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6 Attorneys for Plaintiff and the Class

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

MAR 16 2012

M. Preciado

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MAR 19 2012
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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF RIVERSIDE**

9 AARON KARMANN, individually, and on behalf
10 of all others similarly situated,

11 Plaintiff,

12 vs.

13 DRIVEN SPORTS, INC.; and DOES 1-25,
14 Inclusive,

15 Defendants.

RC 1203768

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

16 **I. INTRODUCTION**

17 Defendant Driven Sports, Inc. ("Defendant") markets and sells the product Craze (the
18 "Product"). Defendant advertises the Product in a misleading and deceptive manner. Specifically,
19 Defendant claims that the Product is a "dietary supplement" which is legal, safe, and efficacious. In
20 reality, the Product is intentionally tainted with amphetamine, the illegal and dangerous controlled
21 substance that is not declared as an ingredient on the Product's label. In addition, the product contains
22 ingredients which cannot be lawfully sold in dietary supplements because they are "new dietary
23 ingredients" which further make the Product adulterated and unlawfully on the market. Defendant's
24 misrepresentations regarding the legality, safety and efficacy of the Product were designed to, and did,
25 lead Plaintiff and others similarly situated (collectively the "Class") to believe that the Product was
26 legal, safe, and effective. Plaintiff and members of the Class relied on Defendant's misrepresentations
27 in purchasing the Product and would not have paid as much, if at all, for the Product but for
28 Defendant's misrepresentations. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing

1 deception of thousands of California consumers by Defendant, and to recover the money taken by this
2 illegal practice.

3 **II. THE PARTIES**

4 **A. Plaintiff.**

5 1. Plaintiff is a resident of Riverside County, California, and purchased the Product in
6 Riverside County, California.

7 **B. Defendant.**

8 2. Plaintiff is informed and believes, and upon such information and belief alleges, that
9 Defendant Driven Sports, Inc. is a New York corporation with a place of business at 672 Dogwood
10 Ave, Suite 329, in Franklin Square, New York 11010; that Defendant does business in California; and
11 that Defendant manufactures or has manufactured for it, advertises, and distributes the Product.

12 **C. Doe Defendants.**

13 3. Plaintiff does not know the true names or capacities of the persons or entities sued
14 herein as DOES 1 to 25, inclusive, and therefore sues such defendants by such fictitious names.
15 Plaintiff is informed and believes and thereon alleges that each of the DOE defendants is in some
16 manner legally responsible for the damages suffered by Plaintiff and the members of the class as
17 alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of these
18 defendants when they have been ascertained, along with appropriate charging allegations, as may be
19 necessary.

20 **III. JURISDICTION AND VENUE**

21 4. This Court has jurisdiction over all causes of action asserted herein.

22 5. Venue is proper in this Court because Defendant has received substantial compensation
23 from sales in this County. Specifically, Defendant knowingly engages in activities directed at
24 consumers in this County, and Defendant obtains substantial benefits from its activities perpetrated in
25 this County. Plaintiff has filed concurrently herewith the declaration of venue required by Civil Code
26 Section 1780(d).

27 6. Defendant and other out-of-state participants can be brought before this Court pursuant
28 to California's "long-arm" jurisdictional statute.

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IV. FACTS

7. Defendant manufactures or has manufactured for it, markets, and sells the Product as purportedly a "dietary supplement" that contains, among other ingredients, as listed on its label, "Dendrobex" (Dendrobium Extract) (Stem) (Concentrated For Alkaloid Content Including Dendrobine, Dendroxine, Dendramine, B-Phenylethylamine, N,N-Dimethyl-B-Phenylethylamine, and N,N-Diethyl-B-Phenylethylamine), and "Citramine" (Citrus Reticulata Extract) (Fruit) (Concentrated For N-Methyltyramine Content) (hereinafter "the Ingredients").

8. By virtue of the Ingredients' inclusion in the Product, the Product is an "adulterated" dietary supplement and unlawfully on the market, including for reasons described in the Food, Drug, and Cosmetic Act. Support for these allegations include without limitation the following:

(a) the Ingredients are not dietary ingredients such as vitamins, minerals, amino acids, herbs or other botanicals, nor are they concentrates, metabolites, constituents, extracts or combinations of any such dietary ingredients, and thus they cannot be legally sold in a dietary supplement (see, for example, 21 U.S.C. § 321(ff)(1)(F));

(b) assuming the Ingredients are dietary ingredients, they cannot be lawfully sold in a dietary supplement, because they are "new dietary ingredients" (see, for example, 21 U.S.C. § 350b(c), which generally makes unlawful dietary supplements containing an ingredient that was not marketed as a dietary ingredient in the United States before October 15, 1994);

(c) assuming the Ingredients are dietary ingredients, a proper notification was not submitted to the Food and Drug Administration by Defendant with respect to the Ingredients at least seventy-five days prior to the first sale of the Product, even though such a notification would have been required by virtue of the Ingredient's inclusion in the Product pursuant to 21 U.S.C. § 350b(a)(2);

(d) even if the Ingredients are dietary ingredients and were marketed as dietary ingredients in the United States before October 15, 1994, they were not marketed in the same chemical composition or structure as in the Product (as clarified in the Food and Drug Administration's "Draft Guidance for Industry: Dietary Supplements: New

1 Dietary Ingredient Notifications and Related Issues” (July 2011) at Section IV.A.11);

2 (e) the Ingredients are not present in the food supply as articles used for food in
3 a form in which the food has not been chemically altered, as would otherwise be
4 allowed by 21 U.S.C. § 350b(a)(1), because they are chemically altered from the food
5 present in the food supply by the way they were extracted; and

6 (f) the Ingredients are components of a dietary supplement that has not been
7 prepared, packed, or held under conditions that meet current good manufacturing
8 practice regulations, as required, for example, by 21 U.S.C. § 342(g)(1).

9 9. On information and belief, Defendant has intentionally manufactured the Product so it
10 contains amphetamine, a dangerous ingredient which is regulated as a controlled substance and a
11 dangerous stimulant in California and, thus, cannot be lawfully included in a dietary supplement.

12 10. Defendant makes representations regarding the efficacy, safety and legality of the
13 Product which are false, misleading and deceptive. These include, without limitation, that Craze is
14 “safe,” that it “helps put you in a fantastic mood and enhances your focus,” that it is “designed to
15 enhance your workouts and enhance your progress,” and that it can be used by students for studying.

16 11. Plaintiff and members of the Class relied on Defendant’s misrepresentations and would
17 not have paid as much, if at all, for the Products but for Defendant’s misrepresentations. As a result,
18 Defendant has wrongfully taken millions of dollars from California consumers. Plaintiff brings this
19 lawsuit to enjoin the ongoing defrauding of thousands of California consumers by Defendant, and to
20 recover the money taken by its illegal practices.

21 **V. CLASS ACTION ALLEGATIONS**

22 12. Plaintiff brings this class action for injunctive relief, any appropriate damages, and/or
23 any other appropriate monetary relief on behalf of the following class:

24 All persons who were located within California when they purchased
25 Craze for personal use at any time during the four years preceding the
26 filing of this Complaint (the “Class”).

27 13. Excluded from the Class are governmental entities, Defendant, any entity in which
28 Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal

1 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from
2 the Class is any judge, justice, or judicial officer presiding over this matter and the members of their
3 immediate families and judicial staff.

4 14. The proposed Class is so numerous that individual joinder of all its members is
5 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes that
6 the total number of Class members is at least in the tens of thousands and members of the Class are
7 numerous and geographically dispersed across California. While the exact number and identities of
8 the Class members are unknown at this time, such information can be ascertained through appropriate
9 investigation and discovery. The disposition of the claims of the Class members in a single class
10 action will provide substantial benefits to all parties and to the Court.

11 15. There is a well-defined community of interest in the questions of law and fact involved
12 affecting the plaintiff class and these common questions predominate over any questions that may
13 affect individual Class members. Common questions of fact and law include, but are not limited to,
14 the following:

- 15 a. Whether Defendant's efficacy, safety and legality claims are accurate;
- 16 b. Whether Defendant's efficacy, safety and legality claims are properly
17 substantiated;
- 18 c. Whether Defendant has falsely represented that the Product uses and benefits
19 which it does not have;
- 20 d. Whether Defendant knew that its efficacy, safety and legality claims were
21 false;
- 22 e. Whether Defendant's conduct constitutes a violation of the Consumers Legal
23 Remedies Act (Cal. Civ. Code §§ 1750, et seq.);
- 24 f. Whether Defendant's conduct constitutes a violation of California's false
25 advertising law (Cal. Bus. & Prof. Code §§ 17500, et seq.);
- 26 g. Whether Defendant's conduct constitutes an unfair, unlawful, and/or
27 fraudulent business practice in violation of California's unfair competition law
28 (Cal. Bus. & Prof. Code §§ 17200, et seq.);

1 h. Whether Plaintiff and Class members are entitled to compensatory damages,
2 and if so, the nature of such damages;

3 i. Whether Plaintiff and Class members are entitled to restitutionary relief; and

4 j. Whether Plaintiff and Class members are entitled to injunctive relief.

5 16. Moreover, the foregoing questions will provide common answers as the Product was
6 advertised and marketed to the Class in a uniform fashion.

7 17. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all
8 members of the Class have been similarly affected by Defendant's common course of conduct since
9 they all relied on Defendant's representations concerning the Product and purchased the Product based
10 on those representations.

11 18. Plaintiff will fairly and adequately represent and protect the interests of the Class.
12 Plaintiff has retained counsel with substantial experience in handling complex class action litigation.
13 Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class and
14 have the financial resources to do so. Plaintiff has retained a firm who is widely recognized as one of
15 the most successful and effective class action litigators in California, and whose victories have been
16 publicized on CNN, Fox News, MSNBC, and nearly every major California newspaper. The firm has
17 also been certified as lead class counsel in similar class actions.

18 19. Plaintiff and the members of the Class suffered, and will continue to suffer, harm as a
19 result of Defendant's unlawful and wrongful conduct. A class action is superior to other available
20 methods for the fair and efficient adjudication of the present controversy. Individual joinder of all
21 members of the class is impracticable. Even if individual class members had the resources to pursue
22 individual litigation, it would be unduly burdensome to the courts in which the individual litigation
23 would proceed. Individual litigation magnifies the delay and expense to all parties in the court system
24 of resolving the controversies engendered by Defendant's common course of conduct. The class
25 action device allows a single court to provide the benefits of unitary adjudication, judicial economy,
26 and the fair and efficient handling of all class members' claims in a single forum. The conduct of this
27 action as a class action conserves the resources of the parties and of the judicial system and protects
28

1 the rights of the class members. Furthermore, for many, if not most, a class action is the only feasible
2 mechanism that allows an opportunity for legal redress and justice.

3 20. Adjudication of individual class members' claims with respect to the Defendant would,
4 as a practical matter, be dispositive of the interests of other members not parties to the adjudication,
5 and could substantially impair or impede the ability of other class members to protect their interests.

6 21. Any appropriate monetary relief sought in this action is incidental to any injunctive
7 relief sought. The Class is primarily concerned as a whole with ensuring that Defendant is not
8 permitted to continue to make false claims regarding the Product. However, monetary relief is also
9 proper as questions of law or fact common to the Class predominate over any questions affecting only
10 individual members, and a class action is superior to other available methods for the fair and efficient
11 adjudication of this controversy. Indeed, the common questions of law are presented below and the
12 common questions of fact are presented above, none of which require individual determinations.
13 Defendant made uniform misrepresentations regarding the safety, legality, and efficacy of its Product,
14 and as such the applicable law and facts are uniform. A class action is the superior method for
15 resolving this matter because the uniform claims made by Defendant will be most efficiently analyzed
16 in a single suit as opposed to numerous individual suits, and it would be fair to have the case proceed
17 via the Class because Defendant acted with full awareness that it was making uniform representations
18 to the numerous purchasers of its Product.

19 22. Plaintiff disclaims any cause of action arising under the United States Constitution or
20 any federal statute. The total amount in controversy does not exceed \$5,000,000.

21 **VI. CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

24 **(By Plaintiff and On Behalf of the Class as against Defendant)**

25 23. Plaintiff incorporates by this reference the allegations contained in the preceding
26 paragraphs above as if fully set forth herein.

27 24. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has
28 lost money or property as a result of Defendant's actions as set forth herein. Specifically, prior to the

1 filing of this action, Plaintiff purchased the Product for Plaintiff's own personal use. In so doing,
2 Plaintiff reviewed and relied upon the preceding marketing claims regarding the Product. Plaintiff has
3 used the Product as directed, but it has not worked as advertised, nor did Plaintiff receive or
4 experience any of the promised benefits, nor was the Product of the quality and standard advertised by
5 the Defendant.

6 25. Prior to filing this action, Plaintiff's counsel mailed to Defendant, by certified mail,
7 return receipt requested, the written notice required by Civil Code Section 1782(a). A copy of this
8 letter is attached hereto as Exhibit 1. .

9 26. Plaintiff has concurrently filed the declaration of venue required by Civil Code Section
10 1780(d).

11 27. Defendant's wrongful business practices constituted, and constitute, a continuing
12 course of conduct in violation of the California Consumers Legal Remedies Act since Defendant is
13 still representing that its Product has characteristics, uses, and benefits which it does not have, and that
14 it is of a particular standard, quality, or grade, when it is of another, and as a result Defendant has
15 injured Plaintiff and the Class. As such, Defendant's conduct alleged herein violates the Consumers
16 Legal Remedies Act, including but not limited to, the following provisions: (1) using deceptive
17 representations in connection with goods or services in violation of Civil Code § 1770(a)(4); (2)
18 representing that goods or services have sponsorship, approval, characteristics, ingredients, uses,
19 benefits, or quantities which they do not have in violation of Civil Code § 1770(a)(5); and/or (3)
20 advertising goods or services with intent not to sell them as advertised in violation of Civil Code §
21 1770(a)(9). As a direct and proximate result of Defendant's conduct, as set forth herein, Defendant
22 has received ill-gotten gains and/or profits, including but not limited to, money. Therefore, Defendant
23 has been unjustly enriched.

24 28. There is no other adequate remedy at law, and Plaintiff and Class members will suffer
25 irreparable harm unless Defendant's conduct is enjoined.

26 ///

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28 ///

1 29. Plaintiff and the Class seek:

2 (a) an order of this court enjoining Defendant from continuing to engage in
3 unlawful, unfair, or deceptive business practices and any other act prohibited by law, including those
4 set forth in the complaint pursuant to California Civil Code Section 1780(a)(2);

5 (b) actual, punitive, and statutory damages allowed by Civil Code Section
6 1782(a)(4) that the Court deems just and proper;

7 (c) restitution pursuant to Civil Code Section 1780(a)(3); and

8 (d) any other equitable or legal relief that the Court deems proper pursuant to
9 California Civil Code Section 1780(a)(5).

10 **SECOND CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**

12 **CODE SECTIONS 17200 ET SEQ.**

13 **(By Plaintiff and On Behalf of the Class as against Defendant)**

14 30. Plaintiff incorporates by this reference the allegations contained in the preceding
15 paragraphs above as if fully set forth herein.

16 31. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has
17 lost money or property as a result of Defendant's actions as set forth herein. Specifically, prior to the
18 filing of this action, Plaintiff purchased the Product for Plaintiff's own personal use. In so doing,
19 Plaintiff reviewed and relied upon the preceding marketing claims regarding the Product. Plaintiff has
20 used the Product as directed, but it has not worked as advertised, nor did Plaintiff receive or
21 experience any of the promised benefits, nor was the Product of the quality and standard advertised by
22 the Defendant.

23 32. Defendant's actions as alleged in this Complaint constitute an unfair or deceptive
24 business practice within the meaning of California Business and Professions Code section 17200 in
25 that Defendant's actions are unfair, unlawful, and fraudulent, and because Defendant has made unfair,
26 deceptive, untrue or misleading statements in advertising media, including the Internet.

27 33. Defendant's business practices, as alleged herein, are unfair because they offend
28 established public policy and/or are immoral, unethical, oppressive, unscrupulous and/or substantially

1 injurious to consumers in that consumers are misled by the claims made with respect to the Product as
2 set forth herein.

3 34. Defendant's business practices as alleged herein are unlawful because the conduct
4 constitutes false marketing and advertising and other causes of action alleged herein.

5 35. Defendant's business practices as alleged herein are fraudulent because they are likely
6 to deceive customers into believing that the Product has properties that it in fact does not have.

7 36. Defendant's wrongful business practices constituted, and constitute, a continuing
8 course of conduct of unfair competition since Defendant is marketing and selling the Product in a
9 manner likely to deceive the public.

10 37. Defendant's wrongful business practices have caused injury to Plaintiff and the Class.

11 38. Pursuant to section 17203 of the California Business and Professions Code, Plaintiff
12 and the Class seek an order of this court enjoining Defendant from continuing to engage in unlawful,
13 unfair, or deceptive business practices and any other act prohibited by law, including those set forth in
14 the complaint. Plaintiff and the Class also seek an order requiring Defendant to make full restitution
15 of all moneys it wrongfully obtained from Plaintiff and the Class.

16 **THIRD CAUSE OF ACTION**

17 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**

18 **CODE SECTIONS 17500 ET SEQ.**

19 **(By Plaintiff and On Behalf of the Class as against Defendant)**

20 39. Plaintiff incorporates by this reference the allegations contained in the foregoing
21 paragraphs as if fully set forth herein.

22 40. As alleged herein, Plaintiff has standing to pursue this claim as Plaintiff has suffered
23 injury in fact and has lost money as a result of Defendant's false advertising and unfair business
24 practices. Specifically, prior to the filing of this action, Plaintiff purchased the Product for Plaintiff's
25 own personal use. In so doing, Plaintiff reviewed and relied upon the preceding marketing claims
26 regarding the Product. Plaintiff has used the Product as directed, but it has not worked as advertised,
27 nor did Plaintiff receive or experience any of the promised benefits, nor was the Product of the quality
28 and standard advertised by the Defendant.

1 I, Aaron Karmann, declare as follows:

2 1. I am a Plaintiff in this action, and am a citizen of the State of California. I have
3 personal knowledge of the facts herein and, if called as a witness, I could and would testify
4 competently thereto.

5


6 2. The Complaint in this action, filed concurrently with this Declaration, is filed in the
7 proper place for trial under Civil Code Section 1780(d) in that Riverside County is a county in which
8 Defendants are doing business.

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10 I declare under penalty of perjury under the laws of the State of California that the foregoing is
11 true and correct.

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Aaron Karmann

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EXHIBIT 1

NEWPORT
TRIAL GROUP

A Professional Corporation

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Newport Beach, CA 92660
Phone(949) 706-6464
Fax (949) 706-6469
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March 5, 2012

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Driven Sports Inc.
dba Driven Sports (DS) Nutrition
President and CEO
672 Dogwood Ave, Suite 329
Franklin Square, NY 11010

Re: Ongoing Violations of California Consumer Legal Remedies Act

Ladies and Gentlemen:

Please give this letter your complete and immediate attention.

I am writing on behalf of an individual Californian, as well as a putative class of similarly situated persons, to advise you that we believe you are violating the California Consumer Legal Remedies Act (the "Act").

Specifically, you label, advertise, and sell the product Craze. Your labeling and advertising advise that the product purports to be a "dietary supplement" and includes the ingredients "Dendrobex" (Dendrobium Extract) (Stem) (Concentrated For Alkaloid Content Including Dendrobine, Dendroxine, Dendramine, B-Phenylethylamine, N,N-Dimethyl-B-Phenylethylamine, and N,N-Diethyl-B-Phenylethylamine); and "Citramine" (Citrus Reticulata Extract) (Fruit) (Concentrated For N-Methyltyramine Content) (hereinafter "ingredients"). You further advertise the product Craze as "safe," that it "helps put you in a fantastic mood and enhances your focus," is "designed to enhance your workouts and enhance your progress," and can be used by students for studying.

First, we have reason to believe your product contains amphetamine, which is not declared in your label as being a component of the product. The inclusion of this non-declared, dangerous, illegal controlled substance (under the California Uniform Controlled Substances Act) renders the product clearly unlawful under the Act.

L I T I G A T I O N

March 5, 2012

Page 2

Second, we believe the inclusion of the "Dendrobex" and "Citramine" ingredients in your product are unlawful because they do not appear to be dietary ingredients such as vitamins, minerals, amino acids, herbs or other botanicals; nor are they concentrates, metabolites, constituents, extracts or combinations of any such dietary ingredients. Thus, because Craze has ingredients that are not dietary ingredients (in addition to amphetamine), we do not believe it can qualify as a lawful "dietary supplement." See 21 U.S.C. § 321(ff).

Rather, as the product clearly does claim to affect the structure or function of the body, it appears to be a drug. See, e.g., 21 U.S.C. § 321(g)(1)(C). If our belief is correct, and we believe it is, the inclusion of these two ingredients in Craze makes the product an unapproved "new drug" because it is not generally recognized as safe and effective for its labeled uses, as well as a "prescription drug" due to its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, making it not safe for use except under the supervision of a practitioner licensed by law to administer the product. See 21 U.S.C. § 321(p) and 21 U.S.C. § 353(b)(1)(A).

Third, even if the inclusion of these two specific ingredients (aside from amphetamine) do not make Craze a drug, we believe they are certainly new dietary ingredients (NDIs) because they are dietary ingredients that were not marketed in the United States before October 15, 1994. See, e.g., 21 U.S.C. § 350b(c). Our understanding is that a NDI notification was not submitted to the FDA 75 days prior to the first sale of your product, even though we believe such a notification would have been required. Even if these are dietary ingredients and were marketed as dietary ingredients in the United States before October 15, 1994, they were not marketed in the same chemical composition or structure as in Craze, as clarified in the Food and Drug Administration's "Draft Guidance for Industry: Dietary Supplements: New Dietary Ingredient Notifications and Related Issues" (July 2011) at Section IV.A.11.

On that point, we note, based on your own admissions in your advertising materials and label, that "Dendrobex" and "Citramine" do not appear to be dietary ingredients that have been present in the food supply as articles used for food in a form in which the food has not been chemically altered. See, e.g., 21 U.S.C. § 350b(a)(1). Nor do we believe you would have sufficient information, to include citations to published articles, supporting a proper NDI notification and the notion that your product would reasonably be expected to be safe when used under the conditions recommended or suggested in the product's labeling.

We also have reason to believe that Craze has not been prepared, packed, or held under conditions that meet current good manufacturing practice regulations, as required by 21 U.S.C. § 342(g)(1).

As a result of the all of the above, we believe Craze is an illegal and adulterated product. See, e.g., 21 U.S.C. § 342(f). Your claims of the safety, legality and efficacy of the product are not supported or supportable with scientific evidence. Craze is therefore on the market unlawfully, in violation of the Act.

March 5, 2012
Page 3

We respectfully request that you agree to irrevocably stop all unlawful business practices and false and misleading claims with respect to the advertising, labeling, and sale of Craze. Given that our primary goal is to enjoin your unlawful actions, we will agree to take no further action in this matter – nor make any claim for attorneys' fees or other relief – if you will agree to conform your conduct to the requirements and prohibitions of the Act.

Very truly yours,

NEWPORT TRIAL GROUP
A Professional Corporation



Scott J. Ferrell

SJF:cw

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Scott J. Ferrell (SBN 202091)
NEWPORT TRIAL GROUP
 895 Dove Street, Suite 425, Newport Beach, CA 92660

TELEPHONE NO.: **949-706-6464** FAX NO.: **949-706-6469**

ATTORNEY FOR (Name): **Plaintiff and the Class**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside
 STREET ADDRESS: **4050 Main Street**
 MAILING ADDRESS:
 CITY AND ZIP CODE: **Riverside, CA 92501**
 BRANCH NAME: **Riverside Historic**

FOR COURT USE ONLY

CASE NAME:
Karmann v Driven Sports, et al.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
PIC 1205768

JUDGE:
 DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|---|--|
| <p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other PI/PD/WD (23)</p> <p>Non-PI/PD/WD (Other) Tort</p> <p><input type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-PI/PD/WD tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p> | <p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p> | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input checked="" type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p> |
|---|---|--|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **Three**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-045.)

Date: **March 15, 2012**
 Scott J. Ferrell

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

<p>Auto Tort</p> <ul style="list-style-type: none"> Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i> <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <ul style="list-style-type: none"> Asbestos (04) <ul style="list-style-type: none"> Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability <i>(not asbestos or toxic/environmental)</i> (24) Medical Malpractice (45) <ul style="list-style-type: none"> Medical Malpractice—Physicians & Surgeons Other Professional Health Care Malpractice Other PI/PD/WD (23) <ul style="list-style-type: none"> Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other PI/PD/WD <p>Non-PI/PD/WD (Other) Tort</p> <ul style="list-style-type: none"> Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) <i>(not civil harassment)</i> (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) <ul style="list-style-type: none"> Legal Malpractice Other Professional Malpractice <i>(not medical or legal)</i> Other Non-PI/PD/WD Tort (35) <p>Employment</p> <ul style="list-style-type: none"> Wrongful Termination (36) Other Employment (15) 	<p>Contract</p> <ul style="list-style-type: none"> Breach of Contract/Warranty (06) <ul style="list-style-type: none"> Breach of Rental/Lease Contract <i>(not unlawful detainer or wrongful eviction)</i> Contract/Warranty Breach—Seller Plaintiff <i>(not fraud or negligence)</i> Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) <ul style="list-style-type: none"> Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage <i>(not provisionally complex)</i> (18) <ul style="list-style-type: none"> Auto Subrogation Other Coverage Other Contract (37) <ul style="list-style-type: none"> Contractual Fraud Other Contract Dispute <p>Real Property</p> <ul style="list-style-type: none"> Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) <ul style="list-style-type: none"> Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property <i>(not eminent domain, landlord/tenant, or foreclosure)</i> <p>Unlawful Detainer</p> <ul style="list-style-type: none"> Commercial (31) Residential (32) <ul style="list-style-type: none"> Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i> <p>Judicial Review</p> <ul style="list-style-type: none"> Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) <ul style="list-style-type: none"> Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Other Judicial Review (39) <ul style="list-style-type: none"> Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals 	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)</p> <ul style="list-style-type: none"> Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41) <p>Enforcement of Judgment</p> <ul style="list-style-type: none"> Enforcement of Judgment (20) <ul style="list-style-type: none"> Abstract of Judgment (Out of County) Confession of Judgment <i>(non-domestic relations)</i> Sister State Judgment Administrative Agency Award <i>(not unpaid taxes)</i> Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case <p>Miscellaneous Civil Complaint</p> <ul style="list-style-type: none"> RICO (27) Other Complaint <i>(not specified above)</i> (42) <ul style="list-style-type: none"> Declaratory Relief Only Injunctive Relief Only <i>(non-harassment)</i> Mechanics Lien Other Commercial Complaint Case <i>(non-tort/non-complex)</i> Other Civil Complaint <i>(non-tort/non-complex)</i> <p>Miscellaneous Civil Petition</p> <ul style="list-style-type: none"> Partnership and Corporate Governance (21) Other Petition <i>(not specified above)</i> (43) <ul style="list-style-type: none"> Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief From Late Claim Other Civil Petition
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE
4050 Main Street
Riverside, CA 92501
www.riverside.courts.ca.gov

NOTICE OF ASSIGNMENT TO DEPARTMENT FOR CASE MANAGEMENT PURPOSES
AND CASE MANAGEMENT CONFERENCE (CRC 3.722)

KARMANN VS DRIVEN SPORTS INC

CASE NO. RIC 1203768

This case is assigned to the Honorable Judge John W Vineyard
in Department 07 for case management purposes.
The Case Management Conference is scheduled for 09/12/12
at 8:30 in Department 07.

Case is Assigned to Department 12 for Law and Motion Purposes.

The plaintiff/cross-complainant shall serve a copy of this notice on
all defendants/cross-defendants who are named or added to the
complaint and file proof of service.

Any disqualification pursuant to CCP Section 170.6(a)(2) shall be
filed in accordance with that section.

CERTIFICATE OF MAILING

I certify that I am currently employed by the Superior Court of
California, County of Riverside, and that I am not a party to this
action or proceeding. In my capacity, I am familiar with the practices
and procedures used in connection with the mailing of correspondence.
Such correspondence is deposited in the outgoing mail of the Superior
Court. Outgoing mail is delivered to and mailed by the United States
Postal Service, postage prepaid, the same day in the ordinary course
of business. I certify that I served a copy of the foregoing
notice on this date, by depositing said copy as stated above.

Dated: 03/16/12

Court Executive Officer/Clerk

By: 

MARIA M PRECIADO, Deputy Clerk

ac:cmc;cmcb;cmch;cmct;cmcc
cmccb;cmcch;cmcct