

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

Bevin Allen Pike (SBN 221936)
Bevin.Pike@capstonelawyers.com
Robert K. Friedl (SBN 134947)
Robert.Friedl@capstonelawyers.com
Trisha K. Monesi (SBN 303512)
Trisha.Monesi@capstonelawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff
Gustavo Lopez

CONFIRMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 30 2018

Sherry H. [unclear] Clerk
By: M. Soto, Deputy
Moses Soto

BY FAX

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

GUSTAVO LOPEZ, individually, and on
behalf of other members of the general
public similarly situated,

Plaintiff,

v.

WOODBOLT DISTRIBUTION, LLC, a
Delaware limited liability company,

Defendant.

Case No.: **BC 7 0 2 2 6 5**

CLASS ACTION COMPLAINT FOR:

- 1) Violations of California's Consumers Legal Remedies Act
- 2) Violations of Unfair Competition Law, California Business & Professions Code § 17500 *et seq.*
- 3) Violations of Unfair Competition Law, California Business & Professions Code § 17200 *et seq.*

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 1. Plaintiff Gustavo Lopez (“Plaintiff”) brings this action on behalf of himself and
3 on behalf of all others similarly situated, against Defendant Woodbolt Distribution, LLC d/b/a
4 Nutrabolt (“Nutrabolt” or “Defendant”), based on Defendant’s misleading business practices
5 with respect to the packaging and sale of Cellucor C4 Pre-Workout powders sold in 30- and
6 60-serving size containers¹ (“C4 Pre-Workout”).

7 2. At all relevant times, and as depicted in the photographs below, Defendant has
8 packaged and sold the C4 Pre-Workout in opaque packaging that conceals from consumers the
9 amount of product actually contained therein. The C4 Pre-Workout is sold fully enclosed in
10 an opaque plastic container significantly comprised of non-functional empty space. This
11 packaging prevents the consumer from directly seeing or handling the product and leads the
12 reasonable consumer to believe that the package contains significantly more product than it
13 actually does.

14 3. Defendant’s practice of approximately half-filling its C4 Pre-Workout
15 containers with pre-workout powder inside of an opaque container creates non-functional
16 slack fill. The use of non-functional slack fill allows Defendant to lower their costs by
17 deceiving customers into paying a higher price for more product than they truly receive. As a
18 result, Defendant has realized sizable profits.

19 4. Plaintiff and others have reasonably relied on Defendant’s deceptive packaging
20 in purchasing C4 Pre-Workout. If Plaintiff and other consumers had known the actual amount
21 of pre-workout powder contained in the packaging, they would not have purchased the C4
22 Pre-Workout or would have paid less for it. Therefore, Plaintiff and other consumers have
23 suffered injury-in-fact as a result of Defendant’s deceptive practices, including, but not limited
24 to, out-of-pocket costs incurred in purchasing the overvalued C4 Pre-Workout.

25
26 _____
27 ¹ On information and belief, the C4 Pre-Workout Products include, without limitation:
28 Cellucor C4 Ripped Pre-Workout, C4 Sport Pre-Workout, C4 Original Pre-Workout.

1 **PARTIES**

2 **PLAINTIFF GUSTAVO LOPEZ**

3 5. Plaintiff Gustavo Lopez is a California citizen who resides in Pacoima,
4 California. During the class period alleged herein, Plaintiff purchased a bundle pack
5 containing two 30 serving containers of C4 Original Pre-Workout from a Costco store located
6 in Los Angeles County. Plaintiff purchased the C4 Pre-Workout in reliance on Defendant's
7 packaging, which made it appear that he was purchasing predominantly filled containers of C4
8 Pre-Workout indicated by the size of the C4 containers. Plaintiff thus reasonably believed he
9 was buying more of C4 Pre-Workout powder than he actually received.

10 6. Plaintiff purchased the C4 Pre-Workout powder primarily for personal, family,
11 or household use. Woodbolt manufactured, sold, distributed, advertised, marketed, and
12 warranted the C4 Pre-Workout.

13 7. If Plaintiff had known at the time of purchase the actual size of the tube of
14 product contained in the packaging, he would not have purchased the C4 Pre-Workout or
15 would have paid less for it. Plaintiff would purchase the C4 Pre-Workout in the future if the
16 labeling and packaging was no longer misleading and deceptive.

17 **DEFENDANT**

18 8. Defendant Woodbolt Distribution, LLC is a corporation organized and in
19 existence under the laws of the State of Delaware and is registered to do business in the State
20 of California. Woodbolt Distribution, LLC's corporate headquarters and principal place of
21 business are located at 3891 S. Traditions Dr., Bryan, TX 77807. Woodbolt Distribution,
22 LLC designs, tests, manufactures, markets, distributes, and sells Cellucor C4 Pre-Workout
23 nationwide and in California.

24 9. At all relevant times, Defendant was and is engaged in the business of
25 designing, testing, manufacturing, marketing, distributing, and selling products in Los
26 Angeles County and throughout the United States of America.

27 **JURISDICTION**

28 10. This Court has jurisdiction over this action pursuant to California Code of Civil

1 Procedure § 410.10. Personal jurisdiction over Defendant is proper because Defendant has
2 purposefully availed itself of the privilege of conducting business activities in California,
3 including, but not limited to, testing, manufacturing, marketing, distributing, and/or selling
4 Cuties Juice to Plaintiff and prospective class members.

5 11. This class action is brought pursuant to California Code of Civil Procedure §
6 382. Plaintiff is a California resident. The monetary damages and restitution sought by
7 Plaintiff and the prospective class members exceed the minimal jurisdiction limits of the
8 Superior Court and will be established according to proof at trial.

9 **VENUE**

10 12. Venue is proper in this Court pursuant to California Code of Civil Procedure §§
11 395, 395.5 and California Civil Code § 1780 because Defendants' principal place of business
12 is situated in the County of Los Angeles, California. Plaintiff's Declaration, as required under
13 Cal. Civ. Code section 1780(d), which reflects that Defendant is doing business in Los
14 Angeles County, California, is filed concurrently as Exhibit 1.

15 **FACTUAL ALLEGATIONS**

16 13. At all relevant times, Defendant has distributed, marketed, advertised, and sold
17 Cellucor C4 Pre-Workout powders across California and the United States. Defendant sells
18 Cellucor C4 Pre-Workout powders at major retail and online outlets including, without
19 limitation, Costco, GNC, Vitamin Shoppe, and Amazon.com.

20 14. Pursuant to California Business and Professions Code section 12606(b):

21 A container that does not allow the consumer to fully view its contents shall be
22 considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack
23 fill is the difference between the actual capacity of a container and the volume of
24 product contained therein. Nonfunctional slack fill is the empty space in a package that
is filled to substantially less than its capacity for reasons other than any one or more of

- 25 (1) Protection of the contents of the package.
26 (2) The requirements of machines used for enclosing the contents of the
27 package.
28 (3) Unavoidable product settling during shipping and handling.
(4) The need to utilize a larger than required package or container to

1 provide adequate space for the legible presentation of mandatory and
2 necessary labeling information, such as those based on the
3 regulations adopted by the United States Food and Drug
4 Administration or state or federal agencies under federal or state law,
5 laws or regulations adopted by foreign governments, or under an
6 industrywide voluntary labeling program.

- 7
- 8 (5) The fact that the product consists of a commodity that is packaged in
9 a decorative or representational container where the container is part
10 of the presentation of the product and has value that is both
11 significant in proportion to the value of the product and independent
12 of its function to hold the product, such as a gift combined with a
13 container that is intended for further use after the product is
14 consumed, or durable commemorative or promotional packages.
- 15 (6) An inability to increase the level of fill or to further reduce the size
16 of the package, such as where some minimum package size is
17 necessary to accommodate required labeling, discourage pilfering,
18 facilitate handling, or accommodate tamper-resistant devices.
- 19 (7) The product container bears a reasonable relationship to the actual
20 amount of product contained inside, and the dimensions of the actual
21 product container, the product, or the amount of product therein is
22 visible to the consumer at the point of sale, or where obvious
23 secondary use packaging is involved.
- 24 (8) The dimensions of the product or immediate product container are
25 visible through the exterior packaging, or where the actual size of the
26 product or immediate product container is clearly and conspicuously
27 depicted on any side of the exterior packaging excluding the bottom,
28 accompanied by a clear and conspicuous disclosure that the
representation is the actual size of the product or the immediate
product container.
- (9) The presence of any headspace within an immediate product
container necessary to facilitate the mixing, adding, shaking, or
dispensing of liquids or powders by consumers prior to use.
- (10) The exterior packaging contains a product delivery or dosing device
if the device is visible, or a clear and conspicuous depiction of the
device appears on the exterior packaging, or it is readily apparent
from the conspicuous exterior disclosures or the nature and name of
the product that a delivery or dosing device is contained in the
package.
- (11) The exterior packaging or immediate product container is a kit that
consists of a system, or multiple components, designed to produce a
particular result that is not dependent upon the quantity of the
contents, if the purpose of the kit is clearly and conspicuously
disclosed on the exterior packaging.
- (12) The exterior packaging of the product is routinely displayed using
tester units or demonstrations to consumers in retail stores, so that

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

customers can see the actual, immediate container of the product being sold, or a depiction of the actual size thereof prior to purchase.

(13) The exterior packaging consists of single or multiunit presentation boxes of holiday or gift packages if the purchaser can adequately determine the quantity and sizes of the immediate product container at the point of sale.

(14) The exterior packaging is for a combination of one purchased product, together with a free sample or gift, wherein the exterior packaging is necessarily larger than it would otherwise be due to the inclusion of the sample or gift, if the presence of both products and the quantity of each product are clearly and conspicuously disclosed on the exterior packaging.

(15) The exterior packaging or immediate product container encloses computer hardware or software designed to serve a particular computer function, if the particular computer function to be performed by the computer hardware or software is clearly and conspicuously disclosed on the exterior packaging.

15. Defendant's Cellucor C4 Pre-Workout powder's packaging fits squarely within the foregoing definition of non-functional slack fill under California law.

16. Cellucor C4 Pre-Workout powder is sold in a fully-enclosed opaque container that does not allow consumers to even partially view the contents inside. Therefore, the packaging "does not allow the consumer to fully view its contents." Cal. B&P Code § 12606(b).

17. Cellucor C4 Pre-Workout packaging is "filled to be misleading" due to the amount of slack fill it employs. The C4 Pre-Workout packaging contains nearly 50% empty space and does not indicate the capacity of the outer container, thus preventing a reasonable consumer from determining the striking difference in volume.

18. As set out in Cal. B&P Code § 12606(b), non functional slack-fill is defined as "the empty space in a package that is filled to substantially less than its capacity" and which does not fall under any of the safe harbor provisions. The amount of product that a consumer receives when purchasing C4 Pre-Workout fills less than half the capacity of the container in which it is packaged.

19. Furthermore, the packaging does not fit within any of the safe harbor provisions listed in Cal. B&P Code § 12606(b):

- 1 (1) Pursuant to § 12606(b)(1), the slack fill does not protect the contents of the
2 packaging, as the product is not fragile or breakable;
- 3 (2) Pursuant to § 12606(b)(2), there is no reason that machines used for
4 enclosing the contents of the package would require an outer container
5 which can hold five times more product than it actually does;
- 6 (3) Pursuant to § 12606(b)(3), the slack fill is not necessary to accommodate
7 product settling, as the powder is not the sort of product that “settles”
8 significantly enough to require double to amount of space;
- 9 (4) Pursuant to § 12606(b)(4), the outer container does not need to be larger to
10 accommodate necessary labeling information, as the much-smaller inner
11 tube contains the same information as outer tube;
- 12 (5) Pursuant to § 12606(b)(5), the outer container is not decorative or
13 representational, and does not have a value that is both significant in
14 proportion to its value and independent of its function to hold the product;
- 15 (6) Pursuant to § 12606(b)(6), the outer packaging is not needed to prevent theft
16 or accommodate required labeling or tamper-resistant devices;
- 17 (7) Pursuant to § 12606(b)(7), the outer container does not bear a reasonable
18 relationship to the actual amount of product contained inside, and the
19 amount of the product therein is not visible to the consumer at the point of
20 sale;
- 21 (8) Pursuant to § 12606(b)(8), neither the dimensions of the immediate product
22 container or the product are visible through the exterior packaging, and the
23 size of the immediate product container is not clearly and conspicuously
24 depicted on the exterior packaging;
- 25 (9) Pursuant to § 12606(b)(9), the slack fill is not necessary to facilitate mixing,
26 shaking, or dispensing of the product;
- 27 (10) Pursuant to § 12606(b)(10), the outer container is not a delivery or dosing
28 device for the product;

1 (11) Pursuant to § 12606(b)(11), the outer container is not a kit or system
2 designed to product a result not dependant on the quantity of the contents;

3 (12) Pursuant to § 12606(b)(12), the product is not routinely displayed outside of
4 its packaging such that consumers can see the actual, immediate container of
5 the product being sold prior to purchase;

6 (13) Pursuant to § 12606(b)(13), the exterior packaging is no holiday or gift
7 packaging;

8 (14) Pursuant to § 12606(b)(14), the packaging does not contain a free sample or
9 gift which necessitates larger packaging; and

10 (15) Pursuant to § 12606(b)(15), the packaging does not contain computer
11 hardware or software.

12 20. Defendant's packaging is misleading to reasonable consumers, including
13 Plaintiff and class members, and serves only to maximize Defendant's profits.

14 21. Defendant knows, or should know, that consumers, like Plaintiff and other
15 Class Members, reasonably rely on the size and style of their packaging in purchasing
16 Cellucor C4 Pre-Workout, and would reasonably believe that the packaging contains much
17 more powder than it actually does.

18 22. In reasonable reliance on the size and style of their packaging, Plaintiff and
19 Class Members purchased Cellucor C4 Pre-Workout powders.

20 23. Plaintiff and Class Members do not know, did not know, and have no reason to
21 know, that the Cellucor C4 Pre-Workout packaging contains a significant amount of empty
22 space, because the containers are opaque with no view of the contents inside, at the time of
23 purchase. A reasonable consumer cannot accurately determine the fill of the Cellucor C4 Pre-
24 Workout powders by shaking or squeezing the packaging, and is certainly not expected to do
25 so prior to purchasing them.

26 24. To this day, Defendant continues to sell Cellucor C4 Pre-Workout in deceptive
27 packaging, without disclosing the true nature of the contents therein. Because the Cellucor C4
28 Pre-Workout packaging does not contain the amount of product reasonably expected by

1 **CLASS ALLEGATIONS**

2 30. Plaintiff brings this lawsuit as a class action on behalf of themselves and all
3 others similarly situated as members of the proposed Class pursuant to Federal
4 Rules of Civil Procedure 23(a), 23(b)(2), 23(b)(3), and 23(c)(4). This action satisfies the
5 numerosity, commonality, typicality, adequacy, predominance, and superiority requirements
6 of those provisions.

7 31. Plaintiff's proposed Class and Sub Class(es) are defined as:

8 **California Class:** All individuals who purchased Cellucor C4 Pre-Workout
9 powders in California packaged in 30- and 60-serving size containers or
10 substantially similar packaging.

11 **CLRA Sub-Class:** All members of the California Sub-Class who are
12 "consumers" within the meaning of California Civil Code § 1761(d).

13 32. Members of the Class will collectively be referred to as "Class Members."

14 33. Excluded from the Class and Sub-Classes are: (1) Defendant, any entity or
15 division in which Defendant has a controlling interest, and its legal representatives, officers,
16 directors, assigns, and successors; (2) the Judge to whom this case is assigned and the Judge's
17 staff; (3) any Judge sitting in the presiding state and/or federal court system who may hear an
18 appeal of any judgment entered; and (4) those persons who have suffered personal injuries as
19 a result of the facts alleged herein. Plaintiff reserves the right to amend the Class and Sub-
20 Class definitions if discovery and further investigation reveal that the Class and Sub-Class
21 should be expanded or otherwise modified. There is a well-defined community of interest in
22 the litigation and the class is readily ascertainable.

23 34. **Numerosity:** Although the exact number of Class Members is uncertain and
24 can only be ascertained through appropriate discovery, the number is great enough such that
25 joinder is impracticable. The disposition of the claims of these Class Members in a single
26 action will provide substantial benefits to all parties and to the Court. The Class Members are
27 readily identifiable from information and records in Defendant's possession, custody, or
28 control.

35. **Typicality:** Plaintiff's claims are typical of the claims of the Class in that

1 Plaintiff, like all Class Members, was exposed to Defendant's misleading packaging,
2 purchased the Cellucor C4 Pre-Workout relying on the misleading packaging, and suffered
3 losses as a result of such purchases. The representative Plaintiff, like all Class Members, has
4 been damaged by Defendant's misconduct in that they incurred expenses due to their reliance
5 on Defendant's deceptive packaging, as described throughout this complaint. Furthermore,
6 the factual bases of Defendant's misconduct are common to all Class Members and represent a
7 common thread resulting in injury to all Class Members.

8 36. Adequacy: Plaintiff is an adequate representative of the Classes because his
9 interests do not conflict with the interests of the members of the Classes he seeks to represent,
10 he has retained competent counsel experienced in prosecuting class actions, and he intends to
11 prosecute this action vigorously. The interests of the members of the Classes will be fairly and
12 adequately protected by the Plaintiff and his counsel.

13 37. Commonality: Numerous questions of law and fact are common to Plaintiff
14 and the Class Members that predominate over any question affecting only individual Class
15 Members. These common legal and factual issues include the following:

- 16 a. Whether Cellucor C4 Pre-Workout packaging contains non-functional slack
17 fill;
- 18 b. Whether Defendant's conduct was unlawful, unfair, and/or deceptive;
- 19 c. Whether Defendant's conduct violates federal and/or state consumer protection
20 laws;
- 21 d. Whether Plaintiff and other Class Members are entitled to equitable relief,
22 including, without limitation, a preliminary and/or permanent injunction;
- 23 e. Whether Plaintiff and other Class Members are entitled to damages;
- 24 f. Whether Defendant knew or reasonably should have known of their deceptive
25 representations and omissions relating to its Cellucor C4 Pre-Workout
26 packaging; and
- 27 g. Whether Defendant is obligated to inform Class Members of their right to seek
28 reimbursement for having paid for Cellucor C4 Pre-Workout in reliance on

1 Defendant's misrepresentations.

2 38. Predominance and Superiority: Plaintiff and Class Members have all suffered
3 and will continue to suffer harm and damages as a result of Defendant's unlawful and
4 wrongful conduct. A class action is superior to other available methods for the fair and
5 efficient adjudication of the controversy. Absent a class action, most Class Members would
6 likely find the cost of litigating their claims prohibitively high and would therefore have no
7 effective remedy at law. Because of the relatively small size of the individual Class
8 Members' claims, it is likely that only a few Class Members could afford to seek legal redress
9 for Defendant's misconduct. Absent a class action, Class Members will continue to incur
10 damages, and Defendant's misconduct will continue without remedy. Class treatment of
11 common questions of law and fact would also be a superior method to multiple individual
12 actions or piecemeal litigation in that class treatment will conserve the resources of the courts
13 and the litigants, and will promote consistency and efficiency of adjudication.

14 **FIRST CAUSE OF ACTION**

15 **(Violation of California's Consumers Legal Remedies Act, California Civil Code §**
16 **1750, et seq.,)**

17 39. Plaintiff re-alleges and incorporates by reference each and every allegation
18 contained in the preceding paragraphs of this Complaint as though fully set forth herein.

19 40. Plaintiff brings this cause of action on behalf of himself and on behalf of the
20 members of the CLRA Sub-Class.

21 41. Defendant is a "person" as defined by California Civil Code § 1761(c).

22 42. Plaintiff and CLRA Sub-Class Members are "consumers" within the meaning
23 of California Civil Code § 1761(d) because they bought Cellucor C4 Pre-Workout for
24 personal, family, or household purposes.

25 43. Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that goods or services
26 have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which
27 they do not have" By packaging Cellucor C4 Pre-Workout in its current misleading
28 packages, Defendant has represented and continues to represent that the Product has quantities

1 which it does not have. Therefore, Defendant violates § 1770(a)(5) of the CLRA.

2 44. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services with
3 intent not to sell them as advertised.” By deceitfully packaging Cellucor C4 Pre-Workout in a
4 container with significantly greater volume than the product contained therein, and then
5 intentionally selling Cellucor C4 Pre-Workout in a manner that does not meet consumer
6 expectations as to the quantity of powder contained in the packaging, Defendant has violated
7 section 1770(a)(9) of the CLRA.

8 45. At all relevant times, Defendant knew or reasonably should have known that
9 the Cellucor C4 Pre-Workout packaging contained a significant amount of non functional
10 slack-fill, and that Plaintiff and other members of the CLRA Sub-Class would reasonably and
11 justifiably rely on the size and style of the package in purchasing Cellucor C4 Pre-Workout.

12 46. Plaintiff and members of the CLRA Sub-Class have reasonably and justifiably
13 relied on Defendant’s misleading and fraudulent conduct when purchasing Cellucor C4 Pre-
14 Workout. Moreover, Defendant’s fraudulent and misleading conduct is material in that a
15 reasonable consumer would have considered the amount of product contained in the
16 packaging to be important in deciding whether to purchase Cellucor C4 Pre-Workout or pay
17 less. Therefore, reliance on such conduct as a material reason for the decision to purchase the
18 Product may be presumed or inferred for Plaintiff and members of the CLRA Sub-Class.

19 47. Plaintiff and members of the CLRA Sub-Class have suffered and continue to
20 suffer injuries caused by Defendant, because they would not have purchased Cellucor C4 Pre-
21 Workout, or would have paid significantly less for it, had they known that Defendant’s
22 conduct was misleading and fraudulent.

23 48. As a direct and proximate result of Defendant’s unfair methods of competition
24 and/or unfair and deceptive practices, Plaintiff and the Class have suffered and will continue
25 to suffer actual damages.

26 49. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the CLRA Sub-Class
27 seek damages, restitution, declaratory and injunctive relief, and all other remedies the Court
28 deems appropriate for Defendant’s violations of the CLRA. Plaintiff seeks to enjoin

1 Defendant from use of deceptive non-functional slack fill in its products.

2 50. Plaintiff provided Defendant with notice of its violations of the CLRA pursuant
3 to California Civil Code § 1782(a). Defendant failed to provide appropriate relief for its
4 violations of the CLRA within 30 days. Therefore, Plaintiff now seeks monetary,
5 compensatory, and punitive damages, in addition to injunctive and equitable relief.

6 **SECOND CAUSE OF ACTION**

7 **(Violation of California Business & Professions Code § 17500 *et seq.*)**

8 51. Plaintiff incorporates by reference the allegations contained in each and every
9 paragraph of this Complaint.

10 52. Plaintiff brings this cause of action on behalf of himself and on behalf of the
11 Nationwide Class, or in the alternative, on behalf of the California Sub-Class.

12 53. California Business & Professions Code § 17500 prohibits unfair, deceptive,
13 untrue, and misleading advertising in connection with the disposal of personal property
14 (among other things), including, without limitation, false statements as to the use, worth,
15 benefits, or characteristics of the property.

16 54. Defendant has represented and continues to represent to the public, including
17 Plaintiff and Class Members, through its deceptive packaging, that more product is contained
18 therein than actually is. Defendant's representation is misleading because the packing only
19 contains 50% of the amount of product compared to what the packaging could potentially
20 hold. Defendant made such untrue or misleading advertisements with the intent to dispose of
21 said merchandise.

22 55. Defendant knew, or in the exercise of reasonable care should have known, that
23 these representations were misleading and deceptive, and that such representations continue to
24 be misleading.

25 56. As a result of their reliance on Defendant's misrepresentations, Class Members
26 suffered an ascertainable loss of money, property, and/or value of the product.

27 57. As a direct and proximate result of Defendant's unfair and deceptive practices,
28 Plaintiff and the Class have suffered and will continue to suffer actual damages.

1 67. Defendant’s unfair or deceptive acts or practices occurred repeatedly in
2 Defendant’s trade or business, and were capable of deceiving a substantial portion of the
3 purchasing public.

4 68. As a direct and proximate result of Defendant’s unfair and deceptive practices,
5 Plaintiff and the Class have suffered and will continue to suffer actual damages. Defendant
6 has been unjustly enriched and should be required to make restitution to Plaintiff and the
7 Class pursuant to §§ 17203 and 17204 of the Business & Professions Code.

8 **PRAYER FOR RELIEF**

9 69. Plaintiff, on behalf of himself, and all others similarly situated, requests the
10 Court to enter judgment against Defendant, as follows:

- 11 a. An order certifying the proposed Class and Sub-Class, designating
12 Plaintiff as named representative of the Class, and designating the
13 undersigned as Class Counsel;
- 14 b. An order enjoining Defendant from further deceptive advertising, sales,
15 and other business practices with respect to its Cellucor C4 Pre-
16 Workout packaging;
- 17 c. A declaration requiring Defendant to comply with the various
18 provisions of California’s False Advertising Law and CLRA alleged
19 herein and to make all the required representations;
- 20 d. An award to Plaintiff and the Class for compensatory, exemplary, and
21 statutory damages, including interest, in an amount to be proven at trial;
- 22 e. A declaration that Defendant must disgorge, for the benefit of the Class,
23 all or part of the ill-gotten profits it received from the sale of Cellucor
24 C4 Pre-Workout, or make full restitution to Plaintiff and Class
25 Members;
- 26 f. An award of attorneys’ fees and costs, as allowed by law;
- 27 g. An award of attorneys’ fees and costs pursuant to California Code of
28 Civil Procedure § 1021.5;

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

- h. An award of pre-judgment and post-judgment interest, as provided by law;
- i. Leave to amend the Complaint to conform to the evidence produced at trial; and
- j. Such other relief as may be appropriate under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury of any and all issues in this action so triable.

Dated: April 30, 2018

Respectfully submitted,
Capstone Law APC

By: /s/ Bevin Pike

Bevin Allen Pike
Robert K. Friedl
Trisha K. Monesi

Attorneys for Plaintiff Gustavo Lopez