

# Nutrition Company Wins \$3.3M In Suit Over Sunrise-Made Supplement

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Attorney Joseph Sacher

The bogeyman of the nutrition world these days is gluten.

Actor Seth Rogen joked about it in his hit summer comedy "This is the End." The gluten-free cake at Chelsea Clinton's wedding made headlines.

Now Sunrise-based Nature's Product Inc. has been held liable for making a product falsely billed as gluten- and wheat-free and led to a recall by the Food and Drug Administration in 2011.

A Fort Lauderdale federal jury awarded \$3.3 million Thursday to Chatsworth, Calif.-based Natrol Inc., a nutrition company that sued its subcontractor for providing protein powder that was not wheat- and gluten-free as promised.

The verdict in the breach of contract case followed an eight-day trial before U.S. District Judge William P. Dimitrouleas.

Natrol countersued in 2011 shortly after Nature's Product filed a complaint claiming about \$1 million in unpaid invoices.

Gluten is a protein found in wheat, barley and rye. It gives elasticity to dough and often gives the final product a chewy texture. It also can be found in some cosmetics and hair products.

Natrol distributed the compromised product in its signature Pro Lab protein powders for use in shakes and other drinks in 2010 and 2011. Because some people are allergic to gluten, the FDA acted fast once it was alerted to the unintentional ingredient.

Attorney Joseph A. Sacher, a Miami partner at Sacher, Zelman, Hartman, Paul, Beiley & Sacher who represented Natrol, said his client had an "ironclad indemnity agreement" that Nature's Product disregarded.

"This is a matter that should have been amicably resolved two years ago, but NPI refused to accept its responsibility for manufacturing the defective, recalled products," he said.

Attorney Alan Rosenthal, a partner at Carlton Fields in Miami who represents Nature's Products, did not return a call for comment by deadline.

Sacher said Nature's Products settled with the supplier of the material used to make the product. It is unknown if Nature Products knowingly sold a product containing gluten to Natrol.

"We could never get a clear explanation," he said.

Sacher said the recall was the first for the three-decade-old company.

"We tried to clear our name—that was the main thing," he said.

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