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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELI LILLY AND COMPANY,
Plaintiff,
v.
MOCHI HEALTH CORP., et al.,
Defendants.

Case No. 25-cv-03534-JSC

**ORDER RE: DEFENDANTS' MOTION
TO DISMISS**

Re: Dkt. No. 45

United States District Court
Northern District of California

Eli Lilly and Company (“Lilly”) brings this suit against Mochi Health Corp., Mochi Medical CA, P.C., Mochi Medical P.A., and Aequita Pharmacy LLC alleging a scheme to mislead consumers into purchasing compounded versions of Lilly’s FDA-approved medications, MOUNJARO® and ZEPBOUND®. Lilly asserts four causes of action: 1) violation of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et seq.*, by Mochi Health; 2) violation of California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code § 17500, *et seq.*, by Mochi Health; 3) violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B), by Mochi Health; and 4) a civil conspiracy among all Defendants to commit these statutory violations. Defendants move to dismiss all claims under Federal Rule of Civil Procedure 12(b)(6).

Having considered the parties’ submissions, and with the benefit of oral argument on August 28, 2025, the Court **GRANTS** the motion to dismiss, without prejudice and with leave to amend. Lilly has failed to plausibly allege it has Article III standing to assert its claims in federal court.

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1 **FACTUAL ALLEGATIONS**

2 Eli Lilly is a pharmaceutical company responsible for the research and formulation of two
 3 FDA-approved weight loss medications: MOUNJARO® and ZEPBOUND®. (Dkt. No. 1 ¶ 2.¹)
 4 The active pharmaceutical ingredient in these two medications is tirzepatide, which targets the
 5 patient’s GLP-1 and GIP receptors to improve blood sugar control and reduce appetite. (*Id.* ¶ 39.)
 6 Mochi Health is a telehealth company that connects consumers with physicians who can prescribe
 7 weight-loss medications, including compounded versions of tirzepatide. (*Id.* ¶¶ 3, 48.)
 8 Compounding medications is a “practice in which a licensed pharmacist, a licensed physician or,
 9 in the case of an outsourcing facility, a person under the supervision of a licensed pharmacist,
 10 combines, mixes or alters ingredients of a drug to create a medication tailored to the needs of an
 11 individual patient.” (*Id.* ¶ 42.) Since compounded medicines are typically prescribed patient-by-
 12 patient, they do not involve the same FDA approval process, nor are they subject to the same
 13 regulations as FDA-approved medications. (*Id.* ¶¶ 42-44.) Lilly brings this suit against Mochi
 14 Health based on alleged unfair competition and false advertising related to compounded
 15 tirzepatide medications and Mochi Health’s own business practices.

16 Lilly’s First Cause of Action under the UCL arises out of Mochi Health’s alleged corporate
 17 practice of medicine. (*See generally, id.* ¶¶ 84-123.) Prior to December 2024, Mochi Health
 18 prescribed its compounded tirzepatide medication in 2.5 mg, 5 mg, 7.5 mg, 10 mg, 12.5 mg, and
 19 15 mg dosages. (*Id.* ¶ 96.) Subsequently, Mochi Health allegedly changed the dosages for all its
 20 customers without consulting them or receiving a clinical indication from a physician. (*Id.* ¶¶ 97-
 21 99.) In March 2025, Mochi Health then allegedly changed the dosages once again, reverting to the
 22 original quantities prescribed prior to December 2024. (*Id.* ¶ 103.) Lilly asserts these activities
 23 violated California’s prohibition on the corporate practice of medicine because Mochi Health
 24 made medical decisions for patients without a medical license and based on profit motives rather
 25 than clinical need. (*Id.* ¶¶ 104-5.)

26 Further, Lilly alleges Mochi Health not only changed the tirzepatide dosages, but also

27 _____
 28 ¹ Record citations are to material in the Electronic Case File (“ECF”); pinpoint citations are to the
 ECF-generated page numbers at the top of the documents.

1 included “additives” such as niacinamide and pyridoxine, without patient consent or a clinical
 2 indication. (*Id.* ¶¶ 106, 109-11.) Lilly contends these changes were “driven by Mochi Health’s
 3 and its owners’ financial interests and their influence on prescribing decisions.” (*Id.* ¶ 112.)
 4 Indeed, Lilly alleges customers on public forums expressed concern about these changes. (*Id.* ¶¶
 5 113-20.) For instance, Lilly points to a complaint posted by a Mochi Health customer on the
 6 Better Business Bureau’s website, indicating their dissatisfaction with the unilateral decision to
 7 add niacinamide to the compounded medication. (*Id.* ¶ 113.) The online complaint allegedly
 8 stated the customer had broken out in a rash, which a dermatologist opined was caused by the
 9 niacinamide. (*Id.*) In response to customer inquiries, Mochi Health released statements noting the
 10 additives were “not clinically significant” and changes were dependent on the pharmacy used to
 11 fill the prescription. (*Id.* ¶¶ 115-17.) On these allegations, Lilly argues Mochi Health again
 12 violated the prohibition on the corporate practice of medicine.

13 As to the remaining causes of action for false advertising, Lilly alleges Mochi Health has
 14 made myriad false or misleading statements to consumers. These include:

- 15 • Misrepresenting to consumers the source of Mochi Health’s tirzepatide medication,
 16 including that it is a generic of Lilly’s MOUNJARO® and ZEPBOUND®;
- 17 • Misrepresenting Mochi Health’s compounded tirzepatide medications as safe and
 18 effective based on studies conducted of Lilly’s products;
- 19 • Claiming Mochi Health’s compounded tirzepatide drug is “personalized”;
- 20 • Falsely claiming Mochi Health’s partner, Aequita Pharmacy, voluntarily stopped
 21 compounding tirzepatide medications;
- 22 • Advertising Mochi Health’s founder and CEO as a licensed physician.

23 (*See id.* ¶¶ 126-55.) The first three causes of action are brought against Mochi Health, and the
 24 Fourth Cause of Action for conspiracy to commit statutory violations includes both Mochi
 25 Medical entities and Aequita Pharmacy. (*Id.* ¶¶ 186-90.)

26 In Section VI of the Complaint, Lilly articulates how the alleged challenged conduct
 27 injured consumers and Lilly:

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1 **VI. MOCHI HEALTH'S UNLAWFUL CONDUCT HARMS CONSUMERS AND LILLY**

2 Defendants' conduct has harmed Lilly and consumers. That
3 harm will continue if unchecked.

4 *First*, Defendants' conduct risks patient safety by subjecting
5 their medical decision-making process to Defendants' profit
6 motivations and exposing them to the unnecessary risks associated
7 with untested and unproven compounded drugs.

8 *Second*, Defendants' conduct causes irreparable harm to
9 Lilly's brand and customer goodwill by promising results that
10 consumers cannot obtain from Defendants' product. Mochi Health
11 promotes its tirzepatide plus additive injections by trading on the
12 credibility—earned through decades of safe and effective
13 pharmaceutical manufacturing and years of clinical research and
14 testing on tirzepatide specifically—of Lilly and its FDA-approved
15 MOUNJARO® and ZEPBOUND®. When consumers fail to achieve
16 desired results from Mochi Health's combination injection,
17 consumers may conclude that tirzepatide is ineffective in general—
18 an outcome made more likely given Defendants' reliance on Lilly's
19 clinical studies and their explicit claims that their product functions
20 identically to Lilly's products, with the additives having no clinical
21 significance. Worse still, if consumers are harmed using compounded
22 tirzepatide products from Defendants—where their dosage and
23 formulation are subject to repeated arbitrary changes based solely on
24 Defendants' business relationships without any clinical
25 justification—consumers may even draw unwarranted conclusions
26 about the safety and effectiveness of Lilly's FDA-approved
27 tirzepatide medicines.

28 (*Id.* ¶¶ 156-58.)

SUBJECT-MATTER JURISDICTION

19 “[F]ederal courts are required *sua sponte* to examine jurisdictional issues such as
20 standing.” *Bernhardt v. Cnty. of Los Angeles*, 279 F.3d 862, 868 (9th Cir. 2002) (quoting *B.C. v.*
21 *Plumas Unified Sch. Dist.*, 192 F.3d 1260, 1264 (9th Cir. 1999)). Though neither party discussed
22 Article III standing in the briefing, during the hearing, the Court noted Lilly's allegations may
23 present standing issues. So, the Court first determines whether it has subject-matter jurisdiction
24 over each claim.

25 Article III of the United States Constitution “confines the federal judicial power to the
26 resolution of ‘Cases’ and ‘Controversies.’” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423
27 (2021). A plaintiff has standing to sue in federal court only when he has established “(i) that he
28 suffered an injury in fact that is concrete, particularized, and actual or imminent; (ii) that the injury

1 was likely caused by the defendant; and (iii) that the injury would likely be redressed by judicial
 2 relief.” *Id.* “[U]nder Article III, an injury in law is not an injury in fact. Only those plaintiffs who
 3 have been *concretely harmed* by a defendant’s statutory violation may sue that private defendant
 4 over that violation in federal court.” *Id.* at 427 (emphasis in original). Additionally, “standing is
 5 not dispensed in gross; rather, plaintiffs must demonstrate standing for each claim that they press
 6 and for each form of relief that they seek (for example, injunctive relief and damages).” *Id.* at 431.
 7 Since Lilly filed its complaint in federal court, it bears the burden of showing by a preponderance
 8 of the evidence that subject-matter jurisdiction exists. *United States ex rel. Solis v. Millennium*
 9 *Pharms., Inc.*, 885 F.3d 623, 625 (9th Cir. 2018).

10 Here, Lilly has failed to plausibly allege an injury in fact. As recited above, Lilly alleges
 11 harm to consumers and only *reputational* harm to itself. (Dkt. No. 1 ¶¶ 156-58.) The basis of that
 12 reputational harm is two-fold. First, consumers who fail to achieve desired results from Mochi
 13 Health’s compounded tirzepatide medication may conclude Lilly’s product is ineffective. (*Id.* ¶
 14 158.) And second, “if consumers are harmed using compounded tirzepatide products from
 15 Defendants . . . consumers may draw unwarranted conclusions about the safety and effectiveness”
 16 of Lilly’s product. (*Id.*) In opposing Defendants’ motion to dismiss, Lilly reiterates its alleged
 17 harm is reputational:

18 “[a]lthough diversion of sales to a direct competitor may be the
 19 paradigmatic direct injury from false advertising, it is not the only
 20 type of injury cognizable” by the Lanham Act. “[W]hen a party claims
 21 reputational injury from disparagement, competition is not required
 for proximate cause.” It is sufficient to allege that the defendant
 damages the product’s reputation by, for example, equating it with an
 inferior product. ***That is precisely what Lilly alleges here.***

22 (Dkt. No. 68 at 25 (emphasis added).) Consequently, to show injury-in-fact sufficient to establish
 23 Article III standing, Lilly must allege a factual basis to support its conclusion that its reputation
 24 has been damaged by comparison to an inferior product.

25 The Complaint, however, alleges no such facts. First, Lilly does not allege any consumers
 26 of Mochi Health’s compounded tirzepatide medication failed to achieve their desired weight loss
 27 results. Nor are any facts alleged that plausibly support an inference the compounded medication
 28 does not work as promised. At base, Lilly appears to argue the mere fact a medication is

1 compounded makes it an inferior version of an FDA-approved product with the same active
2 pharmaceutical ingredient. But compounding is a federally recognized and regulated
3 pharmaceutical practice subject to various limitations by the Federal Food, Drug, and Cosmetic
4 Act. *See* 21 U.S.C. § 353a (describing limitations on the practice of compounding and the basis
5 for regulatory limits on the practice). So, the existence of compounded tirzepatide medications
6 does not, in itself, plausibly support harm to the reputation of a tirzepatide manufacturer. To
7 permit a plausible inference of reputational harm, Lilly must allege more, namely facts supporting
8 an inference that Mochi Health’s compounded medication fails to meet consumer expectations
9 about tirzepatide.

10 Second, and relatedly, Lilly does not plausibly allege Mochi Health customers were
11 harmed by the compounded tirzepatide medications such that they could draw unwarranted
12 conclusions about the safety and efficacy of MOUNJARO® or ZEPBOUND®. The only factual
13 allegation Lilly offers to support this reputational injury is that a Mochi Health customer posted a
14 complaint on the Better Business Bureau’s website stating they experienced a rash that may have
15 been caused by niacinamide in the compounded medication. (Dkt. No. 1 ¶ 113.) Indeed, at the
16 hearing, Lilly could not identify any other allegation to support its assertion that its reputation had
17 been harmed. (Dkt. No. 91 at 25-26.) However, this lone internet post by an unidentified
18 individual does not support a plausible inference that Mochi Health customers could reasonably
19 draw a negative inference about Lilly’s product. Lilly does not allege Mochi Health misled
20 consumers into thinking there was no niacinamide, pyridoxine, or glycine in the medication—in
21 fact, Mochi Health told customers about these additives on various occasions. (Dkt. No. 1 ¶¶ 115-
22 17.) Further, the customer who allegedly complained of a rash knew of the niacinamide in the
23 product prior to using it, and remarked on how it was a new addition compared to their previous
24 prescription. (*Id.* ¶ 113.) To wit, this allegation shows a customer who was aware of how this
25 product differed from other tirzepatide products without niacinamide. Further, the allegation fails
26 to support an inference that customers in such a scenario would impute the negative effect to
27 Lilly’s product, which does not contain niacinamide. So, this lone allegation does not indicate
28 Lilly suffered a concrete injury.

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In sum, Lilly premises its injury from Defendants’ conduct on reputational harm. (*Id.* ¶¶ 156-58.) But the Complaint fails to allege facts that plausibly support an inference of reputational harm, and thus, an inference of injury. Without injury, there is no standing. *TransUnion LLC*, 594 U.S. at 423. And without standing, there is no subject-matter jurisdiction. *Polo v. Innovations Int’l. Inc.*, 833 F.3d 1193, 1194, 1996 (9th Cir. 2016) (holding a district court lacks “federal subject-matter jurisdiction” and has “no power to adjudicate the matter” when a plaintiff does not establish Article III standing). So, the Complaint must be dismissed.²

CONCLUSION

For the reasons stated above, Plaintiff has not met its burden to show subject-matter jurisdiction. Accordingly, the Court **GRANTS** Defendants’ motion to dismiss, albeit on different grounds than Defendants urged. As this defect may be cured, Plaintiff is granted leave to amend all claims previously asserted. Any amended complaint must be filed by **November 14, 2025**. Plaintiff must seek further leave of court if it wishes to add new claims or defendants.

This Order disposes of Docket No. 45.

IT IS SO ORDERED.

Dated: October 24, 2025


JACQUELINE SCOTT CORLEY
United States District Judge

² Defendants filed a request for judicial notice of 12 documents in support of their motion to dismiss. (Dkt. Nos. 46-47.) The Court did not require any material outside the pleadings to resolve the issue of Article III standing raised *sua sponte*. Therefore, the Court **DENIES AS MOOT** the request for judicial notice, without prejudice to a further request to take notice of the documents in a subsequent motion.