 10
1-19-2011
Rosell

effects on lipids, blood glucose, hemoglobin A1c, body weight or blood pressure.

Pomegranate juice is rich in polyphenols and other naturally-occurring antioxidants. It demonstrates high capability in scavenging free radicals and inhibiting low-density lipoprotein oxidation in vitro and in vivo. Other studies have shown that pomegranate juice has a number of important health benefits.

"Although the sample in this study was relatively small, the strength of the design and the significant improvements in blood flow to the heart observed after only three months suggest that pomegranate juice may have important clinical benefits in those with coronary heart disease," said senior author, Dean Ornish, M.D., who is founder of the Preventive Medicine Research Institute and clinical professor of medicine at UCSF. "Also, it may help to prevent it."

Pomegranate juice from POM Wonderful was used in this study.

About POM Wonderful

POM Wonderful is the largest producer of California Wonderful pomegranates, and the company exclusively grows and sells this variety. POM Wonderful's pomegranates are grown in Central California, in the sunny San Joaquin Valley. Known for its exquisite sweet flavor, health benefits, large size and plentiful juice, the Wonderful variety is popular with consumers throughout the country. POM Wonderful's pomegranates promise consistent quality. POM Wonderful prides itself on the quality of its farming operation, the sensitivity with which the fruit is hand picked and carried to their sorting and modern juicing facilities, and ultimately delivered to your table. Only fruit that meets the company's strict quality standards appears in store produce sections.

The company also juices its fresh pomegranates to make its delicious, all-natural, POM Wonderful pomegranate juice. POM Wonderful pomegranate juice is available year-round at retail and is found in the refrigerated section of supermarkets and grocery stores nationwide. POM Wonderful pomegranate juice is available in five flavors: POM 100% Pomegranate, POM Cherry, POM Blueberry, POM Tangerine and POM Mango. Each flavor of POM Wonderful pomegranate juice is all-natural, preservative-free and has no added sugar.

POM Wonderful's mission is to educate consumers about the pomegranate's splendor and versatility as well as its refreshing taste and health benefits. To learn more, visit http://www.pomwonderful.com.

POM Wonderful is a registered trademark of POM Wonderful LLC.

Note to Editors: Interviews with Dr. Dean Ornish, Senior Author, are available upon request.

Contacts

Fiona Posell
Vice President, Corporate Communications
POM Wonderful

11444 W Olympic Blvd., Los Angeles, CA 90064-1544

Tel: 310 966 5810
Fax: 310 966 5801

Figure 9

POM WONDERFUL.

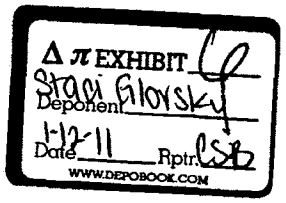
Contact: Fiona Posell (310) 966 5810
fposell@pomwonderful.com

Note to Editors: Interviews with medical researchers quoted are available upon request.

POMx, a Highly Concentrated Form of Healthy Pomegranate Antioxidants, Becomes Available to Consumers for the First Time

LOS ANGELES (July 10 - 2006) – Three years after introducing consumers to the health benefits and delicious taste of the world's first refrigerated, super-premium pomegranate juice, POM Wonderful® announced today that it has developed a concentrated form of pomegranate antioxidants known as POMx. POMx, already being noted by medical researchers as an important natural ingredient, is so concentrated that only a small amount is needed to obtain an optimal level of daily antioxidants. For consumers who are not seeking additional calories and sugars, this is an important product benefit. POMx comes from the same Wonderful variety of pomegranates that are used to make POM Wonderful's healthy pomegranate juices. It also has a similar biochemical profile to pomegranate juice since both contain a diverse range of phytochemicals, of which polyphenols make up a large proportion. POMx is currently an active ingredient in POM Tea (http://pomtea.com), a refreshing, healthy, ready-to-drink iced tea that is available in retail stores nationally.

According to Michael Aviram, DSc, Professor of Biochemistry and Head Lipid Research Laboratory, Technion Faculty of Medicine and Rambam Medical Center, Haifa, Israel, who was at the forefront of the initial research on pomegranates, the research on POMx looks very promising. In 2006, Aviram led a study on POMx which was recently published (*Journal of Agriculture and Food Chemistry*, 2006 54:1928-1935). Commenting on this research, Professor Aviram remarks, "The results showed that POMx is as potent an antioxidant as pomegranate juice and just like pomegranate juice may protect against cardiovascular as well as other diseases."



1 of 4pgs

The POMx research comes as the benefits derived from the Wonderful variety of pomegranate are, once again, being noted by the worldwide medical community. Recently, the American Association for Cancer Research published research that indicates that a daily pomegranate regimen has a positive effect for men with prostate cancer. Specifically, drinking 8 ounces of POM Wonderful pomegranate juice daily prolonged post-prostate surgery PSA doubling time from 15 to 54 months (*Clinical Cancer Research,* July 1, 2006). PSA is a protein marker for prostate cancer and the faster PSA levels increase in the blood of men after treatment, the greater their potential for dying of prostate cancer.

David Heber, MD, PhD, Professor of Medicine and Director, UCLA Center for Human Nutrition, provided additional commentary on POMx as it relates to prostate cancer. "Basic studies indicate that the effects of POMx and POM Wonderful pomegranate juice on prostate cancer are the same. The most abundant and most active ingredients in pomegranate juice are also found in POMx."

The Wonderful variety of pomegranate is a type of pomegranate rather than a brand. Just as there are different varieties of apples, oranges and grapes, there are several different varieties of pomegranates grown in the United States and in other countries. POM Wonderful's products only use extractions from the Wonderful variety of pomegranate. Of the many published peer-reviewed medical papers that speak to the health benefits of the pomegranate, most were conducted using juice or pomegranate extract from this variety of pomegranate.

About POM Wonderful

POM Wonderful is the largest grower of the Wonderful variety of pomegranate. The company exclusively grows and sells this variety because of its exquisite sweet flavor, health benefits, large size and plentiful juice. POM Wonderful's pomegranates are grown in Central California, in the sunny San Joaquin Valley. Fresh pomegranates are in season from October through January and November is National Pomegranate Month. In addition to selling the fresh fruit, the company also juices its fresh pomegranates to make POM Wonderful pomegranate juice and POMx. To learn more, visit http://www.pomwonderful.com.

###

6-2

Figure 10

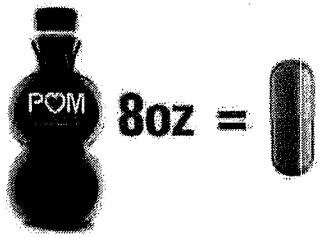
POMx
Antioxidant Superpill™
The most concentrated source
of pomegranate antioxidants available.
POMx
POM IN A PILL™
1.888.POM.PILL (1.888.766.7455)
pompills.com
© 2007 PomWonderful LLC. All rights reserved. POM Wonderful, POMx, Antioxidant Superpill,
"POM in a pill" and "The power of POM. Now in one little pill" are trademarks of PomWonderful LLC

POMx™ is the first and only pomegranate antioxidant supplement reviewed for safety by the FDA.

POMx™ is a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants made from the very same pomegranates in POM Wonderful 100% Pomegranate Juice. In fact, our method of harnessing astonishing levels of antioxidants is so extraordinary, it's patent-pending.

The power of POM. Now in one little pill.™

All of the antioxidant power of an 8oz glass of POM Wonderful 100% Pomegranate Juice is now available in the convenience of a single calorie-free pill. **Take one daily.** Each bottle contains a one-month supply of 30 pills.



Our antioxidants make other antioxidants feel inferior.

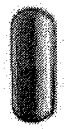
fact. 1 **More polyphenol antioxidants than any other 100% pomegranate supplement**

fact. 2 **The antioxidant power of an 8oz glass of our juice, in a calorie-free pill**

fact. 3 **An astonishing 1000mg of natural pomegranate polyphenol extract in every pill**

fact. 4 **Made from the same California pomegranates in POM Wonderful 100% Pomegranate Juice**

Why take an antioxidant supplement?



Let's start with the problem: free radicals. Emerging science tells us these unstable molecules aggressively destroy healthy cells in your body and may be linked to everything from the wrinkles we get as we age to more serious health threats like cancer and heart disease. In fact, scientists have already linked free radicals to as many as 60 different types of diseases.

Fighting free radicals.

Where do free radicals come from? Everywhere. They're formed by exposure to alcohol, sunlight, tobacco smoke, air pollution, pesticides and even fried foods. That's where antioxidants come in. Science tells us that pomegranate antioxidants neutralize free radicals, helping to prevent the damage that can lead to disease. In the fight against free radicals, POMx is the Antioxidant Superpill.™

Not all antioxidants are equal.

POMx is made from pomegranates only—nothing else. When other supplements add non-pomegranate ingredients or even other antioxidants, they can disrupt the balance of molecules that nature intended the pomegranate to have. The polyphenol antioxidants in POMx are as natural and unadulterated as those in our fresh, California-grown POM Wonderful Pomegranates.

"Findings from a small study suggest that pomegranate juice may one day prove an effective weapon against prostate cancer."

The New York Times (July 4, 2006)

Prostate health.

Prostate cancer is the most commonly diagnosed cancer among men in the United States and the second-leading cause of cancer death in men after lung cancer.[1]

Time pill.

Stable levels of prostate-specific antigens (or PSA levels) are critical for men with prostate cancer. Patients with quick PSA doubling times are more likely to die from their cancer.[2] According to a UCLA study of 46 men age 65 to 70 with advanced prostate cancer, drinking an 8oz glass of POM Wonderful 100% Pomegranate Juice every day slowed their PSA doubling time by nearly 350%.[3]

83% of those who participated in the study showed a significant decrease in their cancer regrowth rate.[3]

One small pill for mankind.

New studies are under way to further investigate the possibilities of POM Wonderful pomegranate antioxidants and their potential ability to slow the rise of PSA levels in patients with prostate cancer.

To learn more, visit pompills.com/research.

"The most abundant and most active ingredients in pomegranate juice are also found in POMx. Basic studies indicate that POMx and POM Wonderful Pomegranate Juice may have the same effects on prostate health."

David Heber, MD, PhD, Professor of Medicine and Director, UCLA Center for Human Nutrition

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

[1] American Cancer Society [2] *Vital Signs* newsletter, UCLA Healthcare, April 2007 [3] pompills.com/research [4] Data on file

"POM Wonderful Pomegranate Juice has been proven to promote cardiovascular health, and we believe that POMx may have the same health benefits."

Dr. Michael Aviram, Lipid Research Laboratory, Technion Faculty of Medicine, Haifa, Israel

Heart health.

In two groundbreaking preliminary studies, patients who drank POM Wonderful 100% Pomegranate Juice experienced impressive cardiovascular results. A pilot study at the Rambam Medical Center in Israel included 19 patients with atherosclerosis (clogged arteries). After a year, arterial plaque decreased 30% for those patients who consumed 8oz of POM Wonderful 100% Pomegranate Juice daily.[2]

An additional study at the University of California, San Francisco included 45 patients with impaired blood flow to the heart. Patients who consumed 8oz of POM Wonderful 100% Pomegranate Juice daily for three months experienced a 17% improvement in blood flow.[3] Initial studies on POMx share similar promise for heart health, and our research continues.

Fig. 1. THE HEART

The POMx Difference

Ultra-Potent:

- 1000mg of natural pomegranate polyphenol extract in every pill
- More antioxidants than any other pomegranate supplement
- One POMx pill = the antioxidant power of 8oz of POM Wonderful 100% Pomegranate Juice
- Your daily antioxidants in a single pill
- A full spectrum of pomegranate polyphenol antioxidants

Natural:

- Made from pomegranates and nothing else
- No synthetic or other antioxidants added
- No sugar, artificial colors or preservatives
- Calorie-free, vegan, kosher

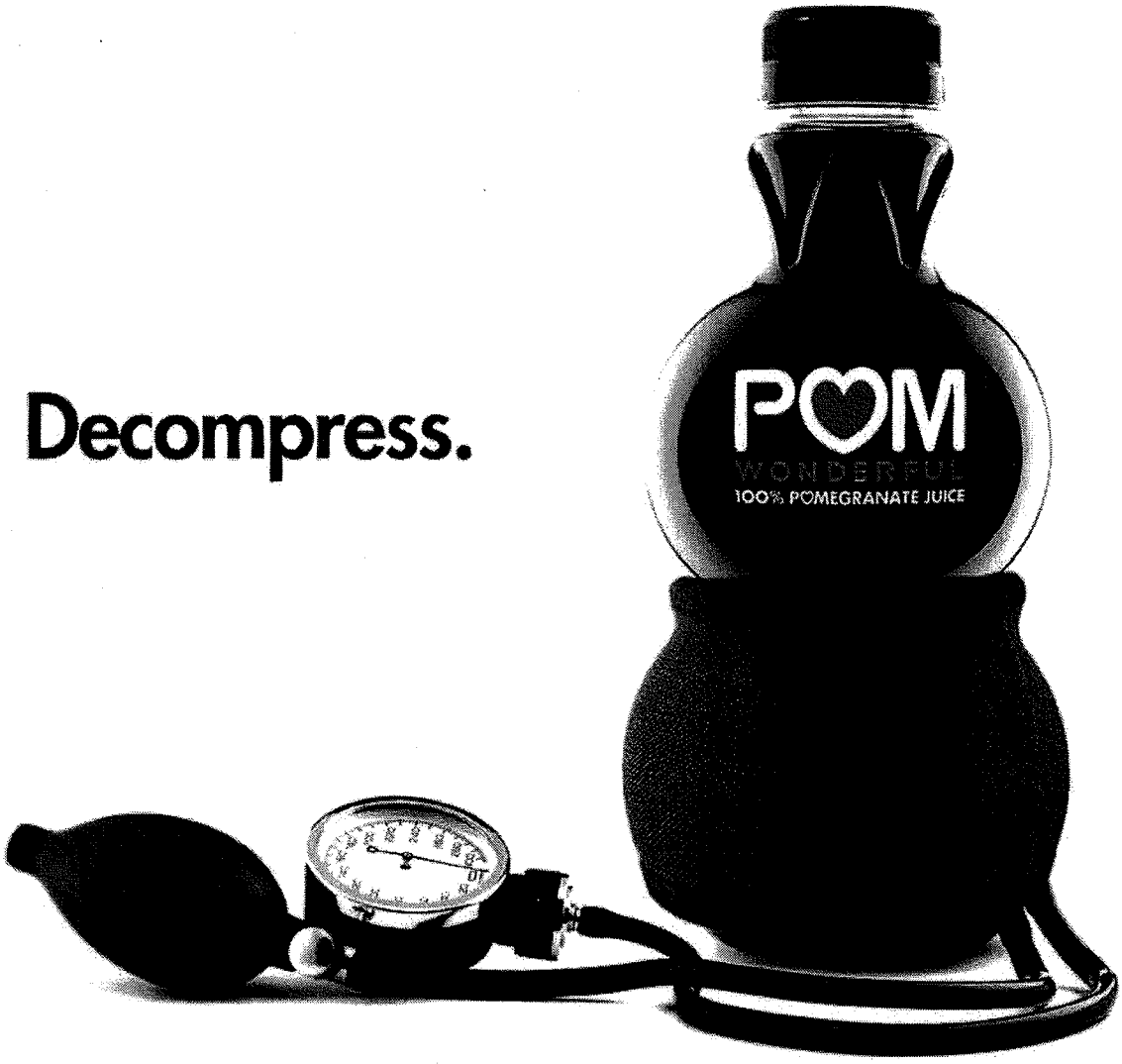
Science, Not Fiction:

- Made from the only pomegranates backed by $20 million in medical research and the POM Wonderful brand
- Promotes heart and prostate health
- Guards your body against free radicals[4]
- Proven to be easily absorbed[4]
- Clinically tested on adults[4]

To access the original published studies mentioned, visit pompills.com/research.

Figure 11

Decompress.



Amaze your cardiologist. Drink POM Wonderful Pomegranate Juice. It helps guard your body against free radicals, unstable molecules that emerging science suggests aggressively destroy and weaken healthy cells in your body and contribute to disease. POM Wonderful Pomegranate Juice is supported by $20 million of initial scientific research from leading universities, which has uncovered encouraging results in prostate and cardiovascular health. Keep your ticker ticking and drink 8 ounces a day.

POM WONDERFUL®

pomwonderful.com

POM Wonderful Pomegranate Juice. The Antioxidant Superpower.™

©2007 [illegible] All rights reserved. "POM Wonderful" and "The Antioxidant Superpower" are trademarks of [illegible].

VMS-0000242

CX0103_0001

Figure 12

VMS ID: 070420398
RUN DATE: 04/01/2007

Heart therapy.

Seek professional help for your heart. Drink POM Wonderful Pomegranate Juice. It helps guard your body against free radicals, unstable molecules that emerging science suggests aggressively destroy and weaken healthy cells in your body and contribute to disease. POM Wonderful Pomegranate Juice is supported by $20 million of initial scientific research from leading universities, which has uncovered encouraging results in prostate and cardiovascular health. Keep your heart healthy and drink 8 ounces a day.

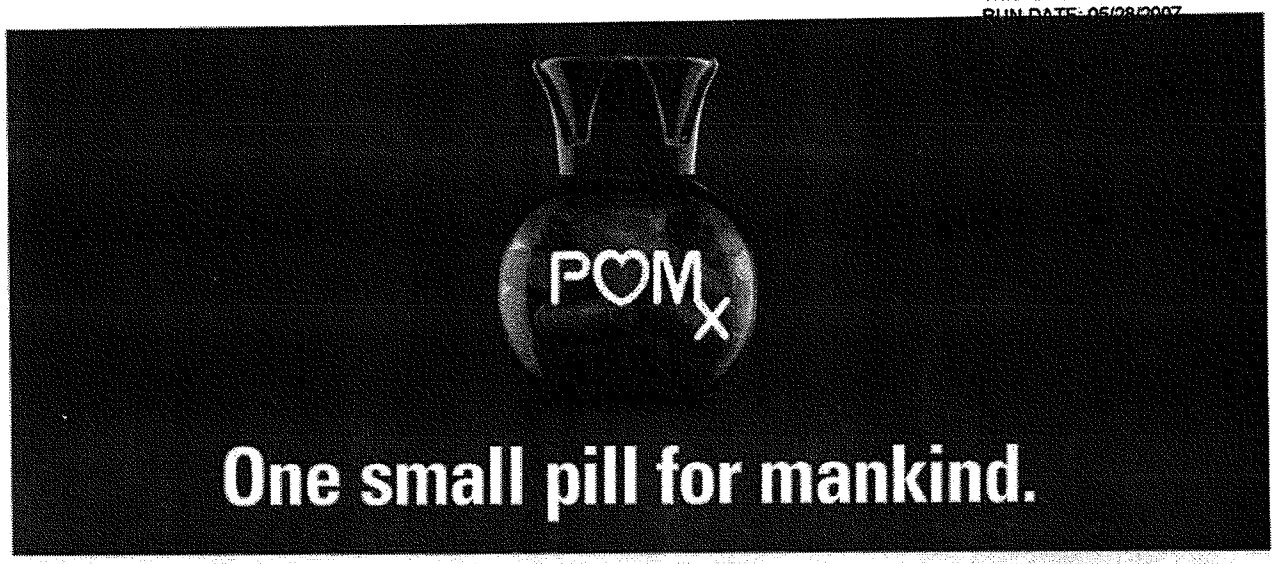
POM WONDERFUL®
pomwonderful.com

POM Wonderful Pomegranate Juice. The Antioxidant Superpower.™

©2007 PomWonderful LLC. All rights reserved. POM Wonderful and "The Antioxidant Superpower" are trademarks of PomWonderful LLC

Figure 13

VMS ID: 070522924
RUN DATE: 05/28/2007



"Findings from a small study suggest that pomegranate juice may one day prove an effective weapon against prostate cancer."

The New York Times (July 4, 2006).

Introducing POMx™ – a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants made from the very same pomegranates in **POM Wonderful 100% Pomegranate Juice.** Our method of harnessing astonishing levels of antioxidants is so extraordinary, it's patent-pending. So now you can get all the antioxidant power of an 8oz glass of juice in the convenience of a calorie-free capsule.

Ready to take on free radicals? Put up your POMx and fight them with a mighty 1000mg capsule – that's more concentrated pomegranate polyphenol antioxidants than any other 100% pomegranate supplement. An initial UCLA medical study on POM Wonderful 100% Pomegranate Juice showed hopeful results for men with prostate cancer.[1,3] And preliminary human research suggests that our California-grown pomegranate juice also promotes heart health.[2,3] Take your antioxidants into your own hands. **Call 1-888-POM-PILL now, or visit pompills.com/fort and get your first monthly shipment for just ~~$29.95~~ $24.95 with coupon.**

POM IN A PILL™

CALL 1-888-POM-PILL now, or visit pompills.com/fort

Not available in stores | 100% money-back guarantee

SAVE $5 ON YOUR FIRST ORDER.

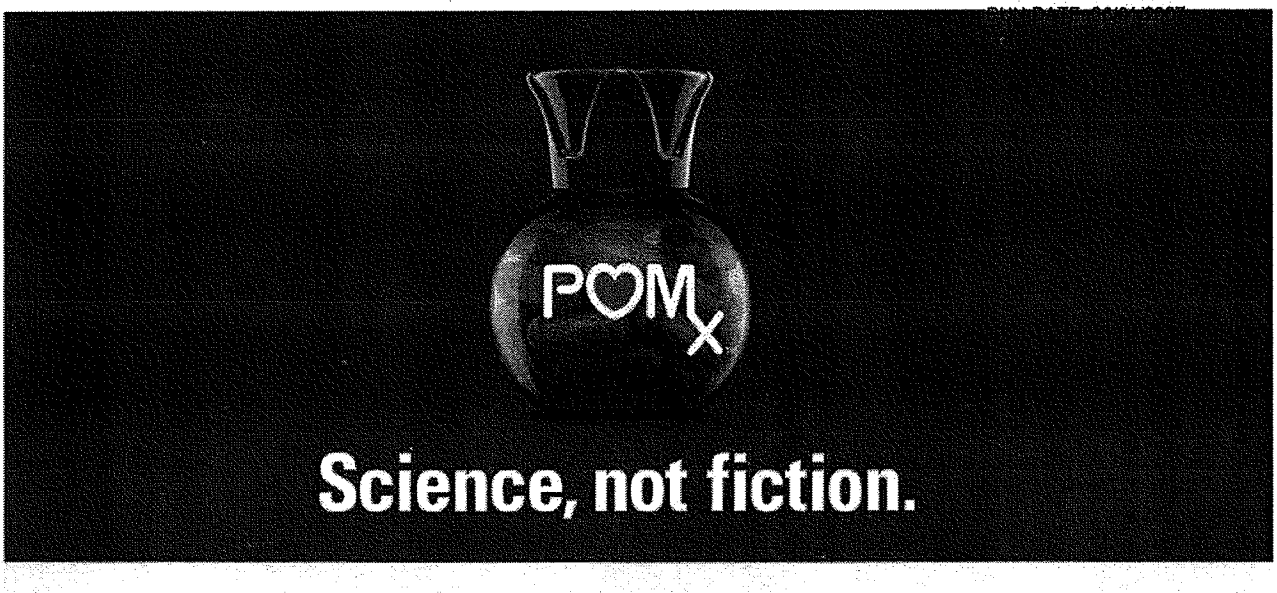
Call 1-888-POM-PILL or visit pompills.com/fort and mention or enter code **FORT5** at checkout. To pay by check, call 1-888-POM-PILL for instructions. Hurry, offer expires July 31, 2007.

CONSUMER: This offer expires July 31, 2007. Mention or enter coupon code FORT5 at checkout. This coupon can only be used on POMx products. One coupon redemption per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. Coupon code valid only at pompills.com/fort or 1-888-POM-PILL.

[1] **pomwonderful.com/cancer.html** [2] **pomwonderful.com/heart_health.html** [3] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

© 2007 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and "POM in a pill" are trademarks of PomWonderful LLC

Figure 14



Made from the only pomegranates backed by $20 million in medical research.

Introducing POMx™– a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants made from the very same pomegranates in **POM Wonderful 100% Pomegranate Juice**. Our method of harnessing astonishing levels of antioxidants is so extraordinary, it's patent-pending. So now you can get all the antioxidant power of an 8oz glass of juice in the convenience of a calorie-free pill.

Ready to take on free radicals? Put up your POMx and fight them with a mighty 1000mg capsule – that's more concentrated pomegranate polyphenol antioxidants than any other 100% pomegranate supplement. An initial UCLA medical study on POM Wonderful 100% Pomegranate Juice showed hopeful results for men with prostate cancer.[1,3] And preliminary human research suggests that our California-grown pomegranate juice also promotes heart health.[2,3] Take your antioxidants into your own hands. **Call 1-888-POM-PILL now, or visit pompills.com/dvr and get your first monthly shipment for just ~~$29.95~~ $24.95 with coupon.**

POM IN A PILL™

CALL 1-888-POM-PILL now, or visit pompills.com/dvr

Not available in stores | 100% money-back guarantee

SAVE $5 ON YOUR FIRST ORDER.

Call 1-888-POM-PILL or visit pompills.com/dvr and mention or enter code **DVR5** at checkout. To pay by check, call 1-888-POM-PILL for instructions. Hurry, offer expires July 31, 2007.

CONSUMER: This offer expires July 31, 2007. This coupon can only be used on POMx products. One coupon redemption per customer. Cannot be combined with other offers. No substitutions. Transfer costs or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. Coupon code valid only at pompills.com/dvr or 1-888-POM-PILL.

[1] pomwonderful.com/cancer.html [2] pomwonderful.com/heart_health.html [3] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

© 2007 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and "POM in a pill" are trademarks of PomWonderful LLC.

Figure 15

Contact: Pam Holmgren (310) 966 5894
pholmgren@pomwonderful.com

***Note to Editors**: Interviews with medical researcher quoted are available upon request.*

POM Wonderful 100% Pomegranate Juice May Improve Mild to Moderate Cases of Erectile Dysfunction, Study Finds

Research shows 8 ounces a day of POM Wonderful 100% Pomegranate Juice may help the management of erectile dysfunction

LOS ANGELES (June 27 - 2007) – According to a pilot study released in the *International Journal of Impotence Research* (http://www.nature.com/ijir), POM Wonderful 100% Pomegranate Juice was found to have beneficial effects on erectile dysfunction (ED), a disorder that affects 1 in 10 men worldwide and 10 to 30 million men in the United States alone.[1, 2] ED can be caused by several factors, including arterial plaque, high blood pressure, heart disease, diabetes, nerve damage, endocrine imbalance or depression. Ultimately, ED is a condition that affects the blood flow to the penis during sexual stimulation.

This randomized, placebo-controlled, double-blind, crossover pilot study examined the efficacy of pomegranate juice versus placebo in improving erections in 61 male subjects. To qualify, participants had to experience mild to moderate ED for at least 3 months; be in a stable, monogamous relationship with a consenting female partner; and be willing to attempt sexual intercourse on at least one occasion per week during each study period.

Mild ED is defined as the mildly decreased ability to get and keep an erection, while moderate ED is the moderately decreased ability to get and keep an erection. The majority of men with ED have moderate ED.

For the first four weeks of the study, the subjects were assigned to drink either 8 oz. of POM Wonderful Pomegranate Juice or 8 oz. of placebo beverage daily with their evening

meal or shortly after. After a two-week washout period during which the subjects did not consume any study beverage nor utilize any ED treatment, they were assigned to drink 8 oz. of the opposite study beverage every evening for another four weeks. At the end of the each four week period, efficacy was assessed using the International Index of Erectile Function (IIEF) and Global Assessment Questionnaires (GAQ). The IIEF is a validated questionnaire that has been demonstrated to correlate with ED intensity. The GAQ elicits the patient's self-evaluation of the study beverages' effect on erectile activity.

Forty seven percent of the subjects reported that their erections improved with POM Wonderful Pomegranate Juice, while only 32% reported improved erections with the placebo ($p=0.058$). These results compare favorably to a recent 24-week study using a PDE5 inhibitor (such as Cialis), in which roughly 73% of subjects reported a benefit from the PDE5 inhibitor and 26% reported a "placebo effect" (i.e. experiencing improvement while on the placebo).[3]

Although the study did not achieve overall statistical significance, the authors conclude that additional studies with more patients and longer treatment periods may in fact reach statistical significance. The strong directional results of this pilot study are encouraging because almost half of the test subjects experienced a benefit simply by adding pomegranate juice to their daily diet, without the use of ED drugs.

Researchers believe that the results might be due to the potent antioxidant content of pomegranate juice, which can prevent free radical molecules from disrupting proper circulatory function. In several previously published medical studies, pomegranate juice has been shown to enhance blood flow and to slow or reverse arterial plaque growth.[4, 5, 6] Because an erection requires significant blood flow, these potent pomegranate antioxidants may provide benefit by mitigating arterial plaque and promoting blood vessel dilation.

According to study co-author Harin Padma-Nathan, MD, FACS, FRCS, Clinical Professor of Urology at the Keck School of Medicine, University of Southern California, "These findings are very encouraging as they suggest there is a non-invasive, non-drug way to potentially alleviate this quality of life issue that affects so many men. For men with ED, it is important to

maintain a healthy diet and exercise. Drinking pomegranate juice daily could be an important addition to the diet in the management of this condition."

About POM Wonderful

POM Wonderful is the largest producer of California Wonderful pomegranates and the company exclusively grows and sells this variety. POM Wonderful's pomegranates grow in central California, in the sunny San Joaquin Valley. Fresh pomegranates are in season from October through January and November is National Pomegranate Month.

The company also uses its fresh pomegranates to make its delicious, all-natural, POM Wonderful Pomegranate Juice and POMx, a highly-concentrated blend of all-natural polyphenol antioxidants harnessed from the pomegranate by a patent-pending process. POMx is found exclusively in POM Tea, POMx Pills and POMx Liquid.

POM Wonderful Pomegranate Juice and POM Tea are available year-round at retail and are found in the refrigerated section of supermarkets nationwide. POMx Pills and POMx liquid are available at http://www.pompills.com. To learn more, visit http://www.pomwonderful.com.

###

References

1 Furlow WL. Prevalence of impotence in the United States. *Med Aspects Hum Sex* 1985, 19: 13-16.

2 Kaiser FE. Erectile dysfunction in the aging man. *Med Clin North Am* 1999; 83: 1267-1278.

3 Rajfer J, Aliotta PJ, Steidle CP, Fitch III WP, Zhao Y, and Yu A. Tadalafil dosed once a day in men with erectile dysfunction: a randomized, double-blind, placebo-controlled study in the US. *International Journal of Impotence Research* 2007, 19: 95-103.

4 Ignarro LJ, Byrns RE, Sumi D, de Nigris F, Napoli C. Pomegranate juice protects nitric oxide against oxidative destruction and enhances the biological actions of nitric oxide. *Nitric Oxide* 2006; 15: 93–102.

5 Aviram M, Rosenblat M, Gaitini D, Nitecki S, Hoffman A, Dornfeld L, Volkova N, Presser D, Attias J, Liker H, and Liker H. Pomegranate juice consumption for 3 years with patients with carotoid artery stenosis reduces common carotid intima-media thickness, blood pressure and LDL oxidation. *Clinical Nutrition,* 2004, 23: 423-433.

6 Summer MD, Elliot-Eller M, Weidner G, Daubenmier JJ, Chew MH, Marlin R, Raisin CJ and Ornish, D. Effects of pomegranate juice consumption on myocardial perfusion in patients with coronary heart disease. *American Journal of Cardiology* 2005, 96: 810-814.

Figure 16

POMx Heart Newsletter
Pills and Liquid
Monthly
2nd Continuity Shipment
Summer '07 - present (ongoing)

POMx YOUR PARTNER IN PROMOTING LIFELONG HEALTH

VOLUME 1, ISSUE 1: FOR YOUR HEART

What's New in the Lab by Dr. Mark Dreher

Mark Dreher, PhD
Chief Science Officer
POMWonderful, LLC

Hi, I'm Dr. Mark Dreher, Chief Science Officer at POM, and your guide to continuing new research on the benefits of POMx and POM Wonderful pomegranates as they relate to your health. Welcome to Your First Issue of the POMx Newsletter! There's more to come, so please stay tuned in the coming months for:...

Future newsletters will contain content derived from these questions and reader feedback. We look forward to hearing from you!

♥ ♥ ♥

Enjoy Your Life With a Healthy Heart

According to the American Heart Association (AHA), at least 58.8 million Americans suffer from some form of heart disease. Maintaining a healthy heart by reducing your risk for cardiovascular disease should be at the core of every lifelong

POMx YOUR PARTNER IN PROMOTING LIFELONG HEALTH

VOLUME 1, ISSUE 1: FOR YOUR HEART

What's New in the Lab by Dr. Mark Dreher

Mark Dreher, PhD
Chief Science Officer
POMWonderful, LLC

Hi, I'm Dr. Mark Dreher, Chief Science Officer at POM, and your guide to continuing new research on the benefits of POMx and POM Wonderful pomegranates as they relate to your health. Welcome to Your First Issue of the POMx Newsletter! There's more to come, so please stay tuned in the coming months for;...

- POM Wonderful's latest research
- Health tips
- Pomegranate facts
- New product information

There's a strong pipeline of research supporting initial findings that POM Wonderful 100% Pomegranate Juice and its counterpart, POMx, are successfully fulfilling their promise for promoting heart health. We are committed to continually testing our products, not only prior to market release but at every step in their evolution. Various patient studies across a wide variety of health concerns are in the works, and we look forward to sharing the results of this research with you.

Did You Know?

POLYPHENOLS

Polyphenols are antioxidants that naturally occur in pomegranates. These antioxidants neutralize free radicals, helping to prevent the cell and tissue damage that can lead to disease. The heart health benefits associated with California grown, Wonderful variety pomegranates are due to their very high levels of polyphenols.

At POM Wonderful, we aim to be your partner in the promotion of good health that lasts a lifetime. It is our commitment to you and our mission as a company. If you have any questions and/or concerns please send them directly to me at: chiefscienceofficer@pomwonderful.com

Future newsletters will contain content derived from these questions and reader feedback. We look forward to hearing from you!

♥ ♥ ♥

Enjoy Your Life With a Healthy Heart

According to the American Heart Association (AHA), at least 58.8 million Americans suffer from some form of heart disease. Maintaining a healthy heart by reducing your risk for cardiovascular disease should be at the core of every lifelong wellness plan. A nutrient-rich diet and active lifestyle are the best weapons you have for combatting heart disease and enhancing your vitality at any age.

The AHA recommends eating plenty of fruits and vegetables loaded with the vitamins, minerals and fiber your body requires, without the extra calories it doesn't need. But even though you may be eating enough of the right foods, your body still may not be getting all the nutrients it needs to keep you heart truly healthy.

ANTIOXIDANTS: YOUR ALLY IN FIGHTING HEART DISEASE

In order to keep your body in tip-top shape and your heart beating to the rhythm of all you wish to do in life, you need help in the prevention of cell and tissue damage that can lead to disease.

Science tells us that antioxidants neutralize the free radicals that can aggressively destroy healthy cells in your body. But not all antioxidants are equal – some are better at neutralizing free radicals than others. And because your body may not always produce enough of the antioxidants required to neutralize all the free radicals that can lead to cell damage, we have developed POMx to harness and deliver the most potent antioxidants around.

THE FREE RADICAL FIGHTER

Pomegranates contain polyphenols – powerful antioxidants that are important as part of a balanced diet. Published research has shown that the unique polyphenol antioxidants

(please turn to back)

Healthy Heart (from front)
In POMx and POM Wonderful 100% Pomegranate Juice are superior fighters in the battle against free radicals. Each dose of POMx contains the same amount of antioxidant polyphenols found in 8oz of POM Wonderful 100%

The antioxidants in POMx are supported by $20 million in initial scientific research

Pomegranate Juice, and POMx is the most concentrated source of pomegranate polyphenol antioxidants available.

POM Wonderful is committed to understanding the effects of POM Wonderful Pomegranate Juice on cardiovascular health. To date, our scientists have found that pomegranate juice may help counteract factors leading to arterial plaque build up, as well as inhibit a number of factors associated with heart disease.

NEW RESEARCH OFFERS FURTHER PROOF OF THE HEART-HEALTHY BENEFITS OF POM WONDERFUL JUICE

30% DECREASE IN ARTERIAL PLAQUE
After one year of a pilot study conducted at the Technion Institute in Israel involving 19 patients with atherosclerosis (clogged arteries),

In his 2006 POMx study, Dr. Michael Aviram, one of the world's pre-eminent cardiovascular researchers from the Technion Institute in Israel, remarked that ***"POMx is as potent an antioxidant as pomegranate juice and just like pomegranate juice, POMx may promote cardiovascular health."***

those patients who consumed 8oz of POM Wonderful 100% Pomegranate Juice daily saw a 30% decrease in arterial plaque.

17% IMPROVED BLOOD FLOW
A recent study at the University of California, San Francisco (UCSF) included 45 patients with impaired blood flow to the heart. Patients who consumed 8oz of POM Wonderful 100% Pomegranate Juice daily for three months experienced 17% improved blood flow. Those who drank a placebo experienced an 18% decline.

PROMOTES HEALTHY BLOOD VESSELS
An in-vitro study at the University of California, Los Angeles (UCLA) showed that pomegranate juice uniquely possesses enough antioxidant activity to protect nitric oxide (an important biochemical that helps maintain healthy blood vessels for proper blood flow) against oxidative destruction thereby enhancing its biological activity. In other words, pomegranate juice by protecting nitric oxide promotes healthy blood flow.

THE POWER OF POMX
The antioxidants in POMx are supported by $20 million in initial scientific research from leading universities and so far we've uncovered encouraging results.

POMx supplements your diet without adding calories, allowing you to more easily maintain a healthy weight while still getting the necessary antioxidants

Due to this promising information, our studies on POMx and heart health continue. It is our mission to deliver the latest information on our research to you in this newsletter as soon as studies are completed. At POM Wonderful we are committed to learning all we can about the health benefits of this miraculous fruit and sharing them with you.

♥ ♥ ♥

NEXT ISSUE: PROSTATE HEALTH

One out of every six men will get prostate cancer, but only one out of 34 will die from the disease. In our newsletter next month, we will discuss preventative measures all men need to know to manage their prostate health.

1.888.POMPILL
WWW.POMPILLS.COM

POM WONDERFUL

Figure 17

POMx Prostate Newsletter
Pills and Liquid
Monthly
3rd Continuity Shipment
Fall '07 - present (ongoing)

POMx YOUR PARTNER IN PROMOTING LIFELONG HEALTH

VOLUME 1, ISSUE 2: PROSTATE HEALTH

Prostate Cancer Affects 1 Out of Every 6 Men

Prostate cancer is the second leading cause of cancer related death in men in the United States according to the National Cancer Institute. Prostate cancer incidence rates rose dramatically in the late1980's with improved detection and diagnosis through widespread use of prostate-specific antigen (PSA) testing.

Prostate cancer is the second leading cause of

fruits and vegetables. Doctors are not sure which of these factors causes the risk to go up but the best advice is to consume daily the equivalent of five or

(continued on back)

What's New in the Lab by Dr. Mark Dreher

Mark Dreher, PhD
Chief Science Officer
POMWonderful, LLC

Research studies like the ones discussed in this newsletter and

POM X YOUR PARTNER IN PROMOTING LIFELONG HEALTH

VOLUME 1, ISSUE 2: PROSTATE HEALTH

Prostate Cancer Affects 1 Out of Every 6 Men

Prostate cancer is the second leading cause of cancer related death in men in the United States according to the National Cancer Institute. Prostate cancer incidence rates rose dramatically in the late1980's with improved detection and diagnosis through widespread use of prostate-specific antigen (PSA) testing.

Prostate cancer is the second leading cause of cancer related to death in men in the United States according to the National Cancer Institute

Since the early 1990's, prostate cancer incidence and deaths have been declining, but the American Cancer Society estimates that there will still be about 218,890 new cases of prostate cancer and 27,050 deaths in the United States in 2007.

According to the American Cancer Society, some of the risk factors for prostate cancer include:

Age – Growing older raises a man's risk of prostate cancer. About two of every three prostate cancers are found in men over the age of 65.

Family History – Men with close family members (father or brother) who have had prostate cancer are more likely to get it themselves, especially if their relatives were young when they got the disease.

Diet – One risk factor that can be changed is diet. The National Cancer Institute's research suggest that obesity and weight gain is linked to increased prostate cancer mortality.

Men who eat a lot of red meat or high-fat dairy products seem to have a greater chance of getting prostate cancer. These men also tend to eat fewer fruits and vegetables. Doctors are not sure which of these factors causes the risk to go up but the best advice is to consume daily the equivalent of five or

(continued on back)

What's New in the Lab by Dr. Mark Dreher

Mark Dreher, PhD
Chief Science Officer
POMWonderful, LLC

Research studies like the ones discussed in this newsletter and conducted by UCLA (my alma mater) serve to validate the many reasons I am proud to be affiliated with POM Wonderful and POMx.

POM Wonderful 100% Pomegranate Juice and POMx are backed by a $25 million dollar investment in world-class scientific research. This includes ten clinical studies published in top peer-reviewed medical journals that document the pomegranate's antioxidant health benefits such as heart and prostate health.

Working at POM Wonderful gives me the unique opportunity to really make a difference in the world. That's what gets me up every morning! I get to work with renowned scientists, including a Nobel Laureate, at leading universities around the world. In fact, studies funded by POM represent the vast majority of human medical research ever conducted on pomegranates. No other company that I know of is as dedicated as POM in pursuing the truth and keeping our customers informed.

Studies funded by POM represent the vast majority of medical research ever conducted on pomegranates.

At POM Wonderful, we aim to be your partner in the promotion of good health that lasts a lifetime. It is our commitment to you, our mission as a company.

Prostate Cancer (from front)

more servings of vegetables and fruits rich in antioxidants and to eat less red meat and high-fat foods.

EARLY DETECTION SEEN AS KEY TO INCREASING SURVIVAL RATES*

The prostate-specific antigen (PSA) test and rectal exam can be used to detect the presence of prostate cancer when no symptoms are present. They may help catch the disease at an early stage when treatment is more effective.

During a PSA test, a small amount of blood is drawn and the level of PSA (a protein produced by the prostate) is measured to determine the level of risk. When prostate cancer is found and treated, the PSA test may also measure the potential risk for the cancer to return.

**Please talk to your doctor for more specific prostate cancer information.*

NEW POMEGRANATE RESEARCH OFFERS HOPE TO PROSTATE CANCER PATIENTS

A preliminary UCLA medical study involving POM Wonderful 100% Pomegranate Juice revealed promising news. 46 men who had been treated for prostate cancer with surgery or radiation were given 8oz of POM Wonderful 100% Pomegranate Juice to drink daily. A

Patients with prostate cancer showed a prolongation of PSA doubling time, coupled with corresponding lab effects on reduced prostate cancer as well as reduced oxidated stress.

majority of the patients experienced a significantly extended PSA doubling time. Doubling time is an indicator of prostate cancer progression – extended doubling time may indicate slower disease progression.

Before the study, the mean doubling time was 15 months. After drinking 8oz of pomegranate juice daily for two years, the mean PSA doubling time increased to 54 months. Testing on patient blood serum showed a 12% decrease in cancer cell proliferation and a 17% increase in cancer cell death (apoptosis).

In another study, in vitro laboratory testing at UCLA showed that POMx significantly decreased human prostate cancer cell growth and increased cancer cell death.

Based on the promising results of these preliminary studies, two additional studies are underway to more fully investigate the potential of POMx to extend PSA doubling time.

According to Dr. David Heber, Director of UCLA's Center for Human Nutrition, "The most abundant and most active ingredients in pomegranate juice are also found in POMx. Basic studies in our laboratory so far indicate that POMx and pomegranate juice may have the same effects."

SEND US YOUR QUESTIONS AND COMMENTS

We encourage you to participate in our commitment to a lifetime of good health by sending your questions and/or concerns to chiefscienceofficer@pompills.com Future newsletters will contain content derived from these questions and reader feedback. We look forward to hearing from you!

♥ ♥ ♥

NEXT ISSUE: POMEGRANATE SUPPLEMENT COMPARISONS

How does POMx compare with other pomegranate supplements for antioxidant potency?

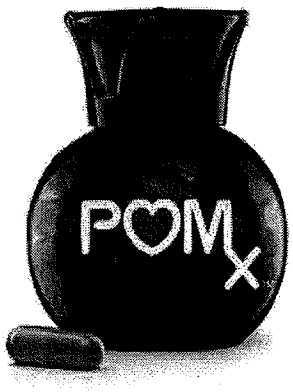
♥ ♥ ♥

1.888.POMPILL
WWW.POMPILLS.COM

POM WONDERFUL®

Figure 18

VMS ID: 080106753
RUN DATE: 01/06/2008



The power of POM, in one little pill.

The easy, portable, calorie-free way to get your daily antioxidants.

Antioxidant Superpill.™ Not all antioxidants are created equal. POMx™ fights free radicals with a mighty 1000mg in every pill. That's more concentrated antioxidants than any other pomegranate antioxidant supplement. There are antioxidants, and then there are POMx antioxidants.

Peace of Mind in a Pill. POMx is a highly concentrated, powerful blend of polyphenol antioxidants made from the very same pomegranates as POM Wonderful® 100% Pomegranate Juice. The same pomegranates we grow exclusively in California, where they're hand-picked on site.

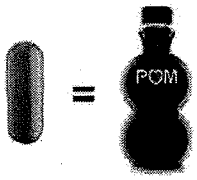
Safe and Natural. POMx is made from pure pomegranates. So there are no added sugars, preservatives or any other ingredients – just 100% pomegranate polyphenol antioxidants. So naturally, POMx is absorbed safely into your body. In fact, POMx is the first and only antioxidant supplement reviewed for safety by the FDA.

Backed by Science. POMx is made from the only pomegranates supported by$23 million in medical research. Emerging science suggests that free radicals aggressively destroy healthy cells in your body–contributing to premature aging and even disease. The good news is POM Wonderful pomegranate antioxidants neutralize free radicals. An initial UCLA MEDICAL STUDY on POM Wonderful 100% Pomegranate Juice found *hopeful results for prostate health.* "Pomegranate juice delays PSA doubling time in humans," according to AJ Pantuck, et al, in Clinical Cancer Research, 2006.[1,2,3] Two additional preliminary studies on our juice showed *promising results for heart health.* "Pomegranate juice improves myocardial perfusion in coronary heart patients," per D. Ornish, et al, in the American Journal of Cardiology, 2005.[1,2,4] "Pomegranate juice pilot research suggests anti-atherosclerosis benefits," according to M. Aviram, et al, in Clinical Nutrition, 2004.[1,2,5]

California-grown.

One a Day, For Life. Ready to take on free radicals? A daily POMx pill is all you need. Invest in your health and order your 30-day supply today. Call now to get your first monthly shipment.

Call 1-888-POM-PILL (766-7455) or visit pompills.com/nb and enter NB30 at checkout.



The antioxidant power of our 8 oz. juice.

Reviewed for Safety by the FDA.

100% Natural Pomegranate Extract.

Try POMx for one month – FREE!

We'll even pay for the shipping. Visit pompills.com/nb or call 1-888-POM-PILL. Use discount code: NB30

SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires April 15, 2008. The first month free plus free shipping offer applies only to the purchase price for the first month of POMx Monthly. Following months will be $29.95 per bottle. This discount can only be used on POMx products. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. We reserve the right to change product price or shipping charge at any time. Offer valid only at pompills.com/nb or 1-888-POM-PILL. Discount code is not valid on POMx trial.

[1] pompills.com/research [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 45 men with rising PSA after surgery or radiotherapy drank 8 oz. 100% pomegranate juice daily for two years. [4] 45 patients with coronary heart disease and myocardial ischemia drank 8 oz. 100% pomegranate juice daily for three months. [5] 19 patients aged 65-75 years with severe atherosclerosis drank 8 oz. 100% pomegranate juice daily for one year. ©2008 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and "Antioxidant Superpill" are trademarks of PomWonderful LLC.

POM WONDERFUL

VMS-0000255

CX0169_0001

PX7565_PillPrintAds_NYT0108_P.qxd 12/18/07 5:13 PM Page 1

New York Times Magazine
Issue: January 6th, 2008
In Home: 1/6/08

The power of POM, in one little pill.

The easy, portable, calorie-free way to get your daily antioxidants.

Antioxidant Superpill.™ Not all antioxidants are created equal. POMx™ fights free radicals with a mighty 1000mg in every pill. That's more concentrated antioxidants than any other pomegranate antioxidant supplement. There are antioxidants, and then there are POMx antioxidants.

Peace of Mind in a Pill. POMx is a highly concentrated, powerful blend of polyphenol antioxidants made from the very same pomegranates as POM Wonderful® 100% Pomegranate Juice. The same pomegranates we grow exclusively in California, where they're hand-picked on site.

Safe and Natural. POMx is made from pure pomegranates. So there are no added sugars, preservatives or any other ingredients – just 100% pomegranate polyphenol antioxidants. So naturally, POMx is absorbed safely into your body. In fact, POMx is the first and only antioxidant supplement reviewed for safety by the FDA.

Backed by Science. POMx is made from the only pomegranates supported by $23 million in medical research. Emerging science suggests that free radicals aggressively destroy healthy cells in your body – contributing to premature aging and even disease. The good news is POM Wonderful pomegranate antioxidants neutralize free radicals. An initial UCLA MEDICAL STUDY on POM Wonderful 100% Pomegranate Juice found *hopeful results for prostate health.* "Pomegranate juice delays PSA doubling time in humans," according to A.J. Pantuck, et al, in Clinical Cancer Research, 2006.[1,2] Two additional preliminary studies on our juice showed *promising results for heart health.* "Pomegranate juice improves myocardial perfusion in coronary heart patients," per D. Ornish, et al, in the American Journal of Cardiology, 2005.[1,2,4] "Pomegranate juice pilot research suggests anti-atherosclerosis benefits," according to M. Aviram, et al, in Clinical Nutrition, 2004.[3,4,5]

California-grown.

One a Day, For Life. Ready to take on free radicals? A daily POMx pill is all you need. Invest in your health and order your 30-day supply today. Call now to get your first monthly shipment.

Call 1-888-POM-PILL (766-7455) or visit pompills.com/nb and enter NB30 at checkout.

The antioxidant power of our 8 oz. juice.

Reviewed for Safety by the FDA.

100% Natural Pomegranate Extract.

Try POMx for one month – FREE!

We'll even pay for the shipping. Visit pompills.com/nb or call 1-888-POM-PILL. Use discount code: NB30

SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. [illegible]

[illegible] POM Wonderful LLC. All rights reserved. POM Wonderful, POMx and "Antioxidant Superpill" are trademarks of PomWonderful LLC.

POM WONDERFUL.

JOB NO.: PX7565	TRIM: 9.5" x 11.5"	COLOR: 4/C PROC	DATE IN: 11-09-07

Exhibit L

CX1426_00045

Figure 19

VMS ID: 080203607
RUN DATE: 02/03/2008

The antioxidant superpill.™

1000 milligrams. 0 calories.

Ready to take your antioxidants into your own hands? Introducing POMx™ – a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants made from the same pomegranates as **POM Wonderful® 100% Pomegranate Juice.**

100% All-natural.

POMx fights free radicals with a powerful 1000 milligrams. That's more concentrated polyphenol antioxidants than any other pomegranate supplement. And POMx is the first and only antioxidant supplement reviewed for safety by the FDA.

The antioxidant power of our 8 oz. juice.

POMx is made from the only pomegranates backed by $23 million in medical research, the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice. An initial UCLA MEDICAL STUDY on POM Wonderful 100% Pomegranate Juice found *hopeful results for prostate health.* The study reports "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in Clinical Cancer Research, 2006.[1,2,3] Two additional preliminary studies on our juice showed *promising results for heart health.* "Stress-induced ischemia decreased in the pomegranate group," Dr. Dean Ornish reported in the American Journal of Cardiology, 2005.[1,2,4] "Pomegranate juice consumption resulted in a significant IMT[5] reduction by up to 30% after one year," said Dr. Michael Aviram, referring to reduced arterial plaque in Clinical Nutrition, 2004.[1,5,6]

CALL 1-888-POM-PILL (766-7455) now or visit pompills.com/la

Try POMx for one month – FREE!

We'll even pay for the shipping. Visit pompills.com/la or call 1-888-POM-PILL. Use discount code: LA30

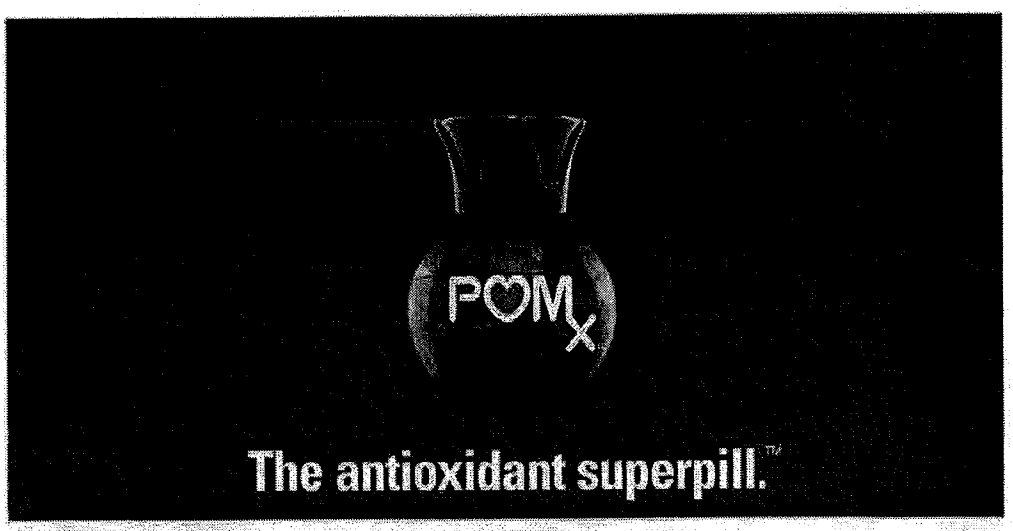
SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires April 15, 2008. The first month free plus free shipping offer applies only to the purchase price for the first month of POMx Monthly. Following months will be $29.95 per bottle. This discount can only be used on POMx products. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. We reserve the right to change product price or shipping charge at any time. Offer valid only at pompills.com/la or 1-888-POM-PILL. This print code is not valid on POMx pills.

[1] pompills.com/research [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 45 men with rising PSA after surgery or radiotherapy drank 8 oz. 100% pomegranate juice daily for two years. [4] 45 patients with coronary heart disease and myocardial ischemia drank 8 oz. 100% pomegranate juice daily for three months. [5] Study measured intima-media thickness (IMT). [6] 18 patients aged 65-75 years with severe atherosclerosis drank 8 oz. 100% pomegranate juice daily for one year. ©2008 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and "antioxidant superpill" are trademarks of PomWonderful LLC.

POM WONDERFUL®

VMS-0000261

CX0180_0001

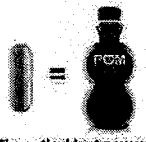


1000 milligrams. 0 calories.

Ready to take your antioxidants into your own hands? Introducing POMx™ – a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants, made from the same pomegranates as **POM Wonderful® 100% Pomegranate Juice.**

POMx fights free radicals with a powerful 1000 milligrams. That's more concentrated polyphenol antioxidants than any other pomegranate supplement. And POMx is the first and only antioxidant supplement reviewed for safety by the FDA.

100% All-natural.



The antioxidant power of our 8oz juice.

POMx is made from the only pomegranates backed by $32 million in medical research. These are the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted. An initial UCLA MEDICAL STUDY on POM Wonderful 100% Pomegranate Juice found *hopeful results for prostate health.* The study reports "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in Clinical Cancer Research, 2006.[1,2,3] Two additional preliminary studies on our juice found *promising results for heart health.* "Stress-induced ischemia decreased in the pomegranate group," Dr. Dean Ornish reported in the American Journal of Cardiology, 2005.[1,2,4] "Pomegranate juice consumption resulted in a significant IMT[5] reduction by up to 30% after one year," said Dr. Michael Aviram, referring to reduced arterial plaque in Clinical Nutrition, 2004.[1,2,6]

ORDER NOW: 1-888-POM-PILL (766-7455) or www.pompills.com/fsin

Try POMx for one month – FREE!

We'll even pay for the shipping.

Visit pompills.com/fsin or call 1-888-POM-PILL. Use discount code: FN30

SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires April 11, 2010. The first month free plus free shipping offer applies only to the purchase price for the first month of POMx Monthly. Following months will be $29.95 per bottle. This discount can only be used on POMx products. One discount per customer. Cannot be combined with other offers. No substitutions, refunds, rain checks or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. We reserve the rights to change product price or shipping charge at any time. Offer valid only at pompills.com/fsin or 1-888-POM-PILL. Discount code is not valid on POMx Trial.

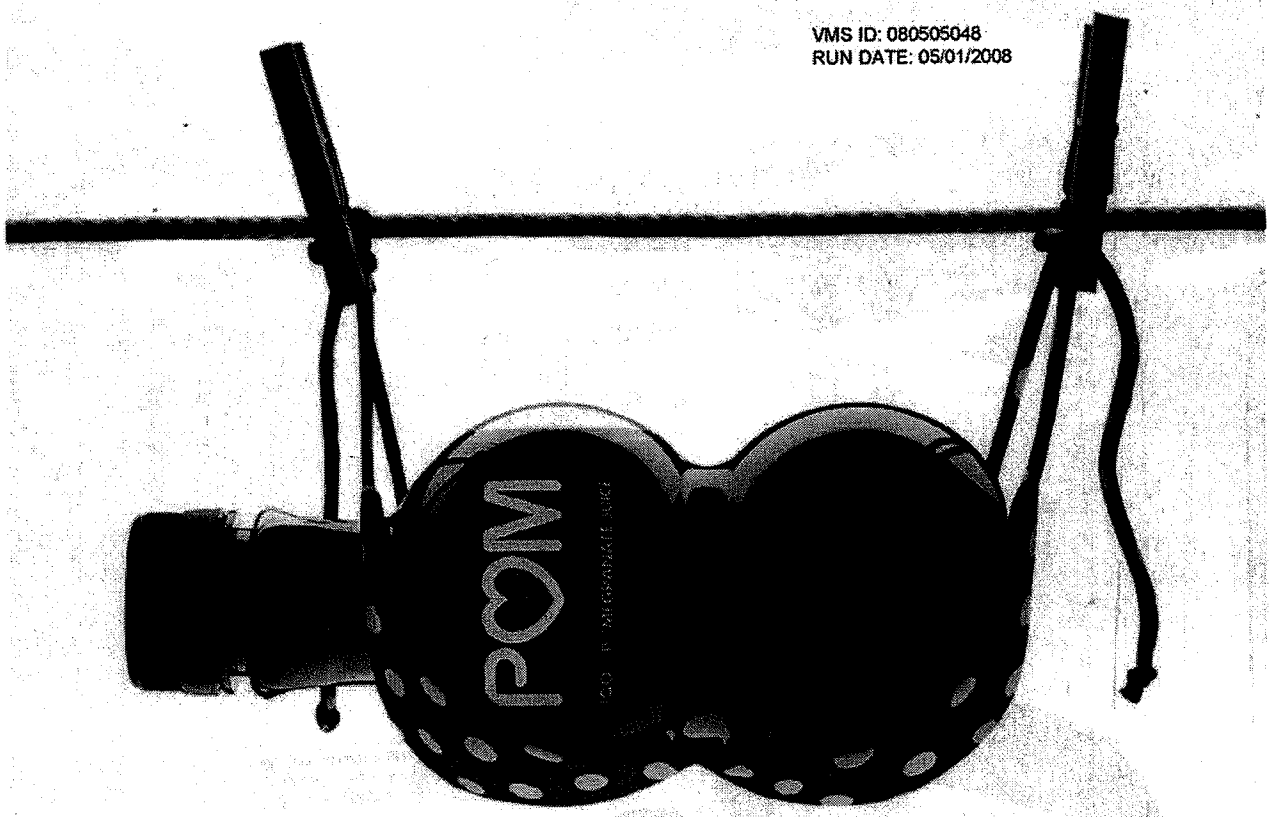
[1] pompills.com/research [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 45 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4] 45 patients with coronary heart disease and myocardial ischemia (insufficient blood flow to the heart) drank 8oz 100% pomegranate juice daily for three months. [5] Study measured intima-media thickness (IMT), which indicates plaque buildup in the carotid artery. [6] 19 patients aged 65-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2010 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and "antioxidant superpill" are trademarks of PomWonderful LLC. PP2855.

POM WONDERFUL®

Exhibit K

Figure 20

VMS ID: 080505048
RUN DATE: 05/01/2008



What gets your heart pumping?

Supermodels or beaches? 36-24-36? Or perhaps healthy arteries. Drink POM Wonderful 100% Pomegranate Juice. It helps guard your body against free radicals, unstable molecules that emerging science suggests aggressively destroy healthy cells in your body and contribute to disease. POM Wonderful 100% Pomegranate Juice is supported by $23 million of initial scientific research from leading universities, which has uncovered encouraging results in prostate and cardiovascular health. Eight ounces a day is enough to keep your heart pumping, even if you're not dating a supermodel.

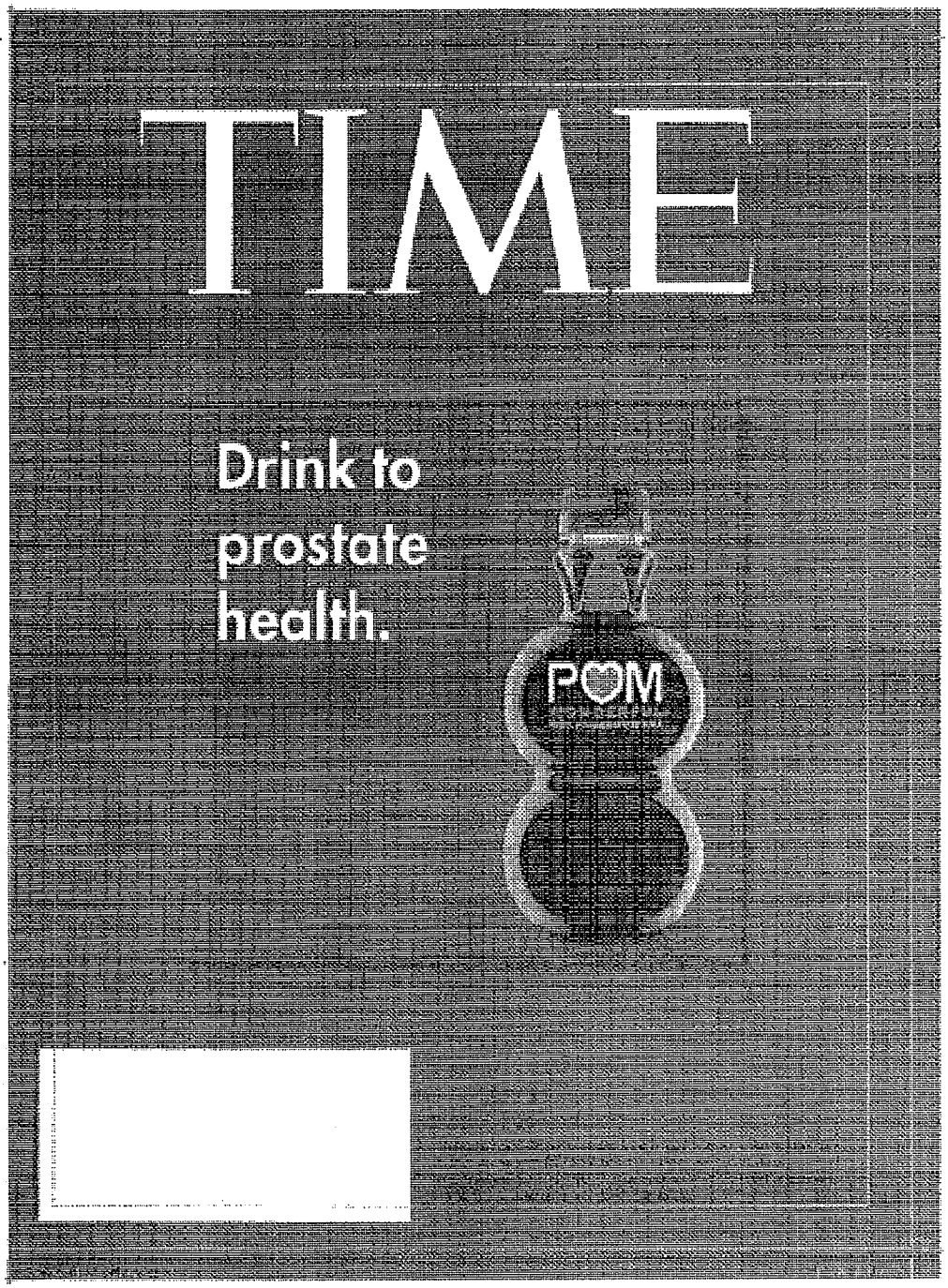
POM WONDERFUL®

pomegranatetruth.com

POM Wonderful 100% Pomegranate Juice. The Antioxidant Superpower.™

©2008 PomWonderful LLC. All rights reserved. POM Wonderful and "The Antioxidant Superpower" are trademarks of PomWonderful LLC.

Figure 21



JOB NO.: PJ9745	TRIM: 7.875"x10.5"	COLOR: 4/C PROS	DATE IN: 08-25-08
PROJECT: NY Times Magazine Wrap	LIVE: 7.125" x 9.75"	BLEED (DO NOT PRINT)	DATE OUT: 09-09-08
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINT OUT SIZE: 100%	PROOF NUMBER: F

POM Wonderful and Prostate Health

A recently published medical study involving POM Wonderful 100% Pomegranate Juice followed 46 men previously treated for prostate cancer either with surgery or radiation.

After drinking eight ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly slower PSA doubling times. PSA (Prostate-Specific Antigen) is a biomarker that indicates the presence of prostate cancer. "PSA doubling time" is a measure of how long it takes for PSA levels to double. A longer doubling time may indicate slower progression of the disease.

At the beginning of the study, PSA levels doubled on average every 15 months. By the end of the study, doubling time had slowed to 54 months – nearly a four-fold improvement.

"This is a big increase. I was surprised when I saw such an improvement in PSA numbers," said Dr. Allan Pantuck, lead author of the UCLA Study.

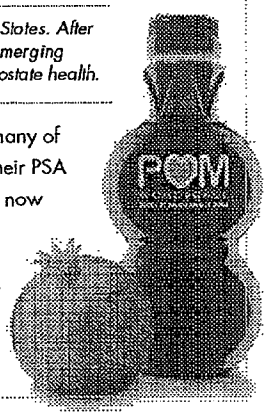
In addition, in-vitro testing using blood serum from the patients who drank pomegranate juice showed a 17% increase in prostate cancer cell death and a 12% decrease in cancer cell growth.

One important note: All patients drank the same POM Wonderful 100% Pomegranate Juice which is available in your supermarket produce section.

Prostate Cancer is the most commonly diagnosed cancer in men in the United States. After lung cancer, it's the second leading cause of cancer death in men. However, emerging science suggests that diet and lifestyle may be able to significantly improve prostate health.

The Research Continues Results from this study were so promising that many of the original patients continued to drink pomegranate juice daily, and their PSA doubling times remained suppressed. Three more clinical studies are now underway to further investigate the effects of POM on prostate health.

Learn why POM Wonderful is the only pomegranate juice you can trust. *(See inside back cover of this wrap.)*



POM WONDERFUL pomwonderful.com

PJ9745_POMTime wrap_F.indd 2 9/10/08 9:24:12 AM

JOB NO.: PJ9745	TRIM: 7.875"x10.5"	COLOR: 4/C PROS	DATE IN: 08-25-08
PROJECT: NY Times Magazine Wrap	LIVE: 7.125" x 9.75"	BLEED: TRIM, BLEED (DO NOT PRINT)	DATE OUT: 09-09-08
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINT OUT SIZE: 100%	PROOF NUMBER: F

The proof is in the POM

100% Authentic

POM is the only brand guaranteed to contain 100% real pomegranate juice. We wish other brands were as honest. In fact, according to recent independent tests, nine out of ten so-called "pomegranate" juices were found to have added sugar, colorants and other low-grade fruit juices.

Tree to Bottle

POM is the only brand that controls its juice from tree to bottle, batch to batch, year to year. We only grow "Wonderful" variety pomegranates, renowned for their superior antioxidants and delicious taste. And every 16oz bottle contains the juice of five whole pomegranates.

The Antioxidant Superpower*

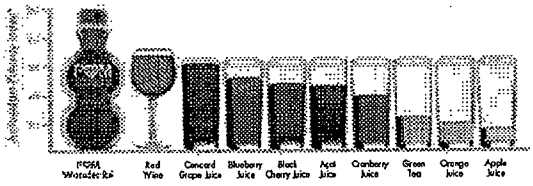
With uniquely high levels of powerful antioxidants, POM Wonderful 100% Pomegranate Juice has demonstrated superior ability to neutralize harmful free radicals and to inhibit excess inflammation.

Backed by Science

Only POM is backed by $25 million in medical research conducted at the world's leading universities. Clinical studies have documented the benefits of drinking POM Wonderful 100% Pomegranate Juice, including improved cardiovascular and prostate health.

More Antioxidants

Sip for sip, POM Wonderful 100% Pomegranate Juice has more polyphenol antioxidants than red wine, green tea and other juices.



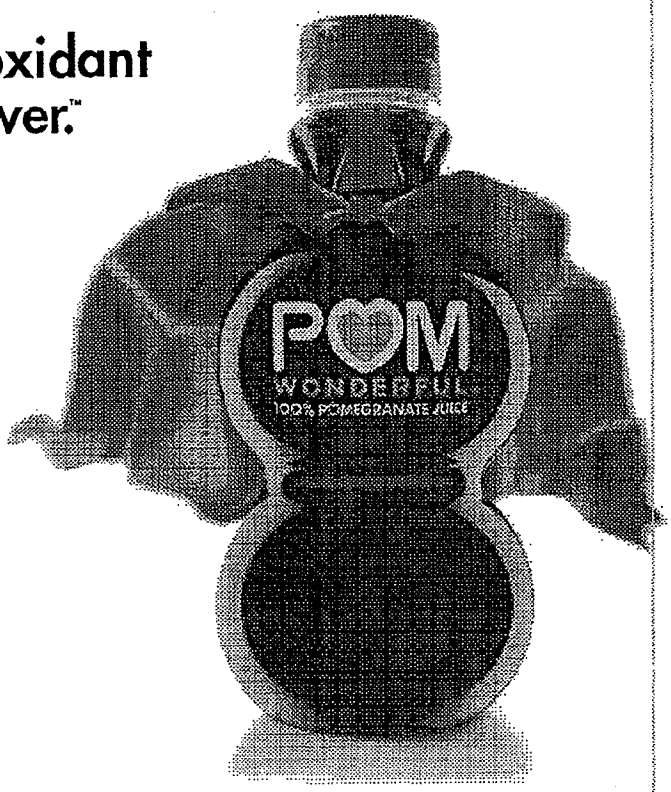
POM WONDERFUL pomwonderful.com

*Index combines results from four leading antioxidant tests (ORAC, DPPH, FRAP, TEAC). N. Seeram, et al., "Comparison of Antioxidant Potency of Commonly Consumed Polyphenol-Rich Beverages in the United States," Journal of Agricultural Food and Chemistry (2008).

PJ9745_POMtime wrap_F.indd 3 9/10/08 9:24:12 AM

JOB NO.: PJ9745	TRIM: 7.875"x10.5"	COLOR: 4/C PROS	DATE IN: 08-25-08
PROJECT: NY Times Magazine Wrap	LIVE: 7.125" x 9.75"	BLEED: BLEED (DO NOT PRINT)	DATE DUE: 09-09-08
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F

The Antioxidant Superpower.™



What's it like to have a personal superhero? Find out by drinking delicious and refreshing POM Wonderful® 100% Pomegranate Juice. It has more naturally occurring antioxidants than other drinks. Antioxidants fight free radicals, villainous little molecules that may cause premature aging, heart disease, stroke, Alzheimer's, even cancer. All you need is eight ounces to save the day. Every day.

POM WONDERFUL

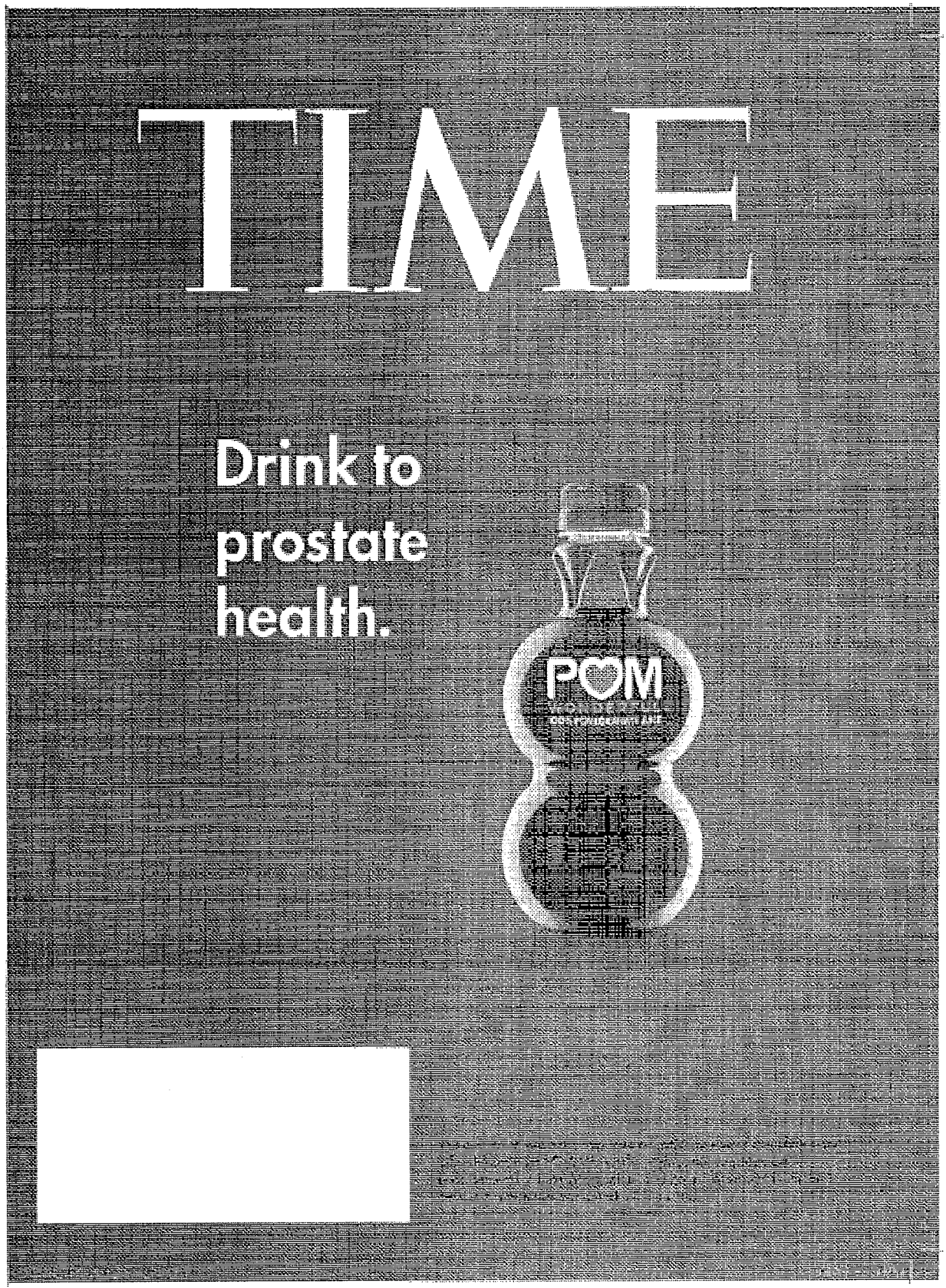
pomwonderful.com

The Antioxidant Superpower. 100% Pure Pomegranate Juice.

©2008 PomWonderful LLC. All rights reserved. POM Wonderful and The Antioxidant Superpower are trademarks of PomWonderful LLC.

PJ9745_POM time wrap_F.indd 4 9/10/08 9:24:19 AM

JOB NO.: PJ9745	TRIM: 7.875"x10.5"	COLOR: 4/C PROS	DATE IN: 08-25-08
PROJECT: NY Times Magazine Wrap	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	DATE OUT: 09-09-08
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F


TIME
Drink to prostate health.
POM

POM Wonderful and Prostate Health

A recently published medical study involving POM Wonderful 100% Pomegranate Juice followed 46 men previously treated for prostate cancer either with surgery or radiation.

After drinking eight ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly slower PSA doubling times. PSA (Prostate-Specific Antigen) is a biomarker that indicates the presence of prostate cancer. "PSA doubling time" is a measure of how long it takes for PSA levels to double. A longer doubling time may indicate slower progression of the disease.

At the beginning of the study, PSA levels doubled on average every 15 months. By the end of the study, doubling time had slowed to 54 months – nearly a four-fold improvement.

"This is a big increase. I was surprised when I saw such an improvement in PSA numbers," said Dr. Allan Pantuck, lead author of the UCLA Study.

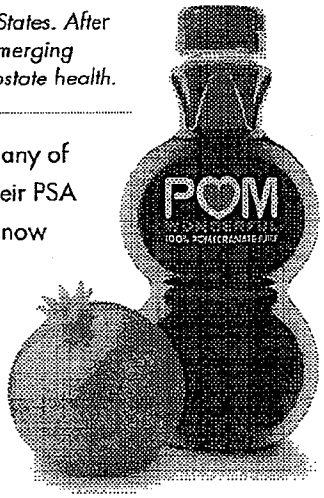
In addition, in-vitro testing using blood serum from the patients who drank pomegranate juice showed a 17% increase in prostate cancer cell death and a 12% decrease in cancer cell growth.

One important note: All patients drank the same POM Wonderful 100% Pomegranate Juice which is available in your supermarket produce section.

Prostate Cancer is the most commonly diagnosed cancer in men in the United States. After lung cancer, it's the second leading cause of cancer death in men. However, emerging science suggests that diet and lifestyle may be able to significantly improve prostate health.

The Research Continues Results from this study were so promising that many of the original patients continued to drink pomegranate juice daily, and their PSA doubling times remained suppressed. Three more clinical studies are now underway to further investigate the effects of POM on prostate health.

Learn why POM Wonderful is the only pomegranate juice you can trust.
(See inside back cover of this wrap.)



POM WONDERFUL pomwonderful.com

PJ0225_TIME-Wrap_Dec08_F.indd 2 10/23/08 5:33:02 PM

CONFIDENTIAL, SUBJECT TO A PROTECTIVE ORDER POM-OS00001571

CONFIDENTIAL-FTC Docket NO. 9344 RESP024726

CX0314_0008

The proof is in the POM

100% Authentic

POM is the only brand guaranteed to contain 100% real pomegranate juice. We wish other brands were as honest. In fact, according to recent independent tests, nine out of ten so-called "pomegranate" juices were found to have added sugar, colorants and other low-grade fruit juices.

Tree to Bottle

POM is the only brand that controls its juice from tree to bottle, batch to batch, year to year. We only grow "Wonderful" variety pomegranates, renowned for their superior antioxidants and delicious taste. And every 16oz bottle contains the juice of five whole pomegranates.

The Antioxidant Superpower*

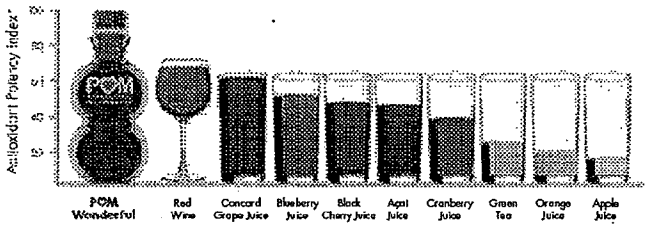
With uniquely high levels of powerful antioxidants, POM Wonderful 100% Pomegranate Juice has demonstrated superior ability to neutralize harmful free radicals and to inhibit excess inflammation.

Backed by Science

Only POM is backed by $25 million in medical research conducted at the world's leading universities. Clinical studies have documented the benefits of drinking POM Wonderful 100% Pomegranate Juice, including improved cardiovascular and prostate health.

More Antioxidants

Sip for sip, POM Wonderful 100% Pomegranate Juice has more polyphenol antioxidants than red wine, green tea and other juices.



POM WONDERFUL pomwonderful.com

*Index combines results from four leading antioxidant tests (ORAC, DPPH, FRAP, TEAC). N. Seeram, et al., "Comparison of Antioxidant Potency of Commonly Consumed Polyphenol-Rich Beverages in the United States," Journal of Agricultural Food and Chemistry (2008).

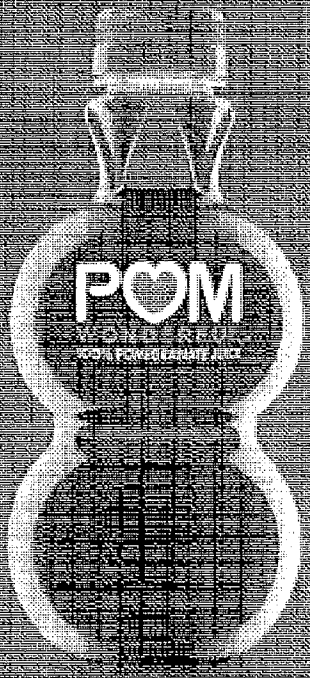
PJ0225_TIME-Wrap_Dec08_F.indd 3 10/23/08 5:33:03 PM

CONFIDENTIAL, SUBJECT TO A PROTECTIVE ORDER POM-OS00001572

CONFIDENTIAL-FTC Docket NO. 9344 RESP024727

CX0314_0009

Ingredients: pomegranates, $25 million in medical research.



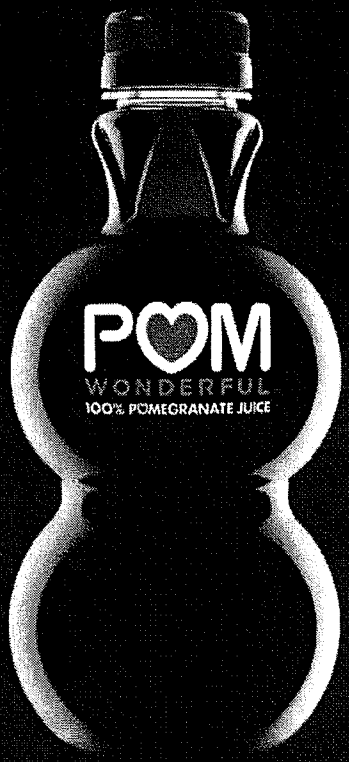
What goes into our POM Wonderful bottle goes into you — 100% authentic Wonderful variety pomegranate juice, your daily dose of free-radical-fighting antioxidants, $25 million in published medical research and proven health benefits. Nothing else. That means no cheap filler juices. No sweeteners. And no added colorants. So read the label. And drink to your health. **Trust in POM.**

CONFIDENTIAL, SUBJECT TO A PROTECTIVE ORDER

Figure 22

VMS ID: 081200704
RUN DATE: 12/01/2008

Drink to prostate health.



Sometimes, good medicine can taste great. Case in point: POM Wonderful®. A recently published preliminary medical study followed 46 men previously treated for prostate cancer, either with surgery or radiation. After drinking 8 ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly longer PSA doubling times. Want to learn more about the results of this study? Visit pomwonderful.com/prostate. **Trust in POM.**

pomwonderful.com ©2008 PomWonderful LLC. All rights reserved. POM Wonderful® is a registered trademark of PomWonderful LLC.

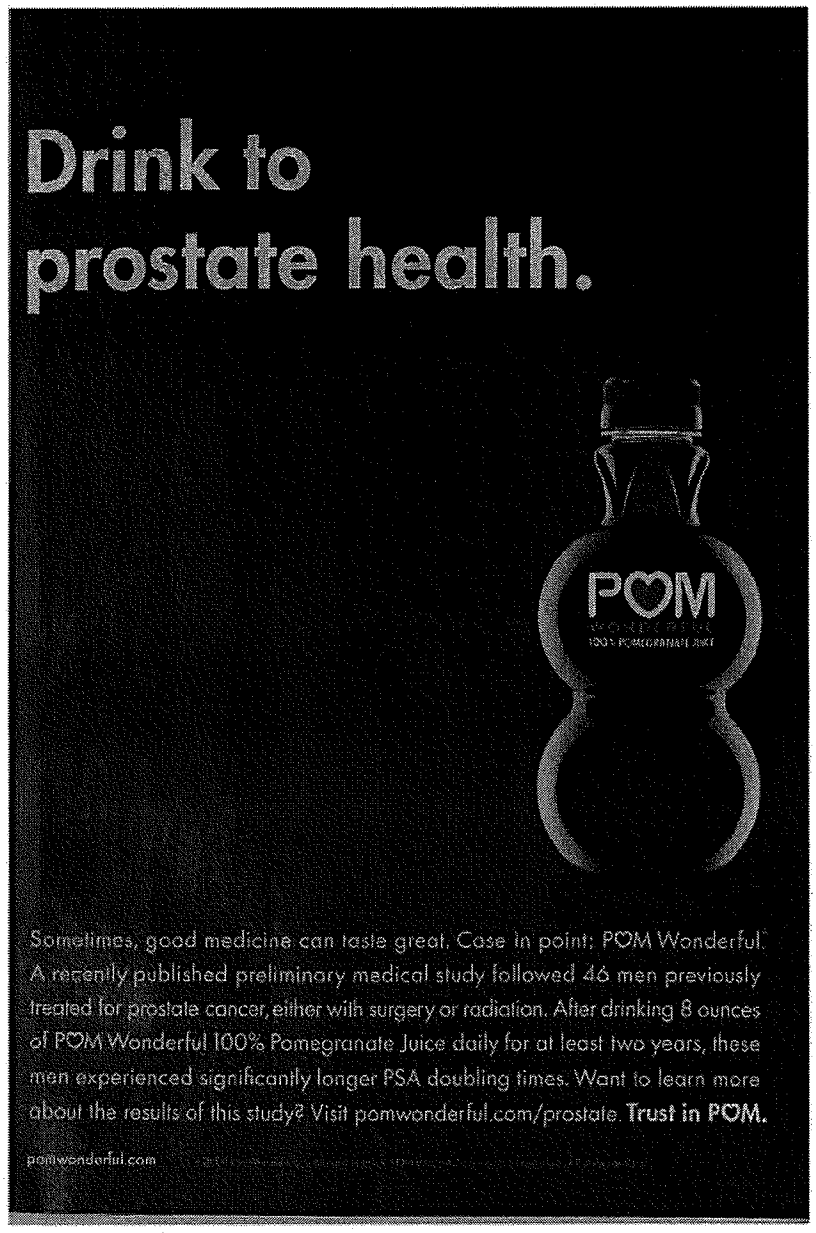
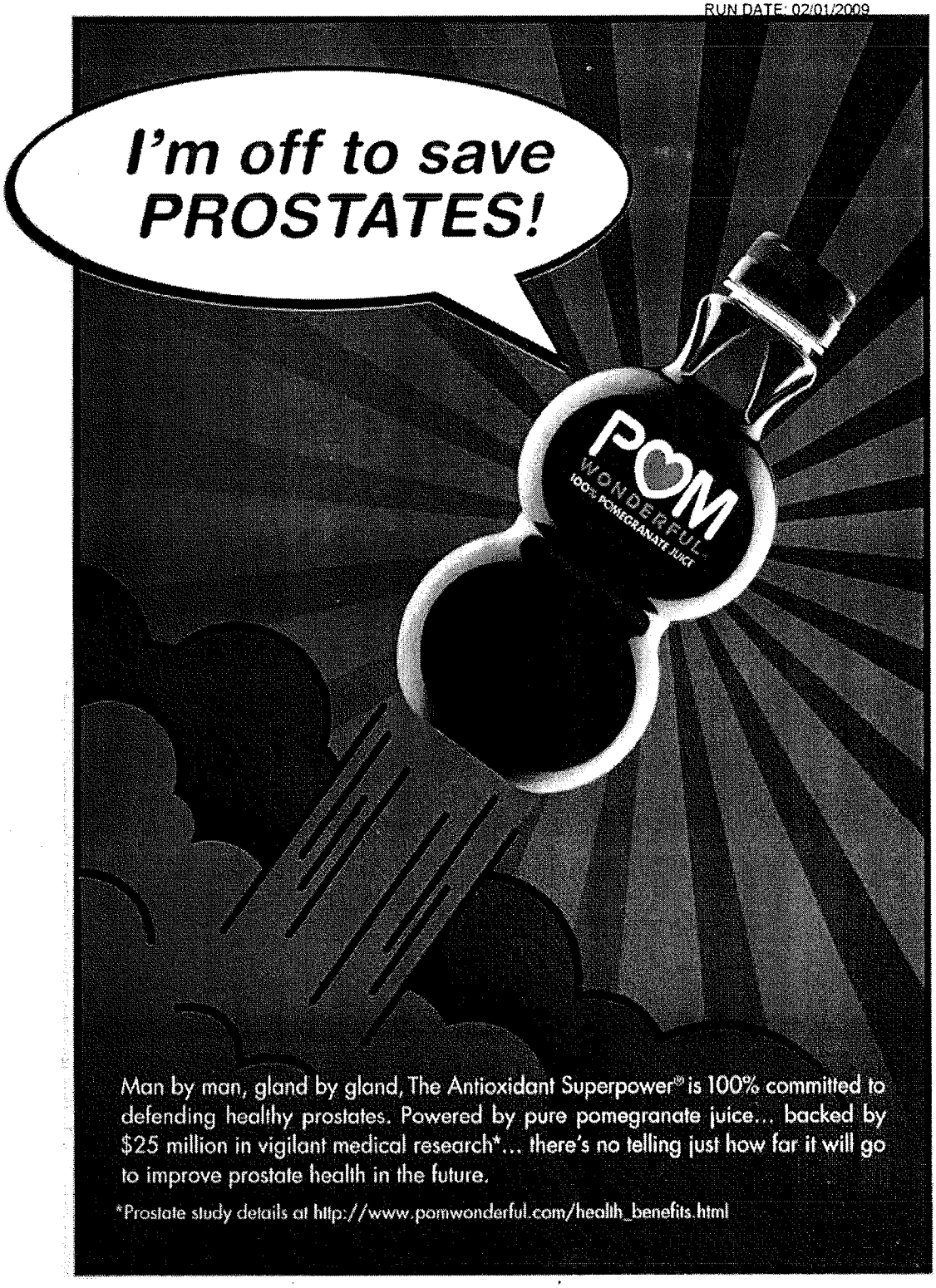


Exhibit B

CX1426_00028

Figure 23

VMS ID: 090200523
RUN DATE: 02/01/2009



pomwonderful.com

The Antioxidant Superpower.®

VMS-0000281

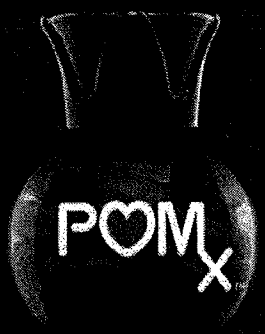
CX0274_0001

Exhibit C

CX1426_00029

Figure 24

VMS ID: 090300701
RUN DATE: 03/01/2009



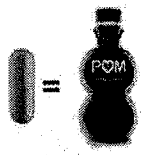
Science, not fiction.

Made from the only pomegranates backed by $25 million in medical research.

Ready to take your antioxidants into your own hands? Introducing POMx* – a highly concentrated, incredibly powerful blend of all-natural polyphenol antioxidants made from the same pomegranates as **POM Wonderful® 100% Pomegranate Juice.**

POMx fights free radicals with a powerful 1000 milligrams. That's more concentrated polyphenol antioxidants than any other pomegranate supplement. And POMx is the first and only antioxidant supplement reviewed for safety by the FDA.

100% All-natural.



The antioxidant power of our 8oz juice.

POMx is made from the only pomegranates backed by $25 million in medical research, the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice. An initial UCLA MEDICAL STUDY on POM Wonderful 100% Pomegranate Juice found *hopeful results for prostate health.* The study reports "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in Clinical Cancer Research, 2006.[1,2,3] Two additional preliminary studies on our juice showed *promising results for heart health.* "Stress-induced ischemia decreased in the pomegranate group," Dr. Dean Ornish reported in the American Journal of Cardiology, 2005.[1,2,4] "Pomegranate juice consumption resulted in a significant IMT[5] reduction by up to 30% after one year," said Dr. Michael Aviram, referring to reduced arterial plaque in Clinical Nutrition, 2004.[1,2,6]

ORDER NOW: 1-888-POM-PILL (766-7455) or pompills.com/pop

Try POMx for one month – FREE!

We'll even pay for the shipping. Visit pompills.com/pop or call 1-888-POM-PILL. Use discount code: POP30

SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires June 30, 2009. The first month free plus free shipping offer applies only to the purchase price for the first month of POMx Monthly. Following months will be $29.95 per bottle. This discount can only be used on POMx products. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents will be given. We reserve the right to modify or discontinue this promotion at any time. We reserve the right to change product price or shipping charge at any time. Offer valid only at pompills.com or 1-888-POM-PILL. Discount code is not valid on POMx trial.

[1] pompills.com/research [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 45 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4] 45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5] Study measured intima-media thickness (IMT). [6] 19 patients aged 65-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2009 PomWonderful LLC. All rights reserved. POM Wonderful and POMx are trademarks of PomWonderful LLC.

POM WONDERFUL®

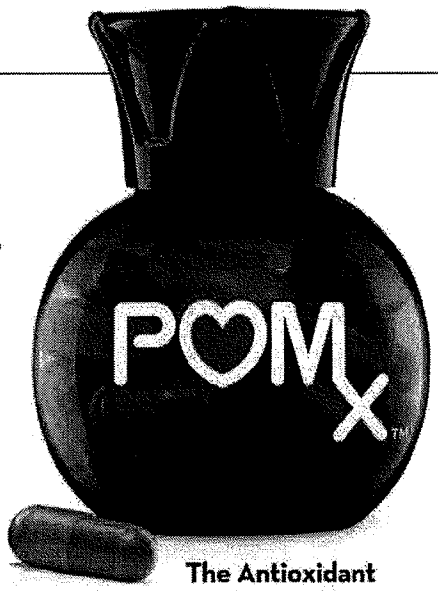
VMS-0000291

CX0279_0001

Figure 25

VMS ID: 090312940
RUN DATE: 03/12/2009

LIVE LONG ENOUGH TO WATCH YOUR 401(K) RECOVER.



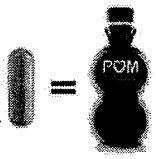
The Antioxidant Superpill.™

Antioxidants are a necessity. Not a luxury.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. Even when you're going through the worst.

Recession-proof your health with POMx.

POMx – an ultra-potent antioxidant extract made from the same pomegranates as POM Wonderful® 100% Pomegranate Juice – is the most potent natural antioxidant supplement available. Each 1000mg POMx pill has the antioxidant power of a full glass of POM Wonderful 100% Pomegranate Juice.



The antioxidant power of our 8oz juice.

$25 million in medical research. A sound investment.

POMx is made from the only pomegranates backed by $25 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Hope for the future. Yours.

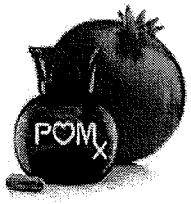
Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, '06.[1,2,3]

Two additional preliminary studies on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, '05.[1,2,4]

"Pomegranate juice consumption resulted in significant reduction in IMT[5] (thickness of arterial plaque) by up to 30% after one year," said Dr. Michael Aviram in *Clinical Nutrition*, '04.[1,2,5,6]

Try POMx Monthly FREE for ONE MONTH.
We'll even pay for the shipping.*



Order Now: 888-766-7455 or pompills.com/n3
Use discount code: N330

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 5/30/09 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products.

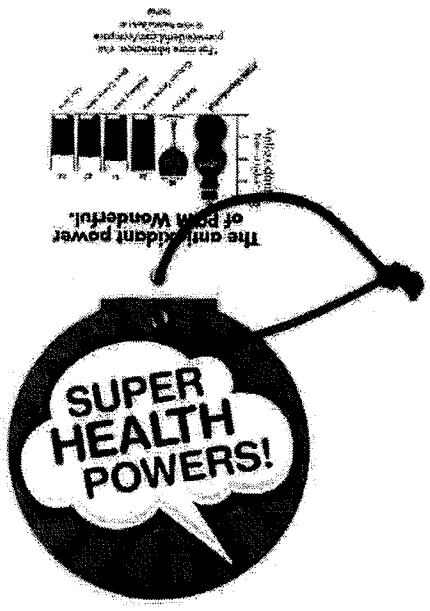
POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]40 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5]Shady measured intima-media thickness (IMT). [6]10 patients aged 66-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2009 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant superpill are trademarks of PomWonderful LLC. PP:09

VMS-0000293

CX0280_0001

Figure 26



100% PURE POMEGRANATE JUICE.

It's 100% pure! It's heroically healthy! It's The Antioxidant Superpower, POM Wonderful 100% authentic pomegranate juice.

Backed by $25 million in medical research. Proven to fight for cardiovascular, prostate and erectile health. Committed to keeping you healthy for a good, long time!

Exhibit A

CX1426_00027

100% PURE POMEGRANATE JUICE.

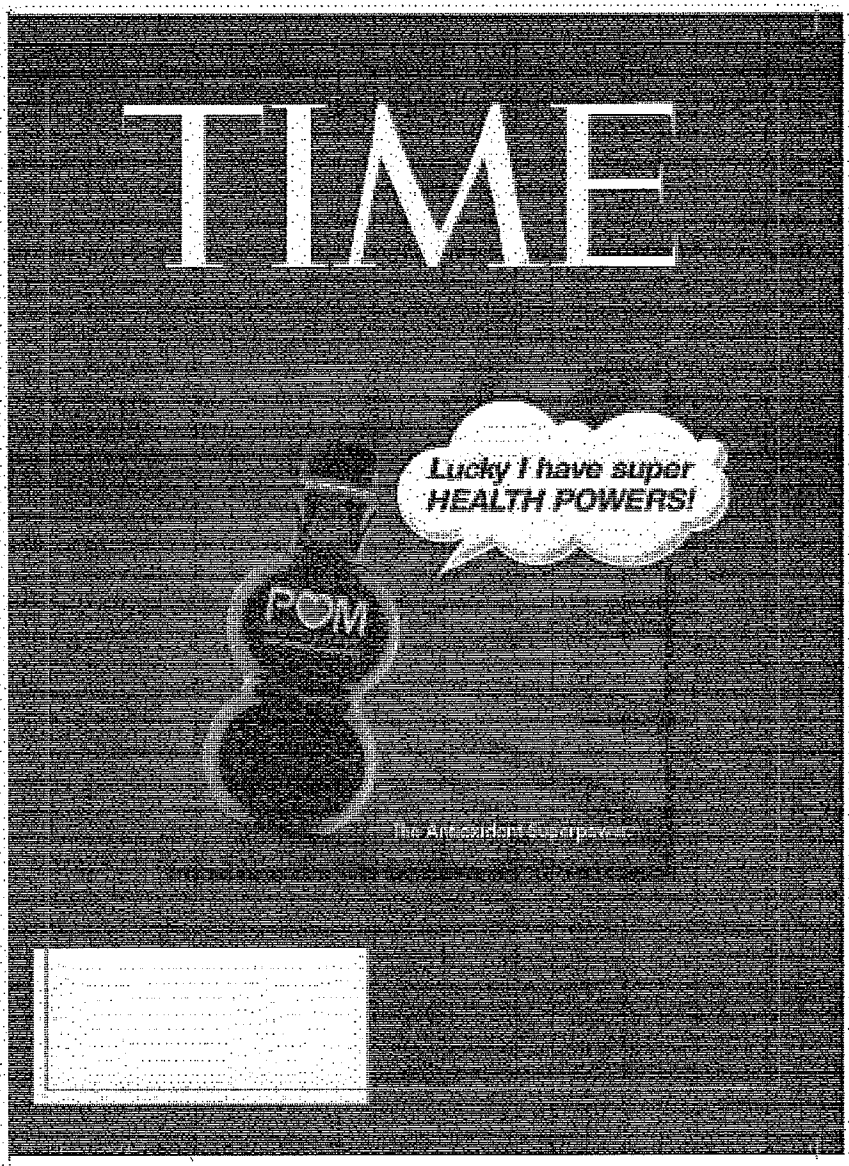
It's 100% pure! It's heroically healthy! It's The Antioxidant Superpower, POM Wonderful 100% authentic pomegranate juice.

Backed by $25 million in medical research. Proven to fight for cardiovascular, prostate and erectile health. Committed to keeping you healthy for a good, long time!

PLF _____ DEF _____
DESIGNER _____ Y
ADDRESS _____ M Tupper
DATE _____ 2/2/11
TONI COHEN

Exhibit A

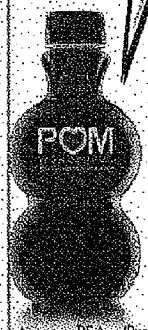
Figure 27



JOB NO.: P12007	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 9-02-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Dec 09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F

•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE

POM WONDERFUL



A recently published pilot study* involving POM Wonderful 100% Pomegranate Juice followed 46 men previously treated for prostate cancer either with surgery or radiation.

After drinking eight ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly slower average PSA doubling times. PSA (Prostate-Specific Antigen) is a biomarker that indicates the presence of prostate cancer. PSA doubling time is a measure of how long it takes for PSA levels to double. A longer doubling time may indicate slower progression of the disease.

At the beginning of the study, PSA levels doubled on average every 15 months. By the end of the study, doubling time had slowed to 54 months – nearly a four-fold improvement. *"This is a big increase. I was surprised when I saw such an improvement in PSA numbers," said Dr. Allan Pantuck, lead author of the UCLA Study.*

One important note: All of the patients drank the same POM Wonderful 100% Pomegranate Juice which is available in your supermarket produce section.

Prostate cancer is the most commonly diagnosed cancer in men in the United States. After lung cancer, it's the second leading cause of cancer death in men. However, emerging science suggests that diet and lifestyle may be able to significantly improve prostate health.

The Research Continues Results from this study were so promising that many of the original patients continued to drink pomegranate juice daily, and their PSA doubling times remained suppressed. Three more clinical studies are now underway to further investigate the effects of POM on prostate health.

Learn why POM Wonderful is the only pomegranate juice you can trust. *(See inside back cover of this wrap.)*

POM WONDERFUL

pomwonderful.com

* Pantuck et al., Pomegranate juice delays PSA doubling time in humans. [illegible] (2006)
Visit pomwonderful.com/health/research to review this and other published studies.

PJ2007 TimeWraDec09 F.indd 2 9/10/09 2:20:45 PM

JOB NO.: PJ2007	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 9-02-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Dec 09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINT OUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F

•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE

POM WONDERFUL

KA-POM!

100% Authentic

POM is the only brand guaranteed to contain 100% real pomegranate juice. We wish other brands were as honest. In fact, according to recent independent tests, nine out of ten so-called "pomegranate" juices were found to have added sugar, colorants and other low-grade fruit juices.

Tree to Bottle

POM is the only brand that controls its juice from tree to bottle, batch to batch, year to year. We only grow "Wonderful" variety pomegranates, renowned for their superior antioxidants and delicious taste. And every 16oz bottle contains the juice of five whole pomegranates.

The Antioxidant Superpower*

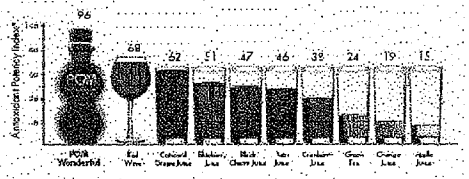
With uniquely high levels of powerful antioxidants, POM Wonderful 100% Pomegranate Juice has demonstrated superior ability to neutralize harmful free radicals and to inhibit excess inflammation.

Backed by Science

Only POM products are backed by $32 million in medical research conducted at the world's leading universities, primarily in the areas of cardiovascular, prostate and erectile function.

More Antioxidants

Sip for sip, POM Wonderful 100% Pomegranate Juice has more polyphenol antioxidants than red wine, green tea and other juices.



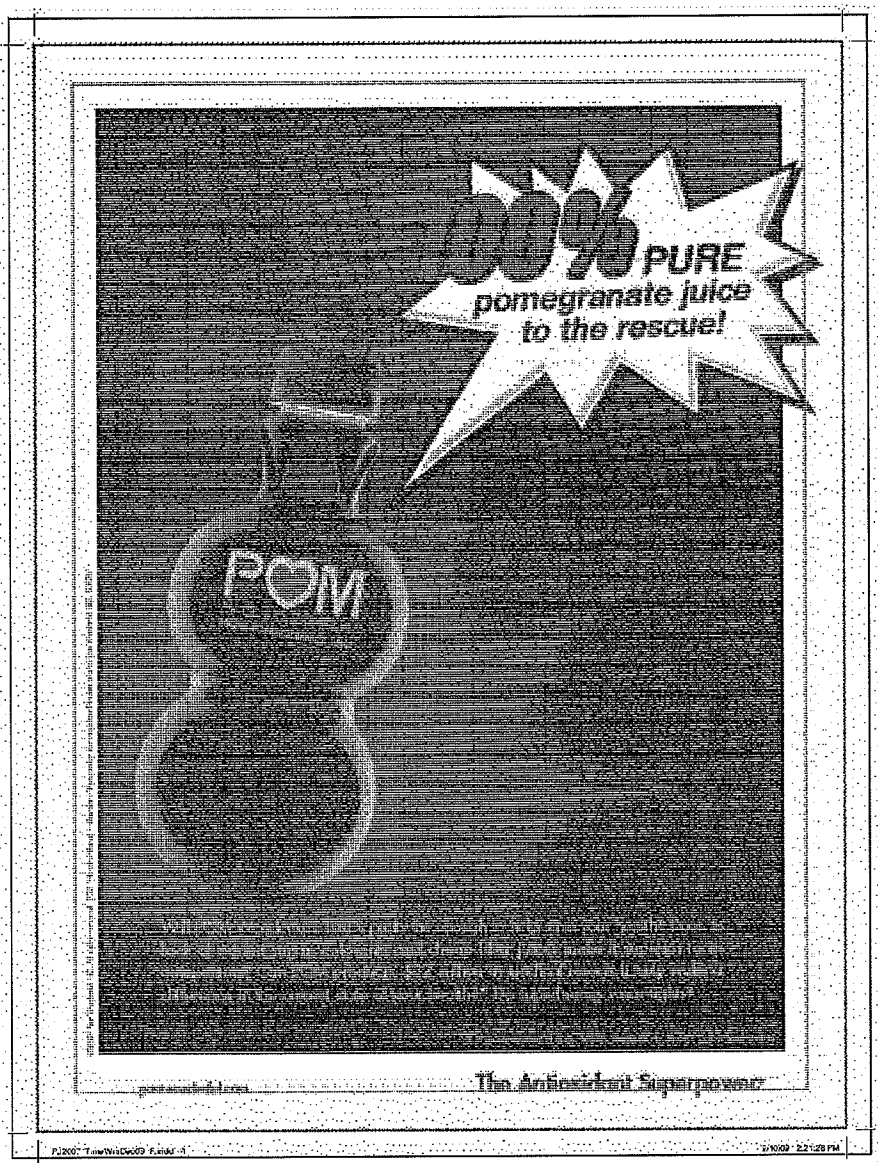
POM WONDERFUL pomwonderful.com

*Index combines results from four leading antioxidant tests (ORAC, DPPH, FRAP, TEAC). N. Sastrom, et al., Comparison of Antioxidant Potency of Commonly Consumed Polyphenol Rich Beverages in the United States. [illegible] (2008). [illegible] pomwonderful.com/compare

PJ2007 TimeWrap Dec09 F.indd 3 3/10/09 2:20:10 PM

JOB NO.: PJ2007	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 9-02-09	CREATIVE: CJ
PROJECT: Time Magazine Wraji - Dec 09	LIVE: 7.125" x 9.75"	LIVE: TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F

*PLEASE MARK ALL CHANGES ON INSITE DOCUMENT *NO CHANGES ON PRINTED FLAT WILL BE MADE



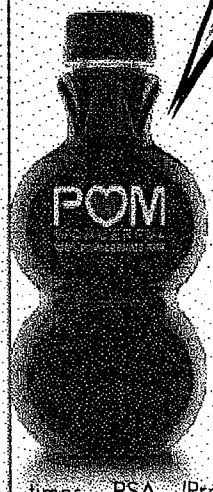
JOB NO.: PJ2007	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS.	DATE IN: 9-02-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Dec 09	LIVE: 7.125" x 9.75"	LIVE; TRIM; BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINT OUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F

•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE

JOB NO.: PJ2005	TRIM: 7.875"x10.5"	COLOR: 4/C PROCESS	DATE IN: 7-22-09
PROJECT: TimeWrap Oct09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	DATE OUT: 8-20-09
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F2

POM WONDERFUL

NOW HEALTH! $32 million in medical research.



A recently published pilot study* involving POM Wonderful 100% Pomegranate Juice followed 46 men previously treated for prostate cancer either with surgery or radiation.

After drinking eight ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly slower average PSA doubling times. PSA (Prostate-Specific Antigen) is a biomarker that indicates the presence of prostate cancer. PSA doubling time is a measure of how long it takes for PSA levels to double. A longer doubling time may indicate slower progression of the disease.

At the beginning of the study, PSA levels doubled on average every 15 months. By the end of the study, doubling time had slowed to 54 months – nearly a four-fold improvement. *"This is a big increase. I was surprised when I saw such an improvement in PSA numbers," said Dr. Allan Pantuck, lead author of the UCLA Study.*

One important note: All of the patients drank the same POM Wonderful 100% Pomegranate Juice which is available in your supermarket produce section.

Prostate cancer is the most commonly diagnosed cancer in men in the United States. After lung cancer, it's the second leading cause of cancer death in men. However, emerging science suggests that diet and lifestyle may be able to significantly improve prostate health.

The Research Continues Results from this study were so promising that many of the original patients continued to drink pomegranate juice daily, and their PSA doubling times remained suppressed. Three more clinical studies are now underway to further investigate the effects of POM on prostate health.

Learn why POM Wonderful is the only pomegranate juice you can trust. *(See inside back cover of this wrap.)*

POM WONDERFUL

pomwonderful.com

* Pantuck et al., Phase II study of pomegranate juice for men with rising prostate specific antigen following surgery or radiation for prostate cancer, Clinical Cancer Research (2006)
Visit pomwonderful.com/health/research to review this and other published studies.

PJ2005_TimeWrapOct09_F2.indd 2 8/20/09 3:47:27 PM

JOB NO.: PJ2005	TRIM: 7.875"x10.5"	COLOR: 4/C PROCESS	DATE IN: 7-22-09
PROJECT: TimeWrap Oct09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	DATE OUT: 8-20-09
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F2

POM WONDERFUL

KA-POW!

100% Authentic

POM is the only brand guaranteed to contain 100% real pomegranate juice. We wish other brands were as honest. In fact, according to recent independent tests, nine out of ten so-called "pomegranate" juices were found to have added sugar, colorants and other low-grade fruit juices.

Tree to Bottle

POM is the only brand that controls its juice from tree to bottle, batch to batch, year to year. We only grow "Wonderful" variety pomegranates, renowned for their superior antioxidants and delicious taste. And every 16oz bottle contains the juice of five whole pomegranates.

The Antioxidant Superpower®

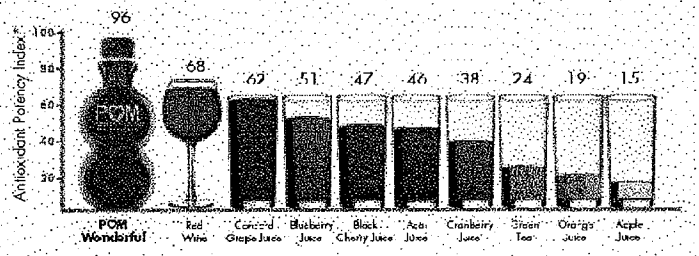
With uniquely high levels of powerful antioxidants, POM Wonderful 100% Pomegranate Juice has demonstrated superior ability to neutralize harmful free radicals and to inhibit excess inflammation.

Backed by Science

Only POM products are backed by $32 million in medical research conducted at the world's leading universities, primarily in the areas of cardiovascular, prostate and erectile function.

More Antioxidants

Sip for sip, POM Wonderful 100% Pomegranate Juice has more polyphenol antioxidants than red wine, green tea and other juices.

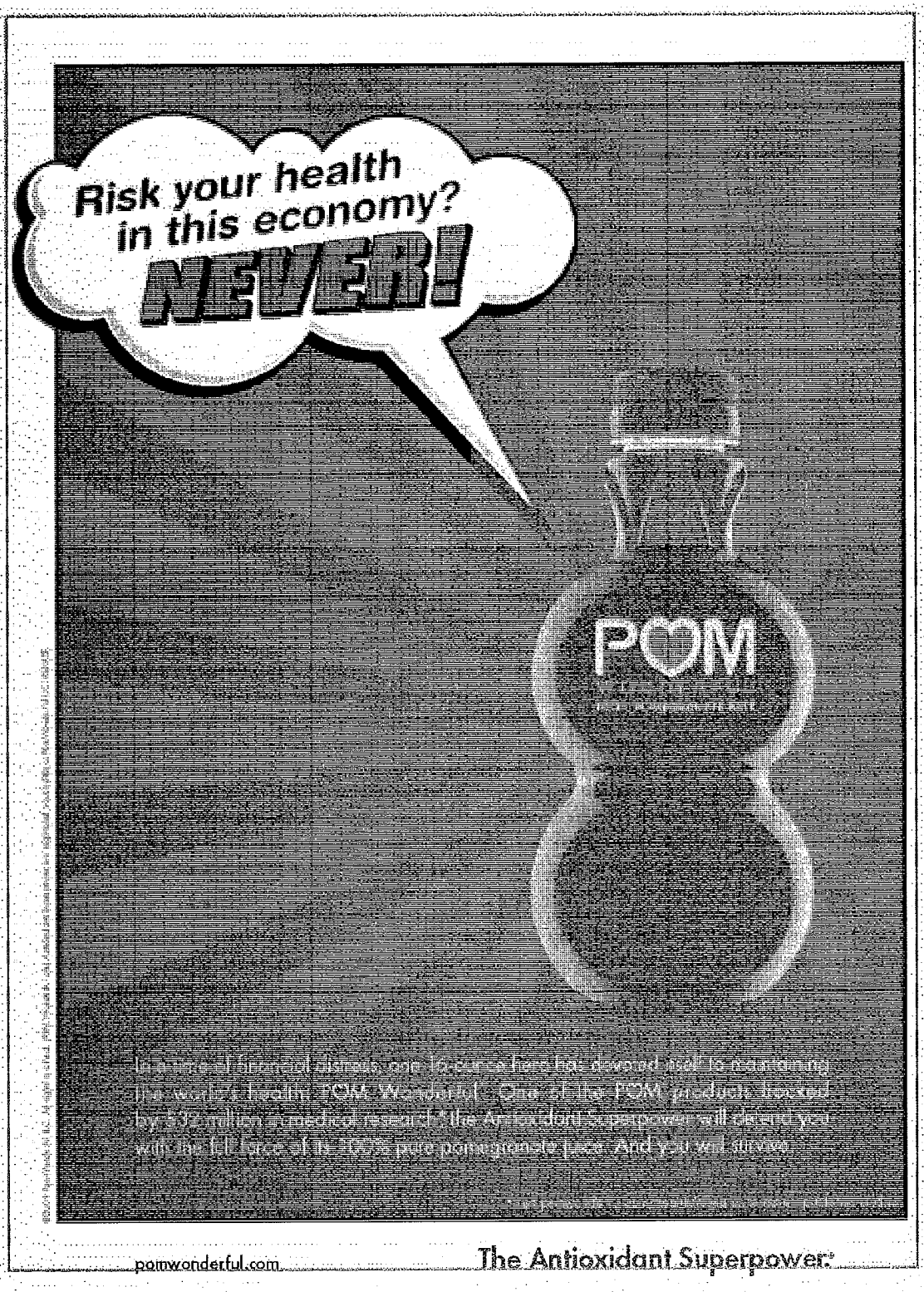


POM WONDERFUL® **pomwonderful.com**

*Index combines results from four leading antioxidant tests (ORAC, DPPH, FRAP, TEAC). N. Seeram, et al., Comparison of Antioxidant Potency of Commonly Consumed Polyphenol-Rich Beverages in the United States. Journal of Agricultural and Food Chemistry (2008). Study found at pomwonderful.com/research

PJ2005_TimeWrapOct09_F2.indd 3 8/20/09 3:47:28 PM

JOB NO.: PJ2005	TRIM: 7.875"x10.5"	COLOR: 4/C PROCESS	DATE IN: 7-22-09
PROJECT: TimeWrap Oct09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	DATE OUT: 8-20-09
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F2



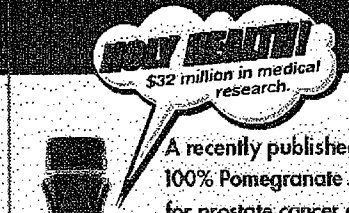
PJ2005_TimeWrapOct09_F2.indd 4 9/20/09 3:47:46 PM

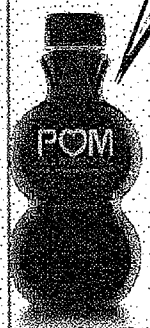
JOB NO.: PJ2005	TRIM: 7.875"x10.5"	COLOR: 4/C PROCESS	DATE IN: 7-22-09
PROJECT: TimeWrap Oct09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	DATE OUT: 8-20-09
SCALE: 1 : 1	BLEED: 8.375" x 11"	PRINTOUT SIZE: 100%	PROOF ROUND: F2

JOB NO.: PJ2006	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 8-01-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Nov 09	LIVE: 7.125" x 9.75"	ENT. TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F2

•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE

POM WONDERFUL





A recently published pilot study* involving POM Wonderful 100% Pomegranate Juice followed 46 men previously treated for prostate cancer either with surgery or radiation.

After drinking eight ounces of POM Wonderful 100% Pomegranate Juice daily for at least two years, these men experienced significantly slower average PSA doubling times. PSA (Prostate-Specific Antigen) is a biomarker that indicates the presence of prostate cancer. PSA doubling time is a measure of how long it takes for PSA levels to double. A longer doubling time may indicate slower progression of the disease.

At the beginning of the study, PSA levels doubled on average every 15 months. By the end of the study, doubling time had slowed to 54 months – nearly a four-fold improvement. *"This is a big increase. I was surprised when I saw such an improvement in PSA numbers," said Dr. Allan Pantuck, lead author of the UCLA Study.*

One important note: All of the patients drank the same POM Wonderful 100% Pomegranate Juice which is available in your supermarket produce section.

Prostate cancer is the most commonly diagnosed cancer in men in the United States. After lung cancer, it's the second leading cause of cancer death in men. However, emerging science suggests that diet and lifestyle may be able to significantly improve prostate health.

The Research Continues Results from this study were so promising that many of the original patients continued to drink pomegranate juice daily, and their PSA doubling times remained suppressed. Three more clinical studies are now underway to further investigate the effects of POM on prostate health.

Learn why POM Wonderful is the only pomegranate juice you can trust. *(See inside back cover of this wrap.)*

pomwonderful.com

POM WONDERFUL

* Pantuck et al., Please it study of pomegranate juice for men with rising prostate specific antigen following surgery or radiation for prostate cancer. [illegible] (2006)
Visit pomwonderful.com/health/research to review this and other published studies.

PJ2006 TimeWrapNOV09 F2.indd 2 9/10/09 10:51:55 AM

JOB NO.: PJ2006	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 8-01-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Nov 09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F2

•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE

POM WONDERFUL

KA-POM!

100% Authentic

POM is the only brand guaranteed to contain 100% real pomegranate juice. We wish other brands were as honest. In fact, according to recent independent tests, nine out of ten so-called "pomegranate" juices were found to have added sugar, colorants and other low-grade fruit juices.

Tree to Bottle

POM is the only brand that controls its juice from tree to bottle, batch to batch, year to year. We only grow "Wonderful" variety pomegranates, renowned for their superior antioxidants and delicious taste. And every 16oz bottle contains the juice of five whole pomegranates.

The Antioxidant Superpower®

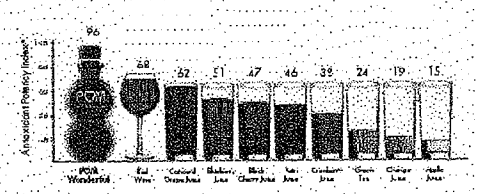
With uniquely high levels of powerful antioxidants, POM Wonderful 100% Pomegranate Juice has demonstrated superior ability to neutralize harmful free radicals and to inhibit excess inflammation.

Backed by Science

Only POM products are backed by $32 million in medical research conducted at the world's leading universities, primarily in the areas of cardiovascular, prostate and erectile function.

More Antioxidants

Sip for sip, POM Wonderful 100% Pomegranate Juice has more polyphenol antioxidants than red wine, green tea and other juices.



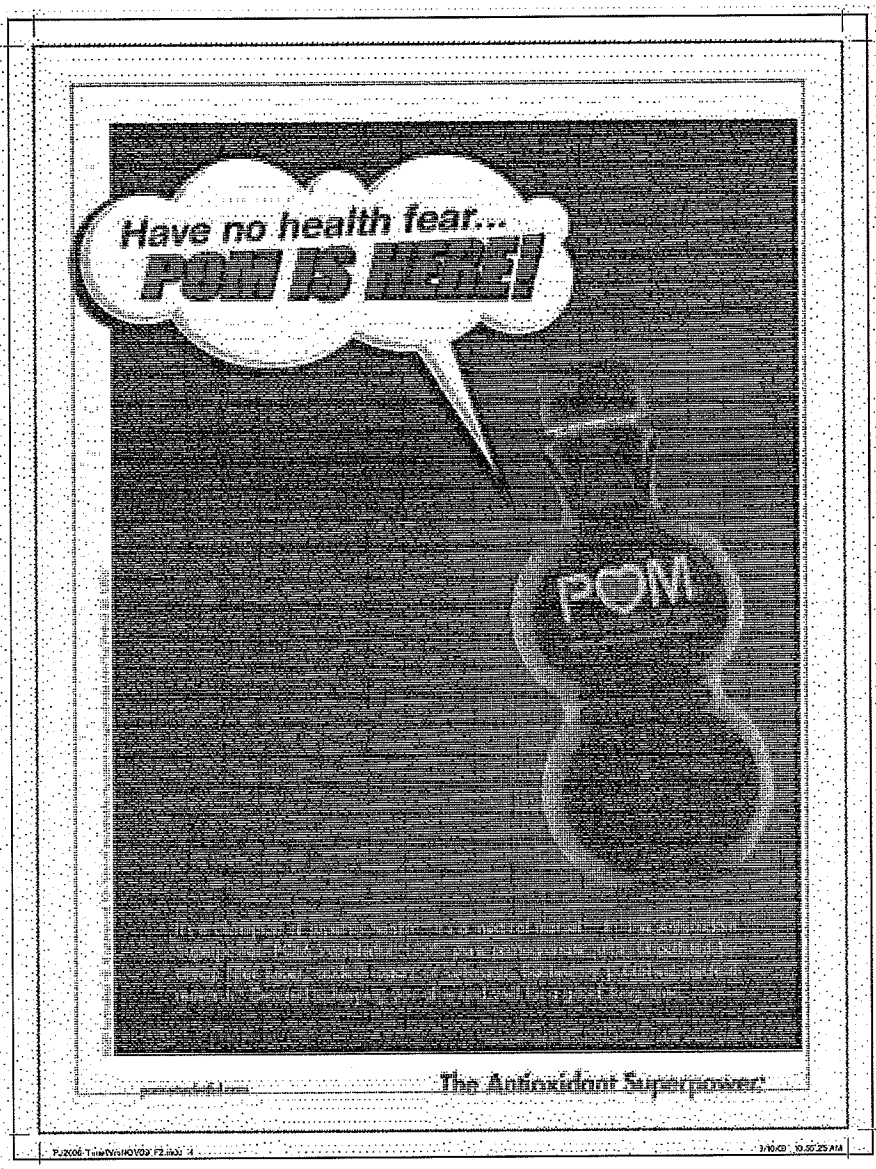
POM WONDERFUL pomwonderful.com

*Index combines results from four leading antioxidant tests (ORAC, DPPH, FRAP, TEAC). N. Sacram, et al., Comparison of Antioxidant Potency of Commonly Consumed Polyphenol Rich Beverages in the United States. [illegible] (2008). Shelf-based pomwonderful.com/compare

PJ2006 TimeWarNOV09 F2.indd 3 9/10/09 10:51:55 AM

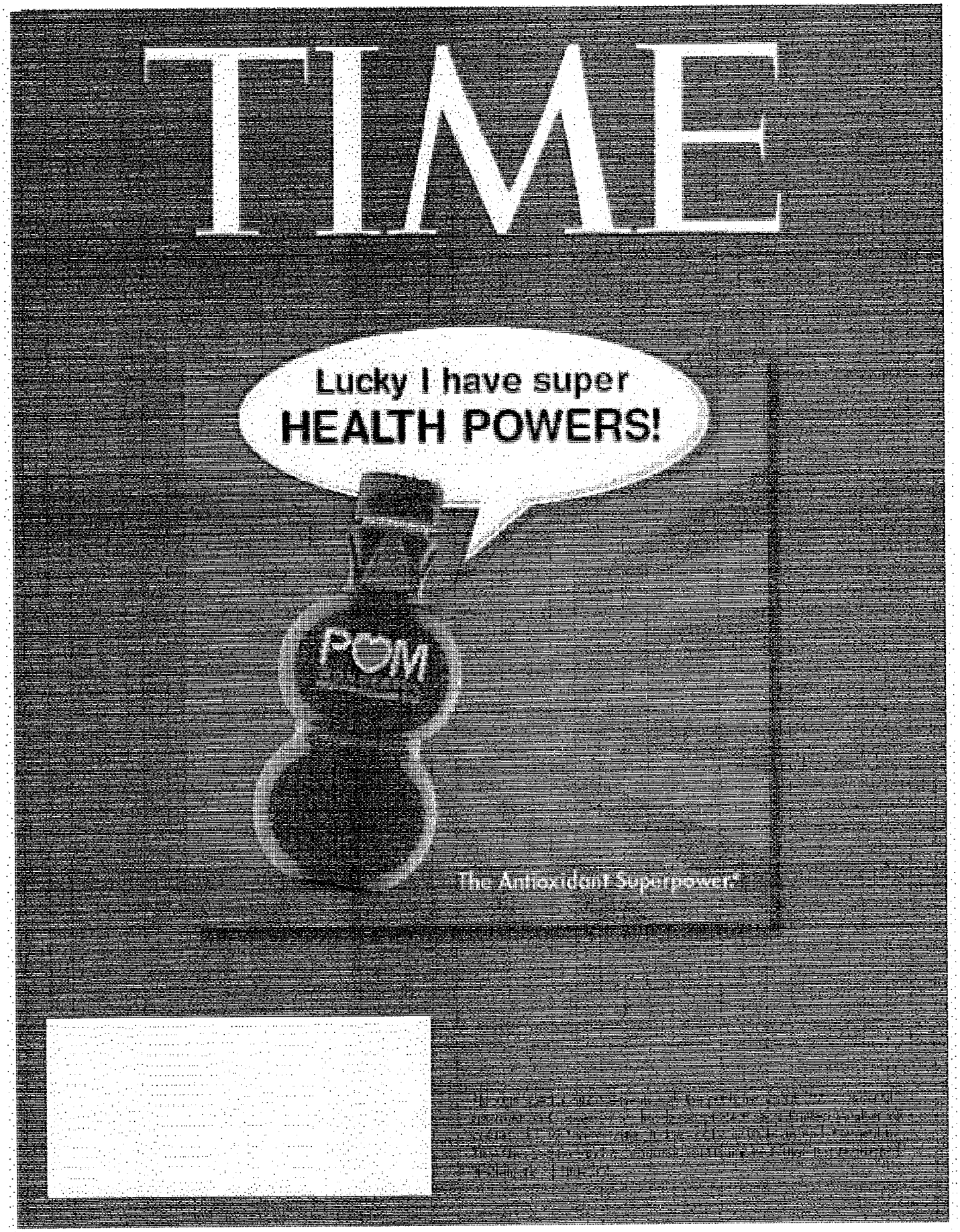
JOB NO.: PJ2006	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 9-01-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Nov 09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F2

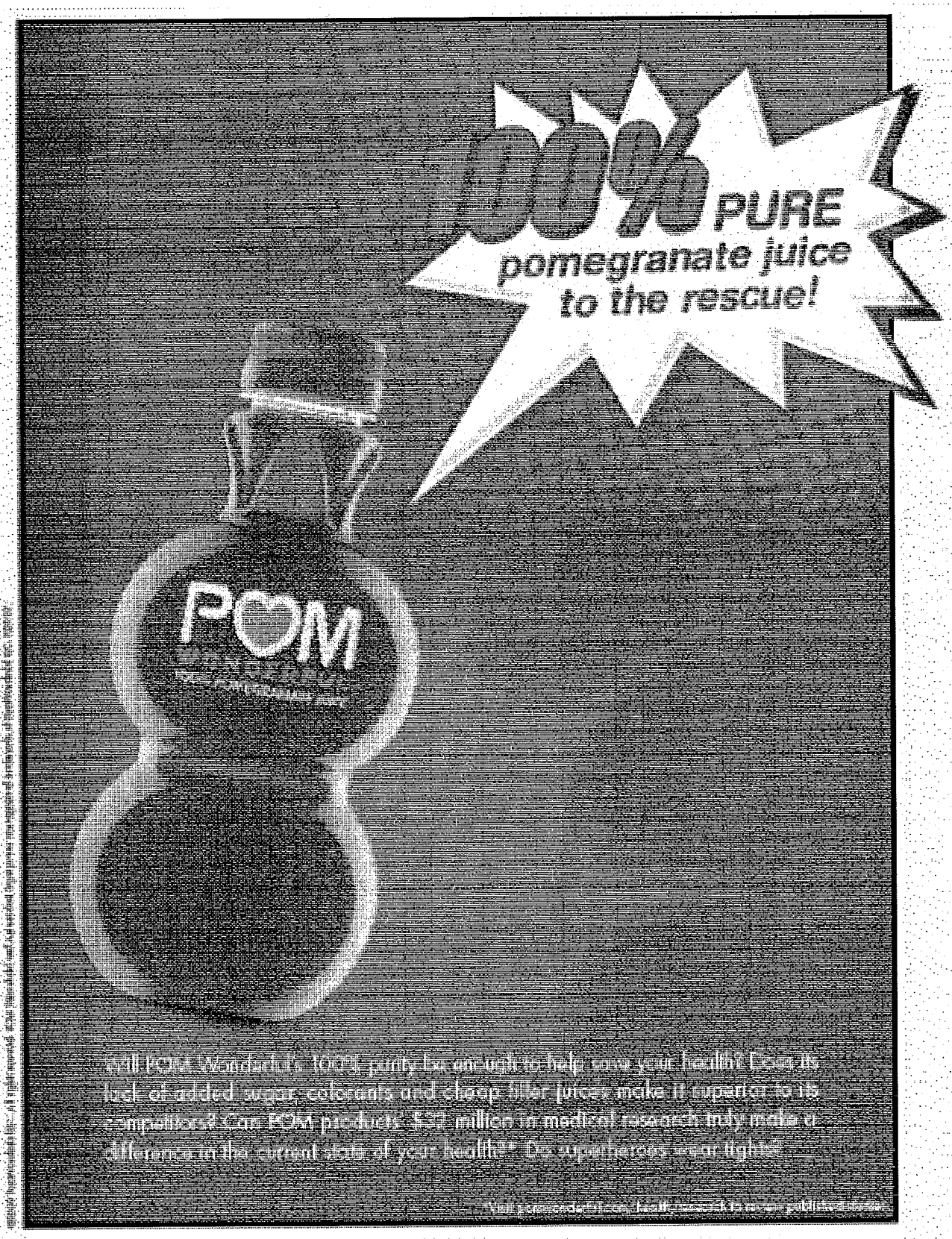
•PLEASE MARK ALL CHANGES ON INSITE DOCUMENT •NO CHANGES ON PRINTED FLAT WILL BE MADE



JOB NO.: PJ2006	TRIM: 7.875" x 10.5"	COLOR: 4/C PROS	DATE IN: 9-01-09	CREATIVE: CJ
PROJECT: Time Magazine Wrap - Nov 09	LIVE: 7.125" x 9.75"	LIVE, TRIM, BLEED (DO NOT PRINT)	CLIENT SIGN OFF: 00-00-00	PRODUCTION: MS
SCALE: 1 : 1	BLEED: 8.375" x 11.0"	PRINTOUT SIZE: 100%	RELEASE DATE: 9-10-09	PROOF: F2

*PLEASE MARK ALL CHANGES ON INSITE DOCUMENT *NO CHANGES ON PRINTED FLAT WILL BE MADE


TIME
Lucky I have super
HEALTH POWERS!
POM
The Antioxidant Superpower!



pomwonderful.com

The Antioxidant Superpower.®

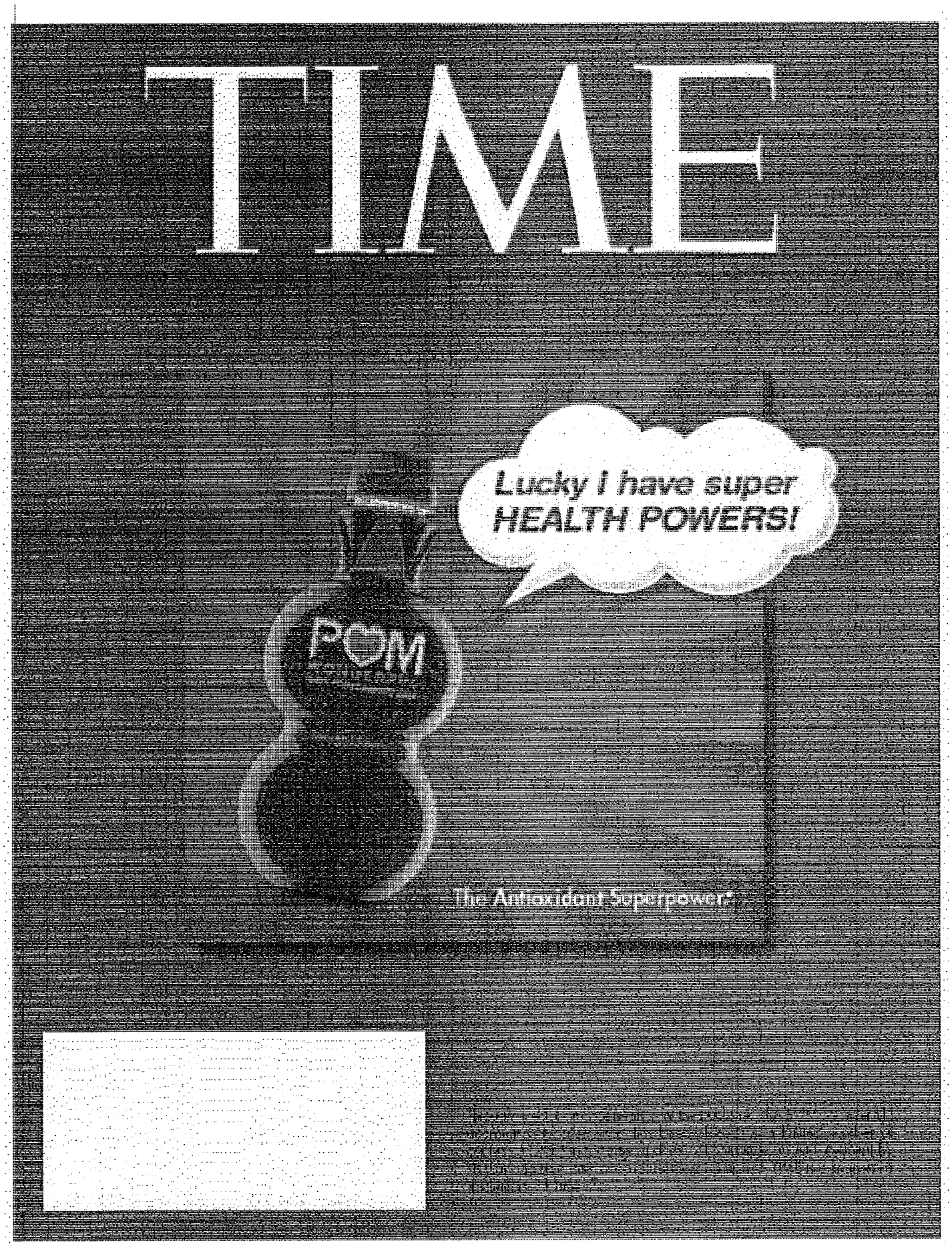
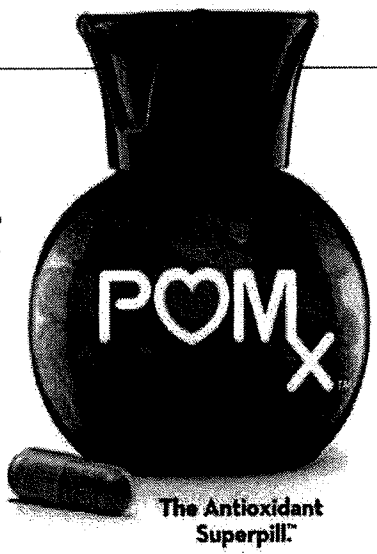

TIME
Lucky I have super HEALTH POWERS!
POM
The Antioxidant Superpower

Figure 28

HEALTHY. ~~WEALTHY~~. AND WISE.

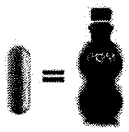
(2 OUT OF 3 IN THIS ECONOMY AIN'T BAD.)



The Antioxidant Superpill.™

Antioxidants are a necessity. Not a luxury.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. Even when you're going through the worst.



The antioxidant power of our 8oz juice.

Recession-proof your health with POMx.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. A sound investment.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Hope for the future. Yours.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, '06.[1,2,3]

Two additional preliminary studies on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, '05.[1,2,4]

"Pomegranate juice consumption resulted in significant reduction in IMT[5] (thickness of arterial plaque) by up to 30% after one year," said Dr. Michael Aviram in *Clinical Nutrition*, '04.[1,2,5,6]

Try POMx Monthly FREE for ONE MONTH.
We'll even pay for the shipping.*

Order Now: 888-766-7455 or pompills.com/ph
Use discount code: PH30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 12/5/09 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Validonly at pompills.com/ph or 1-888-766-7455. Not valid on POMx Trial or other POM products.

POM WONDERFUL®

[1]pompills.com/research. [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]46 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5]Study measured intima-media thickness (IMT). [6]10 patients aged 70-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2009 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpill are trademarks of PomWonderful LLC. PP2332

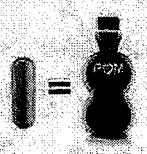
HEALTHY. ~~WEALTHY.~~ AND WISE.

(2 OUT OF 3 IN THIS ECONOMY AIN'T BAD.)

The Antioxidant Superpill.™

Antioxidants are a necessity. Not a luxury.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. Even when you're going through the worst.



The antioxidant power of our 8oz juice.

Recession-proof your health with POMx.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. A sound investment.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities.

Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Hope for the future. Yours.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

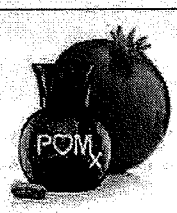
An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, '06.[1,2,3]

Two additional preliminary studies on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, '05.[1,2,4]

"Pomegranate juice consumption resulted in significant reduction in IMT[5] (thickness of arterial plaque) by up to 30% after one year," said Dr. Michael Aviram in *Clinical Nutrition*, '04.[1,2,5,6]

Try POMx Monthly FREE for ONE MONTH.

We'll even pay for the shipping.*



Order Now: 888-766-7455 or pompills.com/ph

Use discount code: PH30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 12/15/09 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com/ph or 1-888-766-7455. Not valid on POMx Trial or other POM products.

POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]26 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5]Study measured intima-media thickness (IMT). [6]19 patients aged 65-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2009 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpillare trademarks of PomWonderful LLC. RP2322

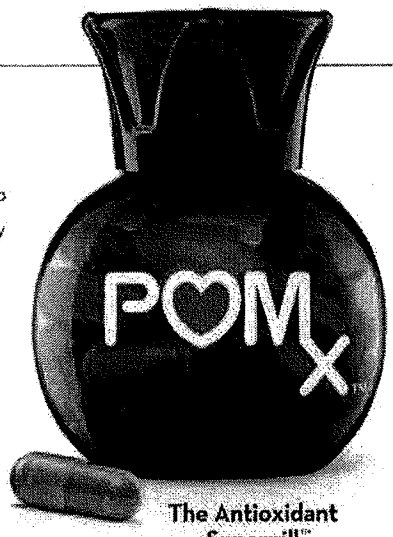
Exhibit J

Figure 29

VMS ID: 091107449
RUN DATE: 11/08/2009

YOUR NEW HEALTH CARE PLAN.

(NO TOWN HALL MEETING REQUIRED.)



The Antioxidant Superpill.™

Antioxidant Health Insurance.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. Better yet, it's a health plan that's open to everyone.

The antioxidant power of our 8oz juice.

All-natural. Non-political.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. Zero deductible.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

A health care plan for a healthy future.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, '06.[1,2,3]

Two additional preliminary studies on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, '05.[3,4]

"Pomegranate juice consumption resulted in significant reduction in IMT[5] (thickness of arterial plaque) by up to 30% after one year," said Dr. Michael Aviram, in *Clinical Nutrition*, '04.[1,2,5,6]

Try POMx Monthly FREE for ONE MONTH.
We'll even pay for the shipping.*

Order Now: 888-766-7455 or pompills.com/wp
Use discount code: WP30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 4/30/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products.

POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]40 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5]Study measured intima-media thickness (IMT) [6]14 patients aged 60-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2009 PomWonderful LLC. All rights reserved. POM Wonderful, Antioxidant Superpill and POMx are trademarks of PomWonderful LLC. PP3601

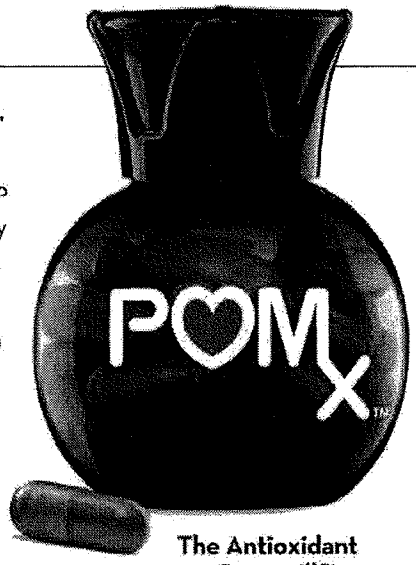
VMS-0000303

CX0328_0001

Figure 30

VMS ID: 100101214
RUN DATE: 01/03/2010

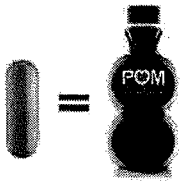
THE FIRST BOTTLE YOU SHOULD OPEN IN 2010.



The Antioxidant Superpill.™

2010, Year of the Antioxidant.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. Make it your first New Year's resolution.



The antioxidant power of our 8oz juice.

POMx: Ultra-potent. Hangover-free.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. Cheers.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Our bottle. Your health.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, '06.[1,2,3]

Two additional preliminary studies on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, '05.[1,2,4]

"Pomegranate juice consumption resulted in significant reduction in IMT[6] (thickness of arterial plaque) by up to 30% after one year," said Dr. Michael Aviram, in *Clinical Nutrition*, '04.[1,2,5,6]

Try POMx Monthly FREE for ONE MONTH.
We'll even pay for the shipping.*

Order Now: 888-766-7455 or pompills.com/n3
Use discount code: N330

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 3/31/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products.

POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]46 men with rising PSA after surgery or rapid-doubling drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. [5]Study measured intima-media thickness (IMT). [6]10 patients aged 65-75 years with severe atherosclerosis drank 8oz 100% pomegranate juice daily for one year. ©2010 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpower are trademarks of PomWonderful LLC. PP2939

VMS-0000304

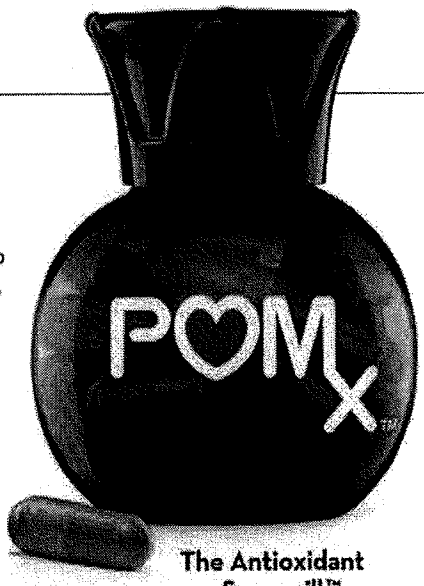
CX0337_0001

Figure 31

VMS ID: 100208568
RUN DATE: 02/22/2010

TAKE OUT A LIFE INSURANCE SUPPLEMENT.

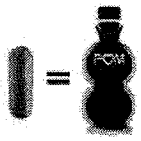
TRY POMx MONTHLY FREE!



The Antioxidant Superpill.™

Antioxidants? We've got you covered.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. (Just the way insurers like you to be.)



The antioxidant power of our 8oz juice.

POMx. Now that's a plan.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the antioxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. No deductible.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Get the maximum benefits.

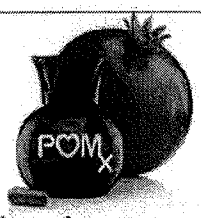
Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate

Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, 2006.[1,2,3]

Additional preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, 2005.[1,2,4]

FREE ONE MONTH TRIAL



We'll even pay for the shipping.*

Order Now: 888-766-7455 or pompills.com/t Use discount code: T30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 6/30/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products. POM WONDERFUL®

[1]pompills.com/research. [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]48 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. ©2010 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpill are trademarks of PomWonderful LLC. PP3219

VMS-0000306

CX0342_0001

VMS ID: 100608485
RUN DATE: 06/14/2010

TAKE OUT A LIFE INSURANCE SUPPLEMENT.

TRY POMx MONTHLY FREE!

The Antioxidant Superpill.™

Antioxidants? We've got you covered.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best. (Just the way insurers like you to be.)

The antioxidant power of our 8oz juice.

POMx. Now that's a plan.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$34 million in medical research. No deductible.

POMx is made from the only pomegranates backed by $34 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Get the maximum benefits.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate

Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, 2006.[1,2,3]

An additional preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, 2005.[1,2,4]

Try POMx Monthly FREE for ONE MONTH.

We'll even pay for the shipping.*

Order Now: 888-766-7455
or pompills.com/sm Use discount code: SM30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 10/31/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to modify or discontinue this promotion, change the product price or change the shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products. Credit or debit card required.

POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]40 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]53 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. ©2010 POM Wonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpill are trademarks of POM Wonderful LLC. PP2930

VMS-0000320

CX0353_0001

Figure 32

VMS ID: 100400591
RUN DATE: 04/01/2010

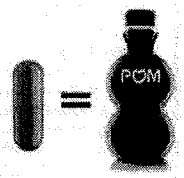
24 SCIENTIFIC STUDIES
NOW IN ONE EASY-TO-SWALLOW PILL.

FREE SHIPPING!

The Antioxidant Superpill.™

Antioxidants 101.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals. It's just that simple.



The antioxidant power of our 8oz juice.

POMx is powerful. Naturally.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in medical research. Science. Not fiction.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

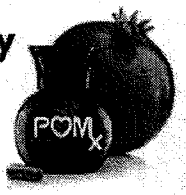
Complicated studies. Simplified.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, 2006.[1,2,3]

Additional preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, 2005.[1,2,4]

Try POMx Monthly FREE for ONE MONTH.
We'll even pay for the shipping.*



Order Now: 888-766-7455
or pompills.com/mh Use discount code: MH30

*SIGN UP FOR POMx MONTHLY AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 8/31/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to discontinue this promotion, change product price or shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products.

POM WONDERFUL®

[1]pompills.com/research [2]These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3]45 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [4]45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. ©2010 PomWonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpill are trademarks of PomWonderful LLC. PP2373

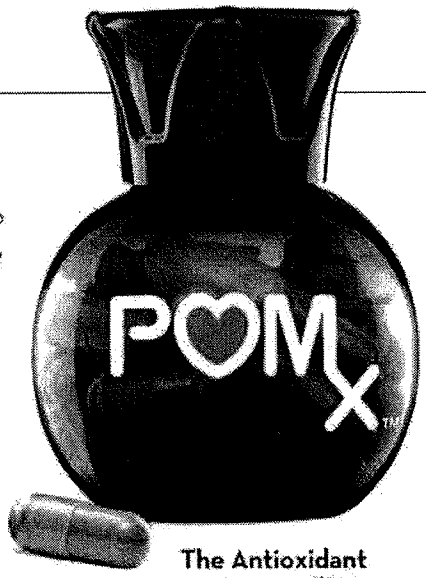
VMS-0000312

CX0348_0001

VMS ID: 100411090
RUN DATE: 04/26/2010

24 SCIENTIFIC STUDIES.
NOW IN ONE EASY-TO-SWALLOW PILL.

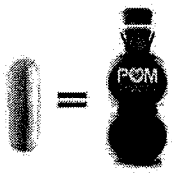
FREE SHIPPING!



The Antioxidant Superpill.™

Antioxidants 101.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals. It's just that simple.



The antioxidant power of our 8oz juice.

POMx is powerful. Naturally.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$34 million in medical research. Science. Not fiction.

POMx is made from the only pomegranates backed by $34 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for prostate and cardiovascular health.

Complicated studies. Simplified.

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times," according to Dr. Allen J. Pantuck in *Clinical Cancer Research*, 2006.[1,2]

Additional preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group," Dr. Dean Ornish reported in the *American Journal of Cardiology*, 2005.[3,4]

Try POMx Pills FREE FOR ONE MONTH
when you sign up for POMx Monthly delivery.*
Cancel Anytime.

Order Now: 888-766-7455
or pompills.com/t Use discount code: T30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 4/30/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One account per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to modify or discontinue this promotion, change the product price or change the shipping charge at any time. Valid only at pompills.com or 1888.766.7455. Not a discount POMx Trial or other POM products. Credit or debit card required.

POM WONDERFUL®

VMS-0000313

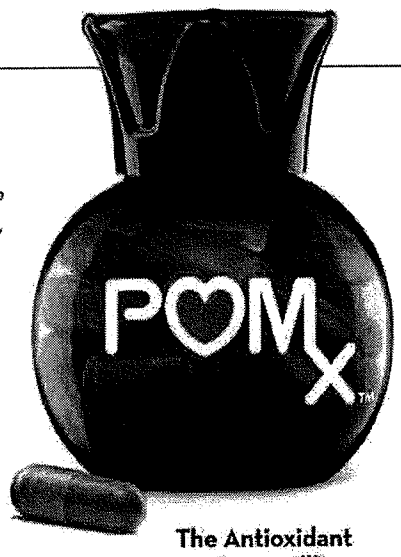
CX0350_0001

Figure 33

VMS ID: 100600955
RUN DATE: 06/01/2010

THE ONLY ANTIOXIDANT SUPPLEMENT RATED X.

FREE SHIPPING!



The Antioxidant Superpill.™

Always use protection.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best.

The antioxidant power of our 8oz juice.

POMx. Super-potent. Like you.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the antioxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$32 million in research. We're not just playing doctor.

POMx is made from the only pomegranates backed by $32 million in medical research at the world's leading universities. Not only has this research documented the unique and superior antioxidant power of pomegranates, it has revealed promising results for erectile, prostate and cardiovascular health.

Is that POMx in your pocket?

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

In a preliminary study on erectile function, men who consumed POM Juice reported a 50% greater likelihood of improved erections as compared to placebo. "As a powerful antioxidant, enhancing the actions of nitric oxide in vascular endothelial cells, POM has potential in the management of ED... further studies are warranted." *International Journal of Impotence Research*, '07. [1,2,3]

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times." *Clinical Cancer Research*, '06. [1,2,4]

A preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group." *American Journal of Cardiology*, '05. [1,2,5]

Try POMx Pills FREE FOR ONE MONTH

when you sign up for POMx Monthly delivery.*
(cancel anytime)

Order Now: 888-766-7455
or pompills.com/adv Use discount code: ADV30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 9/30/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to modify or discontinue this promotion, change the product price or change the shipping charge at any time. Valid only at pompills.com or 1-888-766-7455. Not valid on POMx Trial or other POM products. Credit or debit card required.

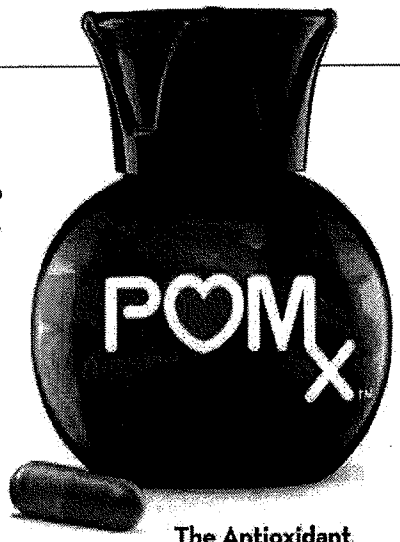
POM WONDERFUL®

[1] pompills.com/research. [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 53 men with mild/moderate erectile dysfunction drank 8oz 100% pomegranate juice daily for one month. [4] 46 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [5] 45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. ©2010 Pom Wonderful LLC. All rights reserved. POM Wonderful, POMx and Anti-oxidant Superpill are trademarks of Pom Wonderful LLC. 091423

VMS ID: 100700683
RUN DATE: 07/01/2010

THE ONLY ANTIOXIDANT SUPPLEMENT RATED X.

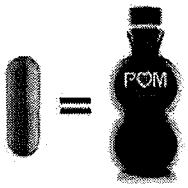
FREE SHIPPING!



The Antioxidant Superpill.™

Always use protection.

Emerging science suggests that antioxidants are critically important to maintaining good health because they protect you from free radicals, which can damage your body. Taking one POMx pill a day will help protect you from free radicals and keep you at your healthy best.



The antioxidant power of our 8oz juice.

POMx. Super-potent. Like you.

POMx is an all-natural, ultra-potent antioxidant extract. Containing a full spectrum of pomegranate polyphenols, POMx is so concentrated that a single capsule has the anti-oxidant power of a full glass of POM Wonderful® 100% Pomegranate Juice.

$34 million in research. We're not just playing doctor.

POMx is made from the only pomegranates backed by $34 million in medical research at the world's leading universities. Not only has this research documented the unique

and superior antioxidant power of pomegranates, it has revealed promising results for erectile, prostate and cardiovascular health.

Is that POMx in your pocket?

Our POMx pills are made from the same pomegranates we use to make our POM Wonderful 100% Pomegranate Juice, on which each of the following medical studies was conducted.

In a preliminary study on erectile function, men who consumed POM Juice reported a 50% greater likelihood of improved erections as compared to placebo. "As a powerful antioxidant, enhancing the actions of nitric oxide in vascular endothelial cells, POM has potential in the management of ED... further studies are warranted." *International Journal of Impotence Research*, '07.[1,2,3]

An initial UCLA study on our juice found hopeful results for prostate health, reporting "statistically significant prolongation of PSA doubling times." *Clinical Cancer Research*, '06.[1,2,4]

A preliminary study on our juice showed promising results for heart health. "Stress-induced ischemia (restricted blood flow to the heart) decreased in the pomegranate group." *American Journal of Cardiology*, '05.[1,2,5]

Try POMx Monthly FREE for ONE MONTH

We'll even pay for the shipping.*

Order Now: 888-766-7455

or pompills.com/ga Use discount code: GA30

*SIGN UP FOR POMx MONTHLY, AND WE'LL SEND YOUR FIRST BOTTLE FREE. AFTER THAT, YOU'LL CONTINUE TO RECEIVE MONTHLY SHIPMENTS FOR $29.95 WITH COMPLIMENTARY SHIPPING. Offer expires 9/30/10 and applies only to the purchase price for the first bottle of POMx Monthly. Following months will be $29.95 per bottle. One discount per customer. Cannot be combined with other offers. No substitutions, transfer rights or cash equivalents. We reserve the right to modify or discontinue this promotion, change the product price or change the shipping charge at any time. Valid only at pompills.com or 1 (888) 766-7455. Not valid on POMx Trial or other POM products. Credit or debit card required.

POM WONDERFUL®

[1] pompills.com/research. [2] These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease. [3] 53 men with erectile dysfunction drank 8oz 100% pomegranate juice daily for one month. [4] 46 men with rising PSA after surgery or radiotherapy drank 8oz 100% pomegranate juice daily for two years. [5] 45 patients with coronary heart disease and myocardial ischemia drank 8oz 100% pomegranate juice daily for three months. ©2010 POM Wonderful LLC. All rights reserved. POM Wonderful, POMx and Antioxidant Superpill are trademarks of POM Wonderful LLC. PP1749

VMS-0000323

CX0355_0001

Exhibit W

to JFI's Notice of Reliance

Generated on: This page was generated by TSDR on 2013-11-12 13:55:37 EST

Mark: POMGO!

POMGO!

US Serial Number: 77355734 **Application Filing Date:** Dec. 19, 2007

Register: Principal

Mark Type: Trademark

Status: A third request for extension of time to file a Statement of Use has been granted.

Status Date: Oct. 10, 2013

Publication Date: Sep. 09, 2008 **Notice of Allowance Date:** Apr. 03, 2012

Mark Information

Mark Literal Elements: POMGO!

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: DIETARY SUPPLEMENTS; VITAMIN AND DIETARY SUPPLEMENT ENRICHED FRUIT JUICES, FRUIT DRINKS AND FRUIT FLAVORED DRINKS

International Class(es): 005 - Primary Class **U.S Class(es):** 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No	**Currently Use:** No	**Amended Use:** No
Filed ITU: Yes	**Currently ITU:** Yes	**Amended ITU:** No
Filed 44D: No	**Currently 44D:** No	**Amended 44D:** No
Filed 44E: No	**Currently 44E:** No	**Amended 44E:** No
Filed 66A: No	**Currently 66A:** No	
Filed No Basis: No	**Currently No Basis:** No	

Current Owner(s) Information

Owner Name: 1-800-HEALTHY.COM, INC.

Owner Address: 834 Wilson Avenue, Suite B
Ridgeland, MISSISSIPPI 39157
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Thomas M.Galgano **Docket Number:** 1379-22

Correspondent

Correspondent Name/Address: THOMAS MGALGANO
GALGANO ASSOC PLLC
20 W PARK AVE STE 204
LONG BEACH, NEW YORK 11561-2033
UNITED STATES

Phone: (516) 431-1177 **Fax:** (516) 431-1127

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 11, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Oct. 10, 2013	EXTENSION 3 GRANTED	69302
Oct. 02, 2013	EXTENSION 3 FILED	69302
Oct. 02, 2013	TEAS EXTENSION RECEIVED	
Apr. 12, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Apr. 11, 2013	EXTENSION 2 GRANTED	69302
Mar. 21, 2013	EXTENSION 2 FILED	69302
Apr. 11, 2013	CASE ASSIGNED TO INTENT TO USE PARALEGAL	69302
Mar. 21, 2013	TEAS EXTENSION RECEIVED	
Oct. 09, 2012	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Oct. 06, 2012	EXTENSION 1 GRANTED	76873
Oct. 03, 2012	EXTENSION 1 FILED	76873
Oct. 05, 2012	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76873
Oct. 03, 2012	TEAS EXTENSION RECEIVED	
Jun. 01, 2012	ASSIGNED TO EXAMINER	73370
Apr. 03, 2012	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 21, 2012	TTAB RELEASE CASE TO TRADEMARKS	189218
Feb. 21, 2012	OPPOSITION TERMINATED NO. 999999	189218
Feb. 21, 2012	OPPOSITION DISMISSED NO. 999999	189218
Aug. 08, 2011	ASSIGNED TO EXAMINER	81091
Mar. 11, 2009	OPPOSITION INSTITUTED NO. 999999	189218
Sep. 30, 2008	EXTENSION OF TIME TO OPPOSE RECEIVED	
Sep. 09, 2008	PUBLISHED FOR OPPOSITION	
Aug. 20, 2008	NOTICE OF PUBLICATION	
Aug. 01, 2008	LAW OFFICE PUBLICATION REVIEW COMPLETED	78145
Jul. 31, 2008	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jun. 24, 2008	AMENDMENT FROM APPLICANT ENTERED	78145
Jun. 24, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	78145
Jun. 24, 2008	ASSIGNED TO LIE	78145
Jun. 23, 2008	PAPER RECEIVED	
Apr. 11, 2008	NON-FINAL ACTION MAILED	
Apr. 10, 2008	NON-FINAL ACTION WRITTEN	74812
Apr. 01, 2008	NON-FINAL ACTION MAILED	
Mar. 28, 2008	NON-FINAL ACTION WRITTEN	74812
Mar. 25, 2008	ASSIGNED TO EXAMINER	74812
Dec. 27, 2007	NOTICE OF PSEUDO MARK MAILED	
Dec. 26, 2007	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BENMAMAN, ALICE MEDINA **Law Office Assigned:** LAW OFFICE 116

File Location

Current Location: INTENT TO USE SECTION **Date in Location:** Apr. 11, 2013

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91189218 **Filing Date:** Mar 09, 2009

Status: Terminated **Status Date:** Feb 21, 2012

Interlocutory Attorney: ROBERT COGGINS

Defendant

Name: 1-800-Healthy.com, Inc.

Correspondent Address: THOMAS MGALGANO
GALGANO ASSOC PLLC
20 W PARK AVE STE 204
LONG BEACH NY , 11561-2033
UNITED STATES

Correspondent e-mail: tmgalgano@rcn.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
POMGO!	Third Extension - Granted	77355734	

Plaintiff(s)

Name: PomWonderful LLC

Correspondent Address: MICHAEL M VASSEGHI
ROLL LAW GROUP PC
11444 WEST OLYMPIC BLVD
LOS ANGELES CA , 90064
UNITED STATES

Correspondent e-mail: dcriona@roll.com , takerman@roll.com , mrivera@roll.com , mvasseghi@roll.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
POM	Renewed	76245687	2637053
POM	Section 8 and 15 - Accepted and Acknowledged	76553991	3047447
POM WONDERFUL	Renewed	76244362	2640835
POM WONDERFUL	Section 8 and 15 - Accepted and Acknowledged	76534468	2864641
POM WONDERFUL	Section 8 and 15 - Accepted and Acknowledged	76347919	2780314
POM TEA	Registered	77249106	3411595
LIGHT POM TEA	Registered	77249295	3391707
POM WONDERFUL	Registered	78628764	3687491
POM WONDERFUL	Registered	78628813	3687492
POM XO	Abandoned - No Statement Of Use Filed	77118895	
POM IN A TEASPOON	Abandoned - No Statement Of Use Filed	77040049	
POM BEAUTIFUL	Abandoned - No Statement Of Use Filed	78635544	
POM ESSENTIAL	Abandoned - No Statement Of Use Filed	78634396	
POM TONIC	Abandoned - No Statement Of Use Filed	78780514	

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Mar 09, 2009	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 11, 2009	Apr 20, 2009
3	PENDING, INSTITUTED	Mar 11, 2009	
4	ANSWER	Apr 17, 2009	
5	P'S MOT FOR EXTEN. OF TIME W/ CONSENT	Jun 18, 2009	
6	EXTENSION OF TIME GRANTED	Jun 19, 2009	
7	P'S MOT TO SUSP PEND SETLMT NEGOTIATIONS	Jul 08, 2009	
8	SUSPENDED	Jul 17, 2009	

9	D'S MOT TO SUSP PEND SETLMT NEGOTIATIONS	Sep 17, 2009
10	SUSPENDED	Sep 17, 2009
11	D'S MOT TO SUSP PEND SETLMT NEGOTIATIONS	Nov 11, 2009
12	SUSPENDED	Nov 11, 2009
13	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Feb 03, 2010
14	EXTENSION OF TIME GRANTED	Feb 03, 2010
15	P'S MOT FOR EXTEN. OF TIME W/ CONSENT	Oct 12, 2010
16	EXTENSION OF TIME GRANTED	Oct 12, 2010
17	P'S MOT TO SUSP PEND SETLMT NEGOTIATIONS	Jan 10, 2011
18	SUSPENDED	Jan 10, 2011
19	P'S MOT TO SUSP PEND SETLMT NEGOTIATIONS	Jul 07, 2011
20	EXTENSION OF TIME GRANTED	Aug 04, 2011
21	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Oct 03, 2011
22	SUSPENDED	Oct 14, 2011
23	WITHDRAWAL OF OPPOSITION	Feb 07, 2012
24	BD'S DECISION: DISMISSED W/O PREJUDICE	Feb 21, 2012
25	TERMINATED	Feb 21, 2012

Type of Proceeding: Extension of Time

Proceeding Number: 77355734 **Filing Date:** Sep 29, 2008

Status: Terminated **Status Date:** Mar 11, 2009

Interlocutory Attorney:

Defendant

Name: 1-800-HEALTHY.COM, INC.

Correspondent Address: THOMAS M.GALGANO
GALGANO & ASSOCIATES, PLLC
20 W PARK AVE STE B
LONG BEACH NY , 11561-2033

Associated marks

Mark	Application Status	Serial Number	Registration Number
POMGO!	Third Extension - Granted	77355734	

Potential Opposer(s)

Name: PomWonderful LLC

Correspondent Address: Douglas N. Masters
LOEB & LOEB LLP
321 N. Clark St., Suite 2300
Chicago IL , 60654
UNITED STATES

Correspondent e-mail: chicagopto@loeb.com , dmasters@loeb.com , sceresnie@loeb.com , aocasio@loeb.com

Associated marks

Mark	Application Status	Serial Number	Registration Number

Prosecution History

Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Sep 29, 2008	
2	EXTENSION OF TIME GRANTED	Sep 30, 2008	
3	INCOMING - EXT TIME TO OPPOSE FILED	Jan 05, 2009	
4	EXTENSION OF TIME GRANTED	Jan 05, 2009	

Exhibit X

to JFI's Notice of Reliance

Generated on: This page was generated by TSDR on 2013-11-12 14:03:25 EST

Mark: POMLIFE

POMLIFE

US Serial Number: 77044401

Application Filing Date: Jun. 01, 2006

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Suspension check completed. Application remains suspended.

Status Date: Sep. 30, 2013

Mark Information

Mark Literal Elements: POMLIFE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Dietary and nutritional supplements

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: Yes	Currently ITU: Yes	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: PomLife, LLC

Owner Address: 137 Fox Road, #412
Waltham, MASSACHUSETTS 02451
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: PomLife, LLC
303 Wyman Street, Suite 300
c/o Carol Locke, Omega Natural Science
Waltham, MASSACHUSETTS 02451
UNITED STATES

Domestic Representative - Not Found

Prosecution History

Proceeding

Date	Description	Number
Sep. 30, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Mar. 30, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Oct. 15, 2012	WITHDRAWAL OF ATTORNEY GRANTED	
Oct. 15, 2012	TEAS WITHDRAWAL OF ATTORNEY RECEIVED	
Sep. 24, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Mar. 19, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Mar. 16, 2012	ASSIGNED TO LIE	73296
Sep. 16, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68658
Mar. 04, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68658
Aug. 27, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68658
Aug. 27, 2010	ASSIGNED TO LIE	68658
Feb. 25, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Sep. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Aug. 24, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Feb. 23, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Aug. 21, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Feb. 21, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Aug. 21, 2007	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	77075
Aug. 20, 2007	ASSIGNED TO LIE	77075
Feb. 16, 2007	LETTER OF SUSPENSION E-MAILED	6332
Feb. 16, 2007	SUSPENSION LETTER WRITTEN	82431
Feb. 02, 2007	REQUEST TO CORRECT FILING DATE - GRANTED	71359
Feb. 13, 2007	ASSIGNED TO PETITION STAFF	71359
Nov. 15, 2006	REQUEST TO CORRECT FILING DATE RECEIVED	70458
Dec. 05, 2006	APPLICATION FILING RECEIPT MAILED	
Nov. 21, 2006	NOTICE OF PSEUDO MARK MAILED	
Nov. 20, 2006	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: I, DAVID C

Law Office Assigned: LAW OFFICE 114

File Location

Current Location: TMO LAW OFFICE 114

Date in Location: Sep. 24, 2012

Exhibit Y

to JFI's Notice of Reliance

Generated on: This page was generated by TSDR on 2013-11-12 14:02:48 EST

Mark: POMLOVE

PomLove

US Serial Number: 78898206 **Application Filing Date:** Jun. 01, 2006

Filed as TEAS Plus: Yes **Currently TEAS Plus:** Yes

Register: Principal

Mark Type: Trademark

Status: Suspension check completed. Application remains suspended.

Status Date: Oct. 08, 2013

Mark Information

Mark Literal Elements: POMLOVE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Dietary and nutritional supplements

International Class(es): 005 - Primary Class **U.S Class(es):** 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No	**Currently Use:** No	**Amended Use:** No
Filed ITU: Yes	**Currently ITU:** Yes	**Amended ITU:** No
Filed 44D: No	**Currently 44D:** No	**Amended 44D:** No
Filed 44E: No	**Currently 44E:** No	**Amended 44E:** No
Filed 66A: No	**Currently 66A:** No	
Filed No Basis: No	**Currently No Basis:** No	

Current Owner(s) Information

Owner Name: PomLife, LLC

Owner Address: 137 Fox Road, #412
Waltham, MASSACHUSETTS 02451
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY **State or Country Where Organized:** DELAWARE

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: PomLife, LLC
303 Wyman Street, Suite 300
c/o Carol Locke, Omega Natural Science
Waltham, MASSACHUSETTS 02451
UNITED STATES

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Oct. 08, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Mar. 30, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Oct. 15, 2012	WITHDRAWAL OF ATTORNEY GRANTED	
Oct. 15, 2012	TEAS WITHDRAWAL OF ATTORNEY RECEIVED	
Sep. 20, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Mar. 06, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Aug. 26, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Feb. 16, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Aug. 13, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	70468
Aug. 13, 2010	ASSIGNED TO LIE	70468
Feb. 12, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Sep. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Aug. 03, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 29, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jul. 18, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 10, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jul. 04, 2007	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 04, 2007	LETTER OF SUSPENSION E-MAILED	6332
Jan. 04, 2007	SUSPENSION LETTER WRITTEN	74677
Dec. 08, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	78289
Nov. 15, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	78289
Dec. 08, 2006	ASSIGNED TO LIE	78289
Nov. 15, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 02, 2006	NON-FINAL ACTION E-MAILED	6325
Nov. 02, 2006	NON-FINAL ACTION WRITTEN	74677
Nov. 02, 2006	ASSIGNED TO EXAMINER	74677
Jun. 07, 2006	NOTICE OF PSEUDO MARK MAILED	
Jun. 06, 2006	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: GARDNER, DAWNA BERYL **Law Office Assigned:** LAW OFFICE 112

File Location

Current Location: TMO LAW OFFICE 112 **Date in Location:** Oct. 08, 2013

Exhibit Z

to JFI's Notice of Reliance

Generated on: This page was generated by TSDR on 2013-11-12 14:02:15 EST

Mark: POM-LIFE

Pom-Life

US Serial Number: 78898351

Application Filing Date: Jun. 01, 2006

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Suspension check completed. Application remains suspended.

Status Date: Sep. 30, 2013

Mark Information

Mark Literal Elements: POM-LIFE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [..] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Dietary and nutritional supplements

International Class(es): 005 - Primary Class

U.S Class(es): 006, 018, 044, 046, 051, 052

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No	Currently Use: No	Amended Use: No
Filed ITU: Yes	Currently ITU: Yes	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: PomLife, LLC

Owner Address: 137 Fox Road, #412
Waltham, MASSACHUSETTS 02451
UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: DELAWARE

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: PomLife, LLC
303 Wyman Street, Suite 300
c/o Carol Locke, Omega Natural Science
Waltham, MASSACHUSETTS 02451
UNITED STATES

Domestic Representative - Not Found

Prosecution History

Proceeding

Date	Description	Number
Sep. 30, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Mar. 18, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Oct. 15, 2012	WITHDRAWAL OF ATTORNEY GRANTED	
Oct. 15, 2012	TEAS WITHDRAWAL OF ATTORNEY RECEIVED	
Aug. 27, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Feb. 27, 2012	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Aug. 22, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Feb. 18, 2011	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	73296
Feb. 17, 2011	ASSIGNED TO LIE	73296
Aug. 13, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	68552
Aug. 13, 2010	ASSIGNED TO LIE	68552
Feb. 12, 2010	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Sep. 29, 2009	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 29, 2009	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Aug. 03, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 29, 2009	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jul. 18, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 10, 2008	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jul. 04, 2007	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	78289
Jan. 04, 2007	LETTER OF SUSPENSION E-MAILED	6332
Jan. 04, 2007	SUSPENSION LETTER WRITTEN	74677
Dec. 08, 2006	TEAS/EMAIL CORRESPONDENCE ENTERED	78289
Nov. 15, 2006	CORRESPONDENCE RECEIVED IN LAW OFFICE	78289
Dec. 08, 2006	ASSIGNED TO LIE	78289
Nov. 15, 2006	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Nov. 02, 2006	NON-FINAL ACTION E-MAILED	6325
Nov. 02, 2006	NON-FINAL ACTION WRITTEN	74677
Nov. 02, 2006	ASSIGNED TO EXAMINER	74677
Jun. 08, 2006	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: GARDNER, DAWNA BERYL **Law Office Assigned:** LAW OFFICE 112

File Location

Current Location: TMO LAW OFFICE 112 **Date in Location:** Sep. 30, 2013

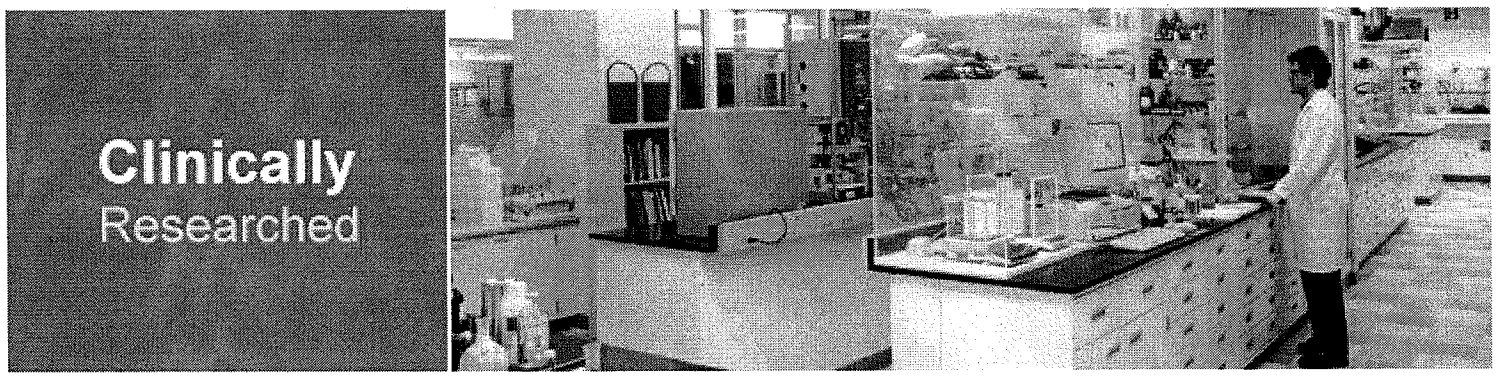
Exhibit AA

to JFI's Notice of Reliance

Search

pomella
100% ALL NATURAL POMEGRANATE EXTRACT®

POMELLA® Story | About Us | News | Contact | Home



Request More Information
Define: POMELLA®
Research
Quality
Selected References
Define: Pomegranate
Where to Buy
White Paper: New Research

POMELLA® - 100% All Natural Pomegranate Extract

Pomella is covered under U.S. Patents 7,638,640, 7,897,791, 7,919,636 and international patents pending.

POMELLA® Extract is a high antioxidant, 100% natural, clinically researched pomegranate extract with punicalagins. POMELLA® is highly bioavailable and promotes a wide range of health benefits.

The pomegranate (*Punica granatum*) is one of the oldest fruits known to man. The pomegranate is a rounded shrub that typically grows 12 to 14 feet high and is native from India to Iran. The rich, red fruit is surrounded by a hard leathery skin that protects a delicate sweetly flavored pomegranate seeds inside.

Derived from pomegranates, POMELLA® is University developed and clinically researched extract. POMELLA® was found **bioavailable**, synergistic, and **safe** in published research. And it is analyzed with validated HPLC methodology, so you can be sure what you are getting is the same as what was used in clinical studies. Plus, ongoing research continues to discover what POMELLA® can do.

POMELLA® Extract is derived from fruit grown pesticide- and GMO-free. We know for sure because it comes from pomegranates grown on company-contracted farms. POMELLA® Extract is made in our cGMP certified, botanicals-only facility. POMELLA® Extract is manufactured by Verdure Sciences®.

Now Available: 100% USDA Organic POMELLA® Pomegranate Extract

Available in:

VERDURE SCIENCES®

* These statements have not been evaluated by the Food and Drug Administration. These products are not intended to diagnose, treat, cure or prevent any disease. Please consult your healthcare practitioner before taking any medication or health supplements.

Pomella is a US registered trademark of Verdure Sciences, Inc. © 2013 Verdure Sciences Inc. All Rights Reserved.
Pomella is covered under U.S. Patents 7,638,640, 7,897,791, 7919,636 and International patents pending.

IMAVEX