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Assigned for All Purposes

Judge Randall J. Sherman

CX-109

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE COUNTY**

**JUSTIN LOVELACE,
Individually and On Behalf of
All Others Similarly Situated,**

Plaintiff,

v.

**AK FUTURES, LLC d/b/a
CAKE,**

Defendant.

Case No.: 30-2024-01394702-CU-BT-CXC

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF:**

- 1) CALIFORNIA CONSUMER LEGAL REMEDIES ACT (“CLRA”), CAL. CIV. CODE §§ 1750, ET SEQ.;**
- 2) CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”), CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.;**
- 3) CALIFORNIA’S FALSE ADVERTISING LAW (“FAL”), CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.;**
- 4) UNJUST ENRICHMENT; AND,**
- 5) NEGLIGENT MISREPRESENTATION.**

JURY TRIAL DEMANDED

Plaintiff Justin Lovelace (“Plaintiff”) brings this Complaint by and through his attorneys and on behalf of all others similarly situated, against defendant AK Futures, LLC d/b/a CAKE (“CAKE” or “Defendant”) and alleges upon information and belief as follows:



1 INTRODUCTION

2 1. The Federal Comprehensive Drug Abuse Prevention and Control Act of 1970,
3 21 U.S.C. § 801, *et seq.* (“Controlled Substances Act”), “is the federal U.S. drug
4 policy under which the manufacture, importation, possession, use and distribution
5 of certain narcotics, stimulants, depressants, hallucinogens, anabolic steroids, and
6 other chemicals is regulated.”¹

7 2. The Controlled Substances Act made the possession and use of marijuana
8 (aka cannabis) illegal under federal law.

9 3. “A major change to the legal status of cannabis occurred with the passage of
10 the Agriculture Improvement Act of 2018, commonly referred to as the 2018 Farm
11 Bill.”²

12 4. “Although hemp and marijuana are both varieties of the Cannabis sativa plant,
13 the 2018 statute differentiated hemp from marijuana based on chemical
14 composition—*specifically the amount of tetrahydrocannabinol (THC) present in the*
15 *sample.*”³

16 5. “THC and cannabidiol (CBD) are the most common cannabinoids found in
17 marijuana and hemp; hemp generally contains low amounts of THC and high
18 amounts of CBD, while marijuana generally contains high amounts of THC and low
19 amounts of CBD.”⁴

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24 ¹<https://ehs.usc.edu/research/cspc/chemicals/#:~:text=Controlled%20Substances%20Act%20of%201970&text=It%20places%20all%20substances%20which,and%20safety%20or%20dependence%20liability> (last visited March 29, 2024).

25 ² *Study Reveals Inaccurate Labeling of Marijuana as Hemp*, (Oct. 17, 2022)
26 <https://nij.ojp.gov/topics/articles/study-reveals-inaccurate-labeling-marijuana-hemp#note2>.

27 ³ *Id.* (emphasis added).

28 ⁴ *Id.*

1 6. “According to the new federal statute [the 2018 Farm Bill], **cannabis**
2 **containing 0.3 percent or less of THC is hemp, and cannabis containing more**
3 **than 0.3 percent of THC is marijuana.**”⁵

4 7. The National Institute of Justice (“NIJ”) conducted a comprehensive study of
5 53 hemp products sold from various online commercial sources. Each was marketed
6 as containing less than 3% of THC. The study revealed that 49 of the 53 samples
7 were incorrectly labeled as hemp because they contained more than 3% of THC.⁶

8 8. “Delta-8 THC is a compound found in the cannabis plant, similar to its more
9 well-known cousin, delta-9 THC. It produces psychoactive effects but with less
10 potency and is often derived from hemp, making it a popular choice for those seeking
11 milder euphoria.”⁷

12 9. “Delta-8 THC is legal due to the passage of the 2018 Farm Bill and the FDA’s
13 standpoint on hemp-derived cannabinoids, but there are still regulations and
14 restrictions in place.”⁸

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18 ⁵ *Id.* (emphasis added); *see also*, *Implementation of the Agriculture Improvement*
19 *Act of 2018*, [https://www.federalregister.gov/documents/2020/08/21/2020-](https://www.federalregister.gov/documents/2020/08/21/2020-17356/implementation-of-the-agriculture-improvement-act-of-2018)
20 [17356/implementation-of-the-agriculture-improvement-act-of-2018](https://www.federalregister.gov/documents/2020/08/21/2020-17356/implementation-of-the-agriculture-improvement-act-of-2018) (noting the
21 changes made by the Agriculture Improvement Act “limit the definition of
22 marihuana to only include cannabis or cannabis-derived material that contain more
23 than 0.3% delta-9-tetrahydrocannabinol (also known as Δ9-THC) on a dry weight
24 basis. . . any material previously controlled under Controlled Substance Code
25 Number 7360 (marihuana) or under Controlled Substance Code Number 7350
26 (marihuana extract), that contains 0.3% or less of Δ9-THC on a dry weight basis—
27 i.e., “hemp” as that term defined under the AIA—is not controlled. Conversely, any
28 such material that contains greater than 0.3% of Δ9-THC on a dry weight basis
remains controlled in schedule I”).

⁶ *Id.*

⁷ Why is Delta 8 Legal: A Comprehensive State-by-State Guideh (Dec. 28, 2023),
<https://www.seattlemet.com/discover/thc-delta/why-is-delta-8-legal/>.

⁸ *Id.*

1 10. “THCA stands for tetrahydrocannabinolic acid. This is a substance you find
2 in raw and unheated cannabis plants. It’s like the starting point for THC, which is
3 the stuff that can make you feel high.”⁹

4 11. “Before it gets warm or old, THCA doesn’t have those effects; it won’t change
5 how your mind feels.”¹⁰

6 12. Although, “the federal government removed hemp from its list of controlled
7 substances in 2018 . . . CBD products have been in a regulatory gray area in many states
8 until recently. California’s Assembly Bill No. 45, signed into law in October 2021,
9 brings clarity and structure to regulating hemp and CBD products in the state.”¹¹

10 13. “Currently, inhalable hemp products remain prohibited for sale or
11 manufacture in the state of California until the state Legislature devises a way to
12 properly tax those products, and the California cannabis attorney general has been
13 actively taking action against those who sell them within the state’s borders.”¹²

14 14. As a result, inhalable hemp products are illegal for sale to consumers within
15 the State of California. *See* Health & Safety Code § 111929.4 (“This article shall
16 become operative upon the effective date of a measure passed by the Legislature that
17 establishes a tax on inhalable products and states the intent of the Legislature to
18 fulfill the requirements of this section”); *see also*, §§ 111929, 111929.2.

19 15. Plaintiff is a natural person and a resident of the State of California who
20 purchased two delta-8 THC / THC-A (“D8”) CAKE vape pens, specifically the

21 ⁹ *Id.*

22 ¹⁰ *Id.*

23 ¹¹ *CBD Law In California (AB-45) Permits Sale of Hemp-Derived Products*, Jessica
24 McElfresh (Jan. 18, 2023), <https://www.criminallawyersandiego.com/cbd-law-in-california-ab-45-permits-sale-of-hemp-derived-products/#:~:text=AB45%20Key%20Provisions&text=In%20other%20words%20C%20the%20bill,quality%20testing%20requirements%2C%20and%20more.>

25 ¹² *New California Hemp, CBD Rules Affect Nationwide Compliance* (Oct. 19,
26 2023), <https://manzurilaw.com/new-calif-hemp-cbd-rules-affect-nationwide-compliance/#:~:text=Currently%2C%20inhalable%20hemp%20products%20remain,them%20within%20the%20state's%20borders.>
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1 GLOW 3.0 Sweet Strawberry Diesel and the STAX 3.0 Cookie Wreck (the
2 “Product(s)”) ¹³ online while physically present within the State of California.

3 16. Upon information and belief, the Products are marketed, manufactured,
4 distributed and/or sold by Defendant.

5 17. Despite express representations online by Defendant that the Products were
6 “2018 Farm Bill Compliant” and “Made From USA Grown Hemp,” ¹⁴ upon
7 information and belief, Plaintiff purchased Products that contained a concentration
8 of more than 0.3 percent on a dry weight basis of delta-9 (“D9”) THC.

9 18. Plaintiff intended to purchase vape pens represented as legal hemp (i.e., D8
10 vape pens that are not a Schedule I Controlled Substance) but was sold Products
11 containing a concentration of more than 0.3 percent on a dry weight basis of D9
12 THC—making the Products legally a controlled substance and considered marijuana
13 under federal law.

14 19. Through its deceptive practices, CAKE has reaped substantial unjustified
15 profits at the expense of consumers.

16 20. Plaintiff brings this action to challenge the unfair, deceptive, and illegal
17 actions of Defendant.

18 21. Unless otherwise indicated, the use of Defendant’s names in this Complaint
19 include all agents, employees, officers, members, directors, heirs, successors,
20 assigns, principals, trustees, sureties, subrogees, representatives, and insurers of the
21 Defendant, respectively.

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23
24 ¹³ The defined term “Products” as used herein includes any vape pen, regardless of
25 flavor or strain, from any of these product lines: (1) TKO (THC-M DELTA 8
26 LIQUID DIAMONDS + THC-A + THC-P); (2) \$\$\$ (ICE DIAMONDS THC-A +
27 DELTA 8 LIVE ALCHEMY, THC-XR); (3) Wavy (DELTA 11 + ICE
28 DIAMONDS THC-A + HXC-R + THC-P); (4) STAX (THC-A LIVE NECTAR
SAUCE); and/or (5) GLOW (THC- A LIVE NECTAR SAUCE).

¹⁴ See, e.g., <https://delta8resellers.com/product/cake-glow-thc-a-disposable-vape-3g/> (last visited March 29, 2024).

JURISDICTION AND VENUE

22. Subject matter jurisdiction is proper in this Court for the California statutory causes of action.

23. This Court has personal jurisdiction over Defendant because Defendant conducts business in the County of Orange, State of California; and Defendant’s principal place of business is located within the County of Orange, State of California.

24. Venue is proper within the Superior Court for the County of Orange as this is where Defendant’s principal place of business is located.

PARTIES

25. Plaintiff is, and at all times mentioned herein was, a natural person, individual citizen and resident of the County of Los Angeles, State of California, and within this judicial district.

26. Upon information and belief, Defendant is a limited liability company formed within the State of California, with its principal place of business located at: 1007 West Grove Avenue, Unit B, Orange, California 92865. Upon information and belief, Defendant manufactures and distributes cannabinoid vapes to retailers within the State of California and makes its products available for sale online through its affiliated partner, Delat8Resellers (<https://delta8resellers.com/brand/cake/>).

FACTUAL ALLEGATIONS

27. On the heels of the passage of the 2018 Farm Bill, hemp products have become more and more prevalent in the consumer marketplace.

28. To try benefit from this regulatory loophole, some retailers resort to “lab-shopping” where retailers intentionally seek out labs that provide more desirable results.¹⁵

¹⁵ See, e.g., https://www.marijuanamoment.net/more-than-90-of-smokable-hemp-samples-analyzed-by-researchers-contained-illegal-amounts-of-thc-new-federal-study-finds/?fbclid=PAAaYnvLvw_xQ5Ro_tEL-yrVdI3jNDnJXm7soa5UtgRkffINzg_r_RVnKqBY_aem_Af2OSSX1_CN2kHIb

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1 29. The California Department of Food and Agriculture has an Industrial Hemp
2 Program that provides compliance guidelines to retailers, which includes a list of
3 approved laboratories. As of March 8, 2024, the list of approved laboratories
4 includes: 2 River Labs; AJWA Analytical Laboratories, LLC; Alkemist Labs;
5 Certified Ag Labs; Harrens Lab Inc.; Infinite Chemical Analysis Labs; PharmLabs
6 LLC; SC Laboratories California, LLC; Shasta Laboratory; and Twin Arbor
7 Analytical.¹⁶

8 30. According to Defendant’s affiliated website, Delta8Resellers.com, “The Cake
9 Delta 8 Brand has earned the rank of most recognizable and sought-after hemp-
10 derived cannabinoid company in the USA.”¹⁷

11 31. “Based out of Orange County, California, Cake took the market by storm with
12 their famous Delta 8 Disposable.”¹⁸

13 32. Defendant holds itself out as offering “an innovative line of Live Resin Delta
14 8, Delta 10, HXC and Coldpack blend disposables, cartridges, concentrates and
15 more!”¹⁹

16 33. One of Defendant’s selling points is that it claims that all its products are
17 “third-party lab tested for purity and potency,” which gives consumers like Plaintiff
18 a false sense of security when purchasing Defendant’s products.

19 34. Defendant also represents that “Delta 8 Resellers carries the largest selection
20 of Cake products at the best prices available online. Because of our strong
21 relationship with the Cake team, all products *are sourced directly from the*
22 *manufacturer and are guaranteed 100% fresh and authentic.*”²⁰

23
24 7t-74A9DCaSu3jmpdfg_bt7tQAPAw7d3oJd3aULyx2A62JJMbyE (last visited
25 Apr. 8, 2024).

26 ¹⁶ See <https://www.cdfa.ca.gov/plant/industrialhemp/> (last visited Apr. 8, 2024).

27 ¹⁷ <https://delta8resellers.com/brand/cake/> (last visited March 29, 2024).

28 ¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

1 35. Defendant’s website (<https://cakebrand.com/about>) assures consumers that
2 “Purity is our highest priority. All of our products are rigorously tested by third-party
3 labs. We run full spectrum test to determine potency and identify heavy metals,
4 pesticides and fungicides.”

5 36. Defendant also expressly represents on <https://cakebrand.com/> that “Products
6 on this website contain 0.3% THC or less.”

7 37. One of the Products Plaintiff purchased (the GLOW 3.0 Sweet Strawberry
8 Diesel) is marketed by Defendant as a “CBD/HEMP” product and containing less
9 than .3% of THC. Defendant even posts purported “lab results” on its website and
10 on Delat8Resellers’ website, which further represents that this Product has 88.459%
11 Delta-8 and *no active THC detected*.

12 38. As for the other Product purchased by Plaintiff (the STAX 3.0 Cookie Wreck),
13 this Product too is represented by Defendant as being a “CBD/HEMP” product
14 containing less than .3% of THC. The purported lab result for this Product posted by
15 Defendant indicates that there is 86.136% Delta-8 and *no active THC detected*.

16 39. However, upon information and belief, these purported “lab tests” are *not*
17 conducted by one of the California Department of Food and Agriculture approved
18 laboratories—but rather, the tests Defendant markets with its Products are conducted
19 by ACS Laboratory (based out of Florida).

20 40. While viewing the Products online, Plaintiff saw the representation (under the
21 product description) that both Products were: (1) 2018 Farm Bill Compliant; (2)
22 Made From USA Grown Hemp; and (3) 3rd Party Lab Tested.

23 41. Relying on Defendant’s unequivocal representations that these Products were
24 in fact clinically tested legal “hemp” and did *not* contain THC levels to be
25 considered marijuana, on March 5, 2024, Plaintiff purchased the Products for his
26 personal use from Delta8Resellers.com (for \$29.99 each minus taxes) while he was
27 physically present in his home in Los Angeles, California.

28 42. When the Products arrived at Plaintiff’s home a few days later, Plaintiff was

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1 reassured to see that contained within the Product’s packaging was a “Notice to
2 Law Enforcement” (the “Notice”), which stated, in part, “This package contains a
3 unique cannabinoid derived from industrial hemp. . . Industrial Hemp means the
4 plant Cannabis Sativa L. and any part of such plant, whether growing or not, with a
5 Delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry
6 weight basis.”

7 43. The Notice further stated, “As such, any ‘industrial hemp’ products are
8 exempt from the Controlled Substance Act (21 U.S.C. 801 et seq.) and are perfectly
9 legal to possess, use and distribute.”

10 44. After purchasing the Products, Plaintiff authenticated the Products on
11 Defendant’s website and was provided with the “lab results” for his Products from
12 ACS Laboratory representing that there was no active THC detected in the Products.

13 45. Unbeknownst to Plaintiff at the time of his purchase, the Products were
14 falsely labeled as non-marijuana “D8,” “THC-A”, and “2018 Farm Bill Compliant,”
15 when in fact, these Products contain a concentration of more than 0.3 percent on a
16 dry weight basis of D9 THC.

17 46. Thus, Plaintiff unknowingly purchased the two Products that were a Schedule
18 I Controlled Substance and held out to be “legal” hemp under the 2018 Farm Bill.

19 47. Upon information and belief, the purported “lab tests” accompanying the
20 online advertisement of the Products by Defendant are knowingly unreliable and/or
21 are purposefully skewed to support Defendant’s misrepresentations that these
22 Products do not contain more than 0.3 percent on a dry weight basis of D9 THC,
23 when in fact, they do. Additionally, these laboratory tests are not in compliance
24 with the California Department of Food and Agriculture’s approved laboratories.

25 48. Other Products (regardless of the particular flavor or strain) sold by
26 Defendant are believed to contain more than 0.3 percent on a dry weight basis of
27 D9 THC, but are advertised and sold as legal “hemp,” includes, but is not limited
28 to:

- 1 • TKO (THC-M DELTA 8 LIQUID DIAMONDS + THC-A + THC-P);
- 2 • \$\$\$ (ICE DIAMONDS THC-A + DELTA 8 LIVE ALCHEMY, THC-
- 3 XR);
- 4 • Wavy (DELTA 11 + ICE DIAMONDS THC-A + HXC-R + THC-P);
- 5 • STAX (THC-A LIVE NECTAR SAUCE); and
- 6 • GLOW (THC- A LIVE NECTAR SAUCE).

7 49. This is not the first time Defendant was challenged for its unfair business
 8 practices. Indeed, in an action filed by Defendant (Case No.: 8:23-cv-01030-JVS-
 9 ADS) (C.D. Cal.), Defendant accused various other companies of trademark
 10 infringement. On August 21, 2023, Defendant filed a motion for a preliminary
 11 injunction (Dkt. No. 30), which was ultimately denied (Dkt. No. 54). In opposition
 12 to that preliminary injunction, four of Defendant's products were tested by a third
 13 party, Infinite Chemical Analysis Labs (Dkt. No. 47) (which is an approved
 14 laboratory by the California Department of Food and Agriculture). The test results,
 15 which were filed publicly, reveal that these four products contained between 1.32%
 16 and 2.04% D9 THC.

17 50. By selling products that contains more than 0.3% D9 THC by weight, not
 18 only is Defendant deceiving consumers, but it is also an illegal business activity
 19 under state and federal law. As a result, Defendant is engaged in a pattern of
 20 unlawful activity and should disgorge the profits and all monies received from the
 21 illegal transactions.

22 51. Defendant falsely represents that these Products are compliant with the Hemp
 23 Farming Act of 2018 (meaning that they do not contain more than 0.3% hemp
 24 derived D9 THC by weight) when in fact that is not true.

25 52. Alternatively, to the extent that Defendant's claims are true that these
 26 Products are simply inhalable hemp and not marijuana (which Plaintiff contends
 27 they are not), Defendant is in violation of Health & Safety Code § 111929, *et seq.*
 28 for selling an inhalable hemp product to consumers within the State of California.

1 53. Defendant intended for Plaintiff and the Classes to rely upon these false
2 representations, and they did in fact rely on such representations, when purchasing
3 the Products.

4 54. Plaintiff relied on Defendant's representations when deciding to purchase the
5 Products, and had he known he was actually purchasing a controlled substance from
6 Defendant, he would not have purchased the Products.

7 55. Plaintiff chose the Products over other products based on Defendant's
8 representations that the Products were legal hemp.

9 56. Despite Defendant's representations, upon information and belief, the
10 Products are illegal marijuana and worthless to Plaintiff and members of the Classes
11 because they would not have paid any money at all for the Products, absent
12 Defendant's false and misleading statements and omissions.

13 57. Plaintiff would like to purchase Defendant's Products again but is unsure
14 whether Defendant will continue to make false representations that its products are
15 legal hemp.

16 58. Reasonable consumers, like Plaintiff and the members of the Classes, rely on
17 a company like Defendant to truthfully disclose and advertise the Product's
18 components, attributes, and features, especially where here, Defendant is
19 representing its Products are "2018 Farm Bill Compliant," when in fact they are
20 not.

21 59. The value of the Product that Plaintiff purchased was materially less than its
22 value as represented by Defendant because it was illegal.

23 60. Defendant sold the Products at higher prices than it would have in the absence
24 of this misconduct, resulting in additional and illegal profits at the expense of
25 consumers.

26 61. Had Plaintiff and proposed members of the Classes known the truth, they
27 would not have bought the Products.

28 62. Plaintiff brings this action to stop such deceptive and unfair practices, and to

1 protect the consuming public.

2 **CLASS ALLEGATIONS**

3 63. Plaintiff is a member of and seeks to represent a California Class, pursuant to
4 California Code of Civil Procedure § 382, defined as:

5 All California Citizens who purchased one or more vape
6 pens from any of the following product lines from
7 Defendant within the four years prior to the filing of this
8 Complaint: (1) TKO (THC-M DELTA 8 LIQUID
9 DIAMONDS + THC-A + THC-P); (2) \$\$\$ (ICE
10 DIAMONDS THC-A + DELTA 8 LIVE ALCHEMY,
11 THC-XR); (3) Wavy (DELTA 11 + ICE DIAMONDS
12 THC-A + HXC-R + THC-P); (4) STAX (THC-A LIVE
NECTAR SAUCE); and/or (5) GLOW (THC- A LIVE
NECTAR SAUCE)

13 64. Plaintiff is a member of and seeks to represent a California Sub-Classes,
14 pursuant to California Code of Civil Procedure § 382, defined as:

15 All California Citizens who purchased one or more of the
16 following products from Defendant within the four years
17 prior to the filing of this Complaint: (1) STAX (THC-A
18 LIVE NECTAR SAUCE) and/or GLOW (THC- A LIVE
19 NECTAR SAUCE).

20 65. The Class and the Sub-Class are referred to collectively herein as the
21 “Classes.”

22 66. Excluded from the Classes are Defendant’s officers, directors, and employees;
23 any entity in which Defendant has a controlling interest; and the affiliates, legal
24 representatives, attorneys, successors, heirs, and assigns of Defendant. Further
25 excluded from the Classes are members of the judiciary to whom this case is
26 assigned, their families, and members of their staff.

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1 67. Plaintiff reserves the right to modify the proposed Class definitions, including
2 but not limited to expanding the Class to protect additional individuals and to assert
3 additional sub-classes as warranted by additional investigation.

4 68. Numerosity: The members of the Classes are so numerous that joinder of all
5 of them is impracticable. While the exact number of members of the Classes is
6 unknown to Plaintiff at this time, based on information and belief, the Classes
7 consists of thousands of individuals within California.

8 69. Commonality: There are questions of law and fact common to the Classes,
9 which predominate over any questions affecting only individual members of the
10 Classes. These common questions of law and fact include, without limitation:

- 11 • The nature, scope, and operations of the wrongful practices of
12 Defendant;
- 13 • Whether Defendant negligently or intentionally misrepresented
14 and/or omitted the fact that the Products purchased by Plaintiff and
15 members of the Classes contain a concentration of more than 0.3
16 percent on a dry weight basis of D9 THC;
- 17 • Whether Defendant knew or should have known that its business
18 practices were unfair, fraudulent, and/or unlawful;
- 19 • Whether the conduct of Defendant violated the CLRA;
- 20 • Whether the conduct of Defendant was “unlawful” as that term
21 is defined in the UCL;
- 22 • Whether the conduct of Defendant was “unfair” as that term is
23 defined in the UCL;
- 24 • Whether the conduct of Defendant violated the FAL;
- 25 • Whether Defendant was unjustly enriched by its unlawful and
26 unfair business practices;

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1 • Whether Plaintiff and members of the Classes suffered monetary
2 damages as a result of Defendant's conduct and, if so, the appropriate
3 amount of damages; and

4 • Whether Plaintiff and members of the Classes are entitled to
5 injunctive relief, including public injunctive relief.

6 70. Typicality: Plaintiff's claims are typical of those of the Classes. Plaintiff and
7 all members of the Classes have been injured by the same wrongful practices of
8 Defendant. Plaintiff's claims arise from the same course of conduct that gave rise
9 to the claims of the Classes and are based on the same legal theories in that Plaintiff
10 purchased one or more Products from Defendant containing a concentration of more
11 than 0.3 percent on a dry weight basis of D9 THC.

12 71. Adequacy of Representation: Plaintiff will fairly and adequately represent
13 and protect the interests of members of the Classes. Plaintiff's Counsel are
14 competent and experienced in litigating consumer class actions. Plaintiff has
15 retained counsel experienced in consumer protection law, including complex class
16 action litigation involving unfair business practices. Plaintiff has no adverse or
17 antagonistic interests to those of the Classes and will fairly and adequately protect
18 the interests of the Classes. Plaintiff's attorneys are aware of no interests adverse
19 or antagonistic to those of Plaintiff and the proposed Classes.

20 72. Predominance: Defendant has engaged in a common course of conduct
21 toward Plaintiff and members of the Classes, in that Plaintiff and members of the
22 Classes were induced to purchase illegal Products. The common issues arising from
23 Defendant's conduct affecting members of the Classes set out above predominate
24 over any individual issues. Adjudication of these common issues in a single action
25 has important and desirable advantages of judicial economy.

26 73. Superiority: A class action is superior to other available methods for the fair
27 and efficient adjudication of the controversy. Class treatment of common questions
28 of law and fact is superior to multiple individual actions or piecemeal litigation.

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1 Absent a class action, most members of the Classes would likely find that the cost
2 of litigating their individual claims is prohibitively high and would therefore have
3 no effective remedy. The prosecution of separate actions by individual members of
4 the Classes would create a risk of inconsistent or varying adjudications with respect
5 to individual members of the Classes, which would establish incompatible
6 standards of conduct for Defendant. In contrast, the conduct of this action as a class
7 action presents far fewer management difficulties, conserves judicial resources and
8 the parties' resources, and protects the rights of each Classes Member.

9 74. Defendant has acted on grounds that apply generally to the Classes, so that
10 Classes certification is appropriate.

11 **CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**

13 **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT ("CLRA")**
14 **(Cal. Civ. Code § 1750, et seq.)**

15 75. Plaintiff realleges and incorporates herein by reference the allegations
16 contained in all preceding paragraphs, and further allege as follows:

17 76. Plaintiff brings this claim individually and on behalf of the members of the
18 proposed Classes against Defendant.

19 77. The CLRA prohibits "unfair methods of competition and unfair or deceptive
20 acts or practices . . . undertaken by any person in a transaction intended to result or
21 that results in the sale or lease of goods or services to any consumer . . ." Cal. Civ.
22 Code § 1770(a).

23 78. Defendant is a "[p]erson," as that term is defined in Cal. Civ. Code § 1761(c),
24 because it is a "corporation" or "other group, however organized."

25 79. Plaintiff and putative class members are all "[c]onsumer[s]," as that term is
26 defined in Cal. Civ. Code § 1761(d), because they are "individual[s] who seek[] or
27 acquire[], by purchase or lease, any goods or services for personal, family, or
28 household purposes."

1 80. Defendant offered “[s]ervices,” as that term is defined by Cal. Civ. Code §
2 1761(b), because it offered “services for other than a commercial or business use,
3 including services furnished in connection with the sale . . . of goods” when it offered
4 Plaintiff and members of the Classes Products in exchange for payment.

5 81. The Products are “[g]oods” as defined by Cal. Civ. Code § 1761(a) because
6 they are “tangible chattels bought or leased for use primarily for personal, family, or
7 household purposes.”

8 82. Plaintiff and members of the Classes engaged in “[t]ransactions” with
9 Defendant, as that term is defined in Cal. Civ. Code § 1761(e), because there was
10 “an agreement between [Plaintiff and members of the Classes] and [Defendant],”
11 whereby Defendant agreed to provide Plaintiff and members of the Classes with their
12 desired products as advertised in exchange for payment.

13 83. Defendant violated the CLRA, as it relates to Plaintiff and members of the
14 Classes by: (i) misrepresenting the source, sponsorship, approval, or certification of
15 goods or services, Cal. Civ. Code § 1770(a)(2); (ii) representing that its goods or
16 services had characteristics, uses, benefits, and/or quantities that they do not have,
17 Cal. Civ. Code § 1770(a)(5); (iii) representing that goods or services are of a
18 particular standard, quality, or grade, or that goods are of a particular style or model,
19 if they are of another, Cal. Civ. Code § 1770(a)(7); and (iv) advertising goods or
20 services with the intent not to sell them as advertised, Cal. Civ. Code § 1770(a)(9).

21 84. Defendant represented that Plaintiff and members of the Classes were
22 purchasing legal hemp products, in fact, Plaintiff and members of the Classes were
23 sold products that were not as advertised and contained illegal amounts of THC; or
24 in the alternative, were illegal inhalable hemp products.

25 85. Plaintiff and members of the Classes all relied on Defendant’s representations,
26 expecting the products to “2018 Farm Bill Compliant,” when in fact, they were not.

27 86. Upon information and belief, Defendant disseminated several advertisements
28 misrepresenting its Products to Plaintiff and members of the Classes.

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1 87. Upon information and belief, Defendant never intended to provide Plaintiff
2 members of the Classes with their chosen Products, and Defendant violated the
3 CLRA with the awareness of the fact that the conduct alleged was wrongful under
4 California law, and Defendant was motivated solely by its own self-interest,
5 monetary gain, and increased profits.

6 88. Defendant knew, or reasonably should have known, that harm was likely to
7 result to Plaintiff and the Classes. Defendant engaged in such unfair and deceptive
8 conduct notwithstanding such knowledge.

9 89. Plaintiff and members of the Classes all suffered actual monetary harm as a
10 direct and proximate result of Defendant's CLRA violations, as they were
11 deceptively led to believe that their Products contained the advertised composition
12 of legal hemp.

13 90. Pursuant to Cal. Civ. Code § 1782(a), on or about April 12, 2024, Plaintiff's
14 counsel served on Defendant a demand for corrective action via certified mail, return
15 receipt requested.

16 91. If Defendant fails to respond to Plaintiff's letter, fails to agree to rectify the
17 problems associated with the actions detailed above, or fails to give notice to all
18 affected consumers within 30 days of the date of written notice, Plaintiff reserves
19 the right to amend the Complaint to pursue claims for actual, punitive, and statutory
20 damages, as appropriate against Defendant. As to this cause of action, at this time,
21 Plaintiffs seek only injunctive relief.

22 92. Attached hereto as **Exhibit A** is a sworn declaration from Plaintiff Lovelace
23 pursuant to California Civil Code § 1780(d).

24 **SECOND CAUSE OF ACTION**
25 **VIOLATIONS CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL")**
26 **(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**

27 93. Plaintiff realleges and incorporates herein by reference the allegations
28 contained in all preceding paragraphs, and further allege as follows:

1 94. The UCL defines “unfair business competition” to include any “unlawful,
2 unfair, or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or
3 misleading” advertising. Cal. Bus. & Prof. Code § 17200.

4 95. The UCL imposes strict liability. Plaintiff need not prove that Defendant
5 intentionally or negligently engaged in unlawful, unfair, or fraudulent business
6 practices—but only that such practices occurred.

7 ***“Unfair” Prong***

8 96. A business practice is “unfair” under the UCL if it offends an established
9 public policy or is immoral, unethical, oppressive, unscrupulous or substantially
10 injurious to consumers, and that unfairness is determined by weighing the reasons,
11 justifications and motives of the practices against the gravity of the harm to the
12 alleged victims.

13 97. Defendant’s actions constitute “unfair” business practices because, as alleged
14 above, Defendant engaged in a misleading and deceptive practice of intentionally
15 misrepresenting and/or omitting the fact from consumers that their Products
16 contained a chemical composition different than advertised.

17 98. This is done to trick consumers into purchasing the Products without proper
18 regulation of a Schedule I Substance, allowing Defendant to increase its profits at
19 the expense of consumers.

20 99. Through its deceptive practices, Defendant retains hundreds if not thousands
21 of dollars which should have, in all fairness, been permanently credited to Plaintiff,
22 the Classes.

23 100. Defendant’s acts and practices offend an established public policy of
24 transparency when it comes to advertising goods and services, and are immoral,
25 unethical, oppressive, and unscrupulous activities that are substantially injurious to
26 consumers who were unaware they were purchasing an illegal THC product.

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1 101. The harm to Plaintiff and members of the Classes grossly outweighs the utility
2 of Defendant's practices. Indeed, Plaintiff alleges that there is no utility of
3 Defendant's conduct that justifies the practices alleged with specificity herein.

4 ***"Unlawful" Prong***

5 102. A business act or practice is "unlawful" under the UCL if it violates any other
6 law or regulation.

7 103. Defendant's acts and practices alleged above constitute unlawful business acts
8 or practices as it has violated the CLRA and FAL as described herein. Defendant is
9 also in violation of the Federal Comprehensive Drug Abuse Prevention and Control
10 Act of 1970, 21 U.S.C. § 801, *et seq.*, by illegally selling a Schedule I drug and
11 representing it as legal hemp.

12 104. This conduct is also in violation of California Health & Safety Code §§ 11359-
13 11360; or, in the alternative, Health & Safety Code § 111929, *et seq.*

14 105. The violation of any law constitutes as "unlawful" business practice under the
15 UCL.

16 106. These acts and practices alleged were intended to or did result in violations of
17 the above cited laws.

18 107. Defendant's practices, as set forth above, have misled Plaintiff, members of
19 the Classes, and the public, who will continue to mislead in the future unless
20 Defendant is enjoined. Consequently, the practices of Defendant constitute unfair
21 and unlawful business practices within the meaning of the UCL.

22 108. Pursuant to the UCL, Plaintiff and the Classes are entitled to preliminary and
23 permanent injunctive relief and order Defendant to cease this unfair and unlawful
24 competition, as well as disgorgement and restitution to Plaintiff and the Classes of
25 all the revenues associated with this unfair and unlawful competition, or such portion
26 of said revenues as the Court may find applicable.

27 109. Additionally, Plaintiff and the members of the Classes seek an order requiring
28 Defendant to pay attorneys' fees pursuant to Cal. Civ. Code § 1021.5.

THIRD CAUSE OF ACTION

**VIOLATIONS OF CALIFORNIA’S FALSE ADVERTISING LAW (“FAL”)
(Cal. Bus. & Prof. Code §§ 17500, *et seq.*)**

110. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs.

111. California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code § 17500, states that “[i]t is unlawful for any ... corporation ... with intent ... to dispose of ... personal property ... to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated ... from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement...which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading....”

112. Defendant’s material misrepresentations and omissions alleged herein violate Bus. & Prof. Code § 17500, *et seq.* Defendant knew or should have known that its misrepresentations and omissions were false, deceptive, and misleading, including that its Products were not in fact legal hemp or 2018 Farm Bill compliant.

113. Plaintiff and the Classes suffered tangible, concrete injuries in fact as a result of Defendant’s actions as set forth herein because they purchased Products in reliance on Defendant’s representations that those Products contained legal hemp.

114. As a result, pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff and members of the Classes are entitled to injunctive and equitable relief and restitution.

115. Further, Plaintiff and the members of the Classes seek an order requiring Defendant to disclose such misrepresentations, and additionally request an order awarding Plaintiff restitution of the money wrongfully acquired by Defendant by means of said misrepresentations.

116. Additionally, Plaintiff and the members of the Classes seek an order requiring Defendant to pay attorneys’ fees pursuant to Cal. Civ. Code § 1021.5.

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FOURTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION

1
2 117. Plaintiff and the Classes incorporate by reference all preceding paragraphs
3 against Defendant.

4 118. As set forth herein, Defendant misrepresented that the Products were legal
5 hemp, Farm Bill compliant and did not contain illegal amounts of THC.

6 119. At the time Defendant made these misrepresentations, Defendant knew or
7 should have known that these misrepresentations were false. Defendant at least
8 negligently misrepresented and or negligently omitted material facts about the true
9 level of THC in its Products.

10 120. Defendant had a duty to represent the Products truthfully, and Defendant
11 breached this duty by understating the amount of D9 THC in the Products,
12 overstating the amount of D8 THC, otherwise inaccurately labeling the Products as
13 Farm Bill compliant.

14 121. This duty is based on each Defendant's position, holding itself out as having
15 special knowledge and experience in this area as a manufacturer, distributor, or
16 retailer.

17 122. The negligent misrepresentations and omissions made by Defendant, upon
18 which Plaintiff and members of the Classes reasonably, justifiably, and detrimentally
19 relied, were intended to induce and influence, and actually induced and influenced,
20 Plaintiff and members of the Classes to purchase Defendant's Products.

21 123. Defendant's negligence was a substantial factor in causing harm to Plaintiff
22 and members of the Classes. As a direct and proximate cause and result of
23 Defendant's failure to exercise reasonable care and use reasonable measures to
24 ensure the accuracy of its representations and advertising, Plaintiff and members of
25 the Classes have suffered actual injury-in-fact and economic damages, including
26 purchasing an illegal Product they would not have otherwise purchased.
27
28

1 124. Plaintiff and members of the Classes reasonably and justifiably relied on these
2 negligent misrepresentations and omissions, which served to induce, and did induce,
3 their purchase of the Products.

4 125. Plaintiff and members of the Classes would not have purchased the Products
5 or paid as much for the Products if the facts had been known and, therefore, would
6 not have suffered damages.

7 126. Plaintiff and the members of the Classes request the Court enter an order
8 awarding Plaintiff and the members of the Classes mandatory restitution, rescission,
9 and/or damages, and that they are entitled to recover their reasonable attorneys' fees.

10 Plaintiff and the members of the Classes therefore also seek pre-and-post-judgment
11 interest and attorneys' fees and costs as allowed by statute, including without
12 limitation those recoverable under Cal. Code Civ. Proc. § 1021.5, any common law
13 "private attorney general" equitable doctrine, any "common fund" doctrine, any
14 "substantial benefit" doctrine, and/or any equitable principles of contribution and/or
15 other methods of awarding attorneys' fees and costs.

16
17 **FIFTH CAUSE OF ACTION**
Unjust Enrichment

18 127. Plaintiff realleges and incorporates herein by reference the allegations
19 contained in all preceding paragraphs, and further allege as follows:

20 128. Under California law, the elements of unjust enrichment are receipt of a
21 benefit and unjust retention of the benefit at the expense of another.

22 129. Plaintiff and members of the Classes conferred non-gratuitous benefits upon
23 Defendant by exchanging payment for a Product that contained different chemical
24 compounds than what Defendant had advertised and continues to advertise.

25 130. Plaintiff and members of the Classes allege that Defendant owes them money
26 for the conduct alleged herein that was unjustly obtained.
27
28



1 131. An undue advantage was taken from Plaintiff's and members of the Classes'
2 lack of knowledge of the deception, whereby money was extracted to which
3 Defendant had no legal right. Defendant is therefore indebted to Plaintiff and
4 members of the Classes in a sum certain, specifically the miles each of them
5 redeemed.

6 132. Defendant is therefore indebted to Plaintiff and members of the Classes in a
7 sum certain for money had and received by Defendant, which Defendant in equity
8 and good conscience should not retain.

9 133. Defendant is therefore liable to Plaintiff and members of the Classes in the
10 amount unjustly enriched.

11 134. Defendant's retention of any benefit collected directly and indirectly from
12 Plaintiff and members of the Classes violates principles of justice, equity, and good
13 conscience. As a result, Defendant has been and continues to be unjustly enriched.

14 135. Plaintiff and the Classes are entitled to recover from Defendant all amounts
15 that Defendant has wrongfully and improperly obtained, and Defendant should be
16 required to disgorge to Plaintiff and members of the Classes the benefits it has
17 unjustly obtained.

18 136. Defendant accepted or retained such benefits with knowledge that the rights
19 of Plaintiff and members of the Classes were being violated for financial gain.
20 Defendant has been unjustly enriched in retaining the revenues and profits from
21 Plaintiff and members of the Classes, which retention under these circumstances is
22 unjust and inequitable.

23 137. As a direct and proximate result of Defendant's unlawful practices and
24 retention of the monies paid by Plaintiff and members of the Classes, Plaintiff and
25 the Classes have all suffered concrete harm and injury.

26 138. Defendant's retention of the non-gratuitous benefits on them by Plaintiff and
27 members of the Classes would be unjust and inequitable.

28

1 139. Plaintiff and members of the Classes are entitled to seek disgorgement and
2 restitution of wrongful profits, revenue, and benefits conferred upon Defendant in a
3 manner established by this Court.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for relief and judgment against Defendant as
6 follows:

- 7 • Class certification of this action;
- 8 • Appointment of Plaintiff as Class Representative;
- 9 • Appointment of Plaintiff's attorneys as Class Counsel;
- 10 • Injunctive and other equitable relief against Defendant as necessary to protect
11 the interests of Plaintiff and other members of the Classes, and an order
12 prohibiting Defendant from engaging in unlawful and/or unfair acts described
13 above, including public injunctive relief;
- 14 • An Order awarding declaratory and other equitable relief, including
15 rescission, as necessary to protect the interests of Plaintiff and the members
16 of the Classes;
- 17 • An Order enjoining Defendant from engaging in the unfair, unlawful, and
18 deceptive business practices and false advertising complained of herein,
19 including through public injunctive relief;
- 20 • An Order compelling Defendant to conduct a corrective advertising
21 campaign, including through public injunctive relief;
- 22 • An Order compelling Defendant to recall and destroy all misleading and
23 deceptive advertising materials, including through public injunctive relief;
- 24 • An order requiring imposition of a constructive trust and and/or disgorgement
25 of Defendant's ill-gotten gains and to pay restitution to Plaintiff and all
26 members of the Classes and to restore to Plaintiff and members of the Classes
27 all funds acquired by means of any act or practice declared by this court to be
28 an unlawful, or unfair business act or practice, in violation of laws, statutes or

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1 regulations, or constituting unfair competition, plus pre-and post-judgment
2 interest thereon;

- 3 • An order for injunctive relief pursuant to California Code of Civil Procedure
- 4 § 1780;
- 5 • An award of attorneys’ fees and costs as allowed by statute, including without
- 6 limitation those recoverable under Cal. Code Civ. Proc. § 1021.5, any
- 7 common law “private attorney general” equitable doctrine, any “common
- 8 fund” doctrine, any “substantial benefit” doctrine, and/or any equitable
- 9 principles of contribution and/or other methods of awarding attorneys' fees
- 10 and costs;
- 11 • Declaratory Judgment that the Products Plaintiff and members of the Classes
- 12 purchased contained more than 0.3% D9 THC by weight;
- 13 • An order declaring Defendant’s conduct as unlawful;
- 14 • Pre- and post-judgment interest;
- 15 • An Order requiring Defendant to disgorge all monies, revenues, and profits
- 16 obtained by means of any wrongful act or practice; and
- 17 • Any other relief the Court may deem just and proper, including interest.

18 **DEMAND FOR TRIAL BY JURY**

19 140. Plaintiff, individually and on behalf of all others similarly situated, hereby
20 demands a jury trial on all claims so triable.

21 Dated: April 12, 2024

22 Respectfully submitted,

23 **KAZEROUNI LAW GROUP, APC**

24 By: /s/ Abbas Kazerounian
25 Abbas Kazerounian, Esq.
26 *ATTORNEYS FOR PLAINTIFF*