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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

AYKUT SARAYLI, *individually and on
behalf of all those similarly situated,*

Plaintiff,

v.

HUEL, LTD., *a British limited company,*

Defendant.

) No. 5:25-cv-02406-PCP

)

) **OPPOSITION TO
MOTION TO DISMISS**

)

) Hon. P. Casey Pitts

) Courtroom 8

)

) Hearing Date: February 26, 2026

) Hearing Time: 10:00 am

) Complaint Filed: March 10, 2025

) Trial Date: None Yet

)

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INTRODUCTION

Based on the wrong prong of Rule 12(b); full of blatant mischaracterizations of Plaintiff’s Complaint; and long on personal invective¹ while short on substantive argument—Defendant Huel Ltd.’s bares-bones memorandum is not merely baseless, it verges on the frivolous. The motion to dismiss should be denied in its entirety.

Plaintiff Aykut Sarayli purchased “Black Edition”—a plant-based protein supplement manufactured and sold by Huel (“the Products”)—multiple times over the course of 2023 and 2024. He did so in reliance on statements on their labels and advertising materials that represent the Products provide 40 grams of high-quality, fully “bioavailable” protein per serving. But they do not. Huel hid this fact from consumers like Mr. Sarayli by failing to “correct” the daily recommended value of protein it reported on the Products’ Nutrition Facts panel (“NFP”) for protein “digestibility,” as federal law requires. Courts have repeatedly held that failure to correct the NFP for protein digestibility misleads reasonable consumers and gives rise to a plausible claim under California’s Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*, and other consumer protection statutes and causes of action.

Huel purports to bring this motion under Federal Rule of Civil Procedure 12(b)(1), asserting that Plaintiff lacks standing and his claim “should be dismissed because he has not suffered any injury: he received what he paid for, a nutritional with 40 grams of plant protein.” Memo. 4. But Huel’s attempt to bring a so-called “factual jurisdictional attack” fails here, as the Ninth Circuit has repeatedly warned against attempts to recast 12(b)(6) motions as 12(b)(1) motions, which is all that Huel has done. Just because Huel purports to mount a jurisdictional attack, this Court is not empowered to resolve factual disputes.

¹ For example, Huel attacks Mr. Sarayli (who started buying Black Edition nearly three years ago, *see* Compl. ¶ 18, and who has never sued any company *but* Huel) as a “captive” and “professional litigant.” Memo. 1, 2. It also takes shots at the undersigned for supposed “copy and paste” pleadings. *Id.* Huel supports none of this invective with actual evidence. “Statements by counsel in memoranda are not evidence.” *Lumbermens Mut. Cas. Ins. Co. v. Maffei*, No. 3:03-CV-262-JWS, 2006 WL 2290802, at *2 (D. Alaska 2006) (citing *Smith v. Mack Truck*, 505 F.2d 1248, 1249 (9th Cir. 1974) (per curiam)). Nor does Huel explain how any of this, even if true, would be relevant to the issues presented by this motion. Ultimately, this is all just hand-waving—atmospherics in lieu of argument.

Moreover, as described further below, even if the Court could resolve factual disputes, Huel has not even characterized the factual claims correctly. Plaintiff does not allege that the Products contain less than 40 grams of plant protein, as Huel repeatedly and mistakenly argues. Instead, he alleges that the Products deceive reasonable consumers by implying that they contain 40 grams of fully “bioavailable,” *high-quality* protein. Sarayli has adequately alleged that they do not, and that the Products mislead consumers by not “correcting” the reporting of protein in their Nutrition Facts panel for protein quality. Numerous courts, including the Ninth Circuit—which has a published, on-point case on this issue that Huel never cites (*see Nacarino v. Kashi Company*, 77 F.4th 1201 (9th Cir. 2023))—have determined that claims like this are plausibly alleged.

Finally, even if the Court did look to Huel’s extrinsic evidence—which in this posture it cannot—it proves nothing. Huel’s argument is supported by a paper-thin, conclusory “declaration” that doesn’t even cite the relevant regulation, and that presents expert opinion in the guise of percipient testimony. If it was even relevant to the issues before this Court in this posture, this declaration would be liable to be struck for being conclusory, unsupported, and facially not credible.

The motion should be denied in full. To the extent the Court determines any particular averment is lacking, Plaintiff should be granted leave to amend. *See Bly–Magee v. California*, 236 F.3d 1014, 1019 (9th Cir. 2001).

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Aykut Sarayli is one of the “[m]illions of Americans [who] consume specific amounts of protein in order to lose or maintain weight, build muscle, and meet fitness goals.” Compl. ¶ 15. To assist him in meeting those goals, he purchased the Products five different times from Amazon.com between July 2023 and November 2024. Compl. ¶ 18.

The Products’ front label features a prominent claim that they contain 40 grams of protein per serving:



Compl. ¶ 39. The same claims are repeated on the Amazon.com page for the Products, “which Plaintiff viewed and the content of which ... Defendant controls,” and which also describes the Products as “nutritionally complete”:

**Huel Black Edition | Chocolate 40g
Vegan Protein Powder |
Nutritionally Complete Meal | 27
Vitamins and Minerals, Gluten Free
| 17 Servings | Scoop not Included
to Reduce Plastic**

[Visit the Huel Store](#)

3.9 ★★★★★ ▼ 243 ratings | [Search this page](#)

1K+ bought in past month

-10% \$53⁹⁹ (\$1.00 / Ounce)



Compl. ¶ 40.

The Products use pea and rice protein as their sole protein sources. Compl. ¶ 40. According to federal regulations set forth at 21 C.F.R. § 101.9(c)(7), Huel is required to “correct” the daily recommended value of protein reported in the Products’ NFP for the lower quality of these plant proteins, by applying their “Protein Digestibility Corrected Amino Acid Score,” or PDCAAS. Compl. ¶¶ 23-26, 33-36, 42. Huel does not do so. Compl. ¶ 43. The Products’ labels are thus “deceptive and misleading to reasonable consumers because that [40 grams of protein] claim is not clarified and contextualized by the disclosure of the quality-adjusted percent daily value in the Nutrition Facts panel,” while “the protein claim in the Nutrition Facts Panel is deceptive and misleading to consumers because that claim does not report a PDCAAS-adjusted %DRV.” Compl. ¶¶ 44-45. Plaintiff brings claims under the CLRA, and for unjust enrichment and breach of warranty.

STANDARD OF REVIEW

Defendant purports to bring this motion under Federal Rule of Civil Procedure 12(b)(1). But as set forth below, in this “factual” jurisdictional attack, the jurisdictional issues are “so intertwined” with the ultimate factual issues that the resolution of one requires resolution of the other. In such circumstances, the motion is properly analyzed under the standards that govern Federal Rule of Civil Procedure 12(b)(6), taking the Complaint’s allegations as true unless the Court converts the motion to one for summary judgment and holds an evidentiary hearing. *See Elliott v. San Francisco Residential Rent Stabilization & Arb. Bd.*, No. C 06-04842 SBA, 2008 WL 4104211, at *3 (N.D. Cal. 2008).

Rule 12(b)(6) permits dismissal for “failure to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory. *See Moss v. U.S. Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009). A court must accept as true all “well-pleaded factual allegations,” and draw all reasonable inferences from those allegations in the non-movant’s favor. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “[F]or a complaint to survive a motion to dismiss, the non-conclusory factual content, and reasonable inferences from that content, must be plausibly suggestive of a claim entitling the plaintiff to relief.” *Moss, supra*.

ARGUMENT

I. The Court Cannot Resolve Factual Disputes On a “Factual” Jurisdictional Challenge.

Huel purports to bring this motion under Rule 12(b)(1) to dismiss for lack of subject-matter jurisdiction. Such motions fall into two categories: facial and factual. *See Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). A Rule 12(b)(1) motion is “facial” when it “asserts that the allegations contained in a complaint are insufficient on their face to invoke federal jurisdiction.” *Id.* But it is “factual” when “the challenger disputes the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction.” *Id.*

1 Here, Huel’s jurisdictional attack is factual because it “‘relie[s] on extrinsic evidence
 2 and did not assert lack of subject matter jurisdiction solely on the basis of the pleadings.’” *Id.*
 3 (quoting *Morrison v. Amway Corp.*, 323 F.3d 920, 924 n. 5 (11th Cir. 2003)). That is, Huel does
 4 not argue that a federal court can never hear a state consumer protection claim premised on a
 5 label’s misrepresentations about the protein in a product. Rather, it argues that Plaintiff suffered
 6 no injury and has no claim because there is no misrepresentation about protein on its Products’
 7 label. *See* Memo. 5 (arguing that “Plaintiff’s claims are—without testing or any other
 8 evidence—that there is less protein in Black Edition” and that he has produced no competent
 9 evidence this allegation is true).

10 To Huel, the advantage of casting this as a 12(b)(1) and not a 12(b)(6) motion is obvious:
 11 it permits Huel to attach the (wholly conclusory) Boakes Declaration and pretend Plaintiff now
 12 has a duty to produce a contravening declaration. But the Ninth Circuit has repeatedly warned
 13 that “[j]urisdictional dismissals” are inappropriate where “‘the jurisdictional issue and
 14 substantive issues are so intertwined that the question of jurisdiction is dependent on the
 15 resolution of factual issues going to the merits’ of an action.” *Safe Air*, 373 F.3d at 1039.
 16 (quoting *Sun Valley Gas., Inc. v. Ernst Enters.*, 711 F.2d 138, 140 (9th Cir. 1983)).

17 That is exactly the situation with this motion: Huel argues that Plaintiff lacks standing
 18 because the labels are accurate. That is, the jurisdictional issue (is there injury-in-fact giving rise
 19 to Article III standing?) is inextricably intertwined with the underlying merits issue (does the
 20 Products’ label present the facts about their protein content accurately?). In that situation, a
 21 district court commits reversible error if it analyzes a motion to dismiss under Rule 12(b)(1) and
 22 not Rule 12(b)(6). *See id.* at 1040 (citing *Sun Valley*, 711 F.2d at 139). *See also, e.g., Bowen v.*
 23 *Energizer Holdings, Inc.*, 118 F.4th 1134, 1145 (9th Cir. 2024) (where “allegations relating to
 24 standing are not ‘separable from the merits of the case,’” district court is not “free to ‘resolv[e]”
 25 *factual disputes’”*); *Yurok Tribe v. Dowd*, No. 16-CV-02471-RMI, 2022 WL 2441564, at *4
 26 (N.D. Cal. 2022) (denying motion to dismiss where movant’s “argument to the effect that there
 27 is no jurisdiction under the HYSA to determine whether his fishing violated the HYSA *because*
 28

he did not violate the HYSA represents exactly such an intermeshing” between the jurisdictional and merits issues) (emphasis in original).

This is not a Rule 12(b)(1) motion. It is functionally a Rule 12(b)(6) motion. As such, extrinsic evidence cannot be received, and Plaintiff’s allegations must be credited and inferences drawn in his favor unless the Court determines to convert this motion to one for summary judgment and hold an evidentiary hearing. *See Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 998 (9th Cir. 2018); *Elliott*, 2008 WL 4104211 at *3.²

II. Huel Mischaracterizes Plaintiff’s Allegations, Which Are Plausibly Pled.

Huel’s purported “12(b)(1)” motion would be subject to denial for being “intertwined” with the merits even if it had accurately described the underlying merits issue. But it has not. Huel repeatedly mischaracterizes the merits issue to avoid the direct, on-point holding of the Ninth Circuit in *Nacarino v. Kashi Company*, 77 F.4th 1201 (9th Cir. 2023), which disposes of any argument that this Complaint is not well-pleaded.

A. Plaintiff Challenges Misrepresentations About the Quality of the Products’ Protein, Not Their Quantity.

Huel repeatedly refers to the merits issue here as whether “there is less protein in Black Edition” than is stated on the label. Memo. 5. *See also* Memo. 4 (arguing that Plaintiff has no injury because he “received what he paid for, a nutritional with 40 grams of plant protein”). But that’s not what Mr. Sarayli alleged. Instead, his claim for deceptive labeling stems from misrepresentations concerning the *quality* of the protein in the Products.

² Importantly, a motion to dismiss is not automatically converted into a motion for summary judgment “whenever matters outside the pleading happen to be filed with the court and not expressly rejected by the court.” *North Star Int’l v. Ariz. Corp. Comm’n*, 720 F.2d 578, 582 (9th Cir. 1983). Should the Court determine to convert this motion into one for summary judgment, Plaintiff would request the opportunity to make the showing described in Federal Rule of Civil Procedure 56(f) and pursue discovery related to the intertwined jurisdictional and merits issues. *See, e.g., Century Sur. Co. v. Master Design Drywall, Inc.*, No. 09CV0280-LAB (AJB), 2009 WL 3425326, at *2 (S.D. Cal. 2009) (under Rule 56(f), there “must be a meaningful opportunity for discovery before the Court will convert a motion to dismiss into a motion for summary judgment and rule on it”).

1 As alleged, proteins are comprised of amino acids, and there are nine “essential” amino
 2 acids that are not created by the human body, but must be supplied by consuming meat, animal
 3 products, plants, and other protein-rich foods. Compl. ¶¶ 19-20. Some protein sources (such as
 4 meat, dairy, and whey) contain all nine amino acids and thus have high “bioavailability,” or
 5 ability to be used by the human body in building muscle and undertaking other tasks, while other
 6 protein sources are missing some of the nine essential amino acids and are considered lower-
 7 quality, or having low bioavailability. Compl. ¶¶ 21-22.

8 Food scientists have developed a measure of protein quality called the Protein
 9 Digestibility Corrected Amino Acid Score, or PDCAAS. Compl. ¶ 23. “The PDCAAS method
 10 combines a protein source’s amino acid profile and its percent digestibility into a discount factor
 11 ranging from 0.0 to 1.0 that, when multiplied by the total protein quantity, shows how much
 12 protein in a product is actually available to support human nutritional requirements.” Compl. ¶
 13 24. Federal regulations refer to this as the “corrected amount of protein per serving.” *Id.* (quoting
 14 21 C.F.R. § 101.9(c)(7)(ii)).

15 Proteins such as milk and meat have a PDCAAS score of 1.0, while “plant-derived
 16 proteins have PDCAAS scores below 1.0—often much lower than 1.0—such as 0.7 for peas,
 17 0.61 for brown rice, and 0.42 for wheat.” Compl. ¶ 25-26. This allegation is supported by
 18 citations to two peer-reviewed publications setting forth the PDCAAS score of pea and rice
 19 proteins. *Id.* (citing Gertjan Schaafsma, “The protein digestibility-corrected amino acid score,”
 20 130 J. Nutr. 1865S-67S (2000), available at <https://pubmed.ncbi.nlm.nih.gov/10867064/>; Joyce
 21 Boye, Ramani Wijesinha-Bettoni & Barbara Burlingame, “Protein quality evaluation twenty
 22 years after the introduction of the protein digestibility corrected amino acid score method,” 108
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 26 51E5092761DA6004F1B081B204AAAB99](https://www.cambridge.org/core/journals/british-journal-of-nutrition/article/protein-quality-evaluation-twenty-years-after-the-introduction-of-the-protein-digestibility-corrected-amino-acid-score-method/51E5092761DA6004F1B081B204AAAB99).)

1 A protein that had a PDCAAS score of 0.5 “means that only half of the protein in that
2 product is actually available to support human protein needs.” Compl. ¶ 26. If a product with a
3 PDCAAS of 0.5 contained 10 grams total protein per serving, the “corrected” amount of protein
4 as described in 21 C.F.R. § 101.9(c)(7)(ii) would be only 5 grams per serving. *Id.* “Thus, protein
5 products can vary widely in their ability to support human protein needs—even between two
6 similar products with the same total amount of protein.” *Id.*

7 The PDCAAS method “has a critical role to play in nutritional labeling under relevant
8 FDA regulations.” Compl. ¶ 27. Federal regulations state that if a food product makes a “protein
9 claim” outside of the NFP—as Black Edition does, by stating that the Products contain “40
10 grams of protein” and making the other statements described herein—then the Daily
11 Recommended Value of protein reported in the NFP must be corrected by the PDCAAS score
12 of the protein. Compl. ¶ 30 (quoting 21 C.F.R. § 101.9(c)(7)(ii)). “The reason for this
13 requirement ... is to allow ‘consumers to readily identify foods of low protein quality.’” Compl.
14 ¶ 35 (quoting Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content
15 Revision, Format for Nutrition Label, 58 Fed. Reg. 2,079, 2,102 (1993)). FDA’s regulations
16 recognize this requirement as “an important part of nutrition labeling.” *Id.*

17 This requirement to “correct” the Daily Recommended Value is “grounded in a
18 recognition that 10 grams of pea or rice protein per serving does not offer the same [daily
19 recommended value] of protein per serving as 10 grams of whey protein, because of whey
20 protein’s 1.0 PDCAAS versus the much lower PDCAAS of pea and rice proteins.” Compl. ¶ 31.

21 **B. Failure to Correct Protein Statements In a Nutrition Facts Panel Can Be**
22 **Misleading to Reasonable Consumers.**

23 In *Nacarino*, the Ninth Circuit reiterated what the plain language of the relevant FDA
24 regulations makes clear: that when “a product label includes a protein claim *outside* the
25 [Nutrition Facts panel], section 101.9(c)(7)(i)’s trigger provision requires the manufacturer to
26 also include the PDCAAS-corrected percent daily value *inside* the NFP.” *Nacarino*, 77 F.4th at
27 1209 (emphasis in original).
28

1 More importantly, however, *Nacarino* made clear that the failure to “correct” the NFP’s
 2 statement of the amount of protein in a food, by applying that protein’s PDCAAS score, could
 3 deceive reasonable consumers. *See id.* at 1211 (“Section 101.9(c)(7)(i) contemplates that
 4 advertising protein quantity outside the NFP can be misleading ... if the manufacturer does not
 5 comply with the trigger provision’s requirement to include a PDCAAS-corrected percent daily
 6 value figure in the NFP.”). *See also, e.g., Rausch v. Flatout, Inc.*, 660 F. Supp. 3d 855, 860 (N.D.
 7 Cal. 2023) (“[P]rominently advertising a product’s protein quantity outside of the nutrition facts
 8 panel is misleading ... if the manufacturer doesn’t include the quality-adjusted percent in the
 9 nutrition facts panel.”). This deception gives rise to a claim under the CLRA and other consumer
 10 protection statutes.

11 Judge Chabbria’s *Rausch* decision described concisely why the “correction” of protein
 12 amounts by a PDCAAS score is material to reasonable consumers: because “it gives consumers
 13 a sense of how the food might fit into their broader nutritional needs.” *Id.* at 861. He explained:

14 So, a consumer might see “20% of the daily value of protein” and think, “I’d have
 15 to eat roughly five of these to get enough protein for the day.” That doesn’t require
 16 any complicated math, and that information puts the potentially misleading protein
 17 statement in context. The expectations created by statements like “excellent source
 of protein!” or “20g protein!” can be tempered by looking at the percent daily value.

18 *Id.* Or as *Nacarino* put it, the FDA “require[es] information on protein quality in the NFP for
 19 products that manufacturers market to protein-conscious consumers”—the exact consumers
 20 who buy Black Edition. *See* Compl. ¶ 54 (noting the “class of protein-conscious consumers who
 21 are the target market of the Products.”).

22 **C. Plaintiff’s Allegations Regarding the Products’ Protein Quality Are Plausibly**
 23 **Alleged.**

24 Ultimately, the *Nacarino* court affirmed dismissal of the plaintiff’s claims in that case,
 25 because it did not “allege that Defendants failed ... to ... include the required percent daily value
 26 figure in the NFP as required by the trigger provision.” *Nacarino*, 77 F.4th at 1209. But here,
 27 Sarayli makes exactly that necessary allegation.

1 Plaintiff alleges, that is, that the Products use “pea and rice proteins as the sole protein
 2 sources,” and the “PDCAAS score of such proteins is significantly less than 1.0.” Compl. ¶ 41.
 3 Then, he alleges that outside of the NFP, on both the front label of the Products and on its
 4 Amazon.com sales page, Huel makes protein claims—*i.e.*, the claim that the Products contain
 5 40 grams of protein. But Huel failed to “report a PDCAAS-corrected %DRV in the Nutrition
 6 Facts panel,” as is “required under 21 C.F.R. § 101.9(c)(7).” Compl. ¶ 42. Both the “40 grams
 7 of protein” claim on the front label, and the daily recommended value reported in the Nutrition
 8 Facts panel, are thus deceptive and misleading to reasonable consumers because the latter is not
 9 “corrected” by the low PDCAAS score of pea and rice proteins. Compl. ¶¶ 44-45.

10 Numerous courts have held that allegations of this kind are plausibly pleaded. *See, e.g.*,
 11 *Roffman v. Perfect Bar, LLC*, No. 22-CV-02479-JSC, 2022 WL 4021714, at *4 (N.D. Cal. 2022)
 12 (“Plaintiffs plausibly allege that the front-label protein claims are unlawful without
 13 corresponding PDCAAS figures on the nutrition facts panel.”); *Swartz v. Dave’s Killer Bread,*
 14 *Inc.*, No. 4:21-CV-10053-YGR, 2023 WL 11965055, at *2 (N.D. Cal. 2023) (denying motion
 15 to dismiss where plaintiff alleged that had product corrected the protein statement in the NFP,
 16 “he would have understood that there were less than five grams of usable protein per serving
 17 and would have either not purchased or spent less on the product”); *Rausch*, 660 F. Supp. 3d at
 18 862 (“Rausch has plausibly alleged that a statement of protein quantity outside of a nutrition
 19 facts panel is misleading ... if the statement is unaccompanied by the quality-adjusted percent
 20 daily value.”).

21 Notably, none of these cases required the kind of “testing” that Huel insists is required
 22 here. In fact, it is axiomatic that a “plaintiffs are generally not expected to provide evidence in
 23 support of their claims at the pleading stage, nor are they required to plead the ‘probability’ of
 24 their entitlement to relief.”³ *Durnford v. MusclePharm Corp.*, 907 F.3d 595, 604 n.8 (9th Cir.
 25 2018).

26
 27 ³ Such PDCAAS testing is actually impossible without understanding the Products’
 28 formulation—which Plaintiff will not have access to without discovery. PDCAAS must be
 calculated on the finished protein blend because both the limiting amino acid and digestibility
 depend on the precise ingredient ratios and processing of the final product, not on the individual

1 Instead, the plausibility of these allegations is supported by the well-established
 2 scientific fact that the PDCAAS score of the sole protein sources in Black Edition—pea and rice
 3 proteins—is significantly less than 1.0. Compl. ¶ 41. Plaintiff’s allegation regarding the
 4 PDCAAS scores of these proteins, in turn, is supported by citation to peer-reviewed scientific
 5 publications setting forth the low PDCAAS scores of these proteins. Compl. ¶¶ 24-25. Rather
 6 notably, Huel and its declarant never deny that pea and rice proteins do not have a PDCAAS
 7 score of 1.0. That’s because this fact is common knowledge to anyone who knows the science
 8 underlying protein content reporting and supplement formulation.

9 These allegations, supported by peer-reviewed scholarship, are enough to “nudge[]
 10 [Sarayli’s] claims across the line from conceivable to plausible.” *Bell Atl. Corp. v. Twombly*,
 11 550 U.S. 544, 570 (2007). Plaintiff’s allegations are plausibly alleged and this motion should
 12 therefore be denied.

13 **III. Even If The Boakes Declaration Was Relevant, It Is Not Credible.**

14 As set forth above, because this is actually a Rule 12(b)(6) motion masquerading as a
 15 jurisdictional attack, the Court cannot consider the extrinsic evidence of the Boakes Declaration.
 16 *See Khoja*, 899 F.3d at 998. But even if it did, the Complaint survives, as the Boakes Declaration
 17 is facially not credible.

18 First—and rather notably considering Huel’s argument, which is that this Complaint fails
 19 for lack of testing—Mr. Boakes refers vaguely to “testing and analysis conducted in the ordinary
 20 course of Huel’s business” that support his statements. But he does not describe, digest, or attach
 21 the testing that Huel conducts in the ordinary course that supposedly establishes that “the
 22 PDCAAS values are approximately 1.0.” Boakes Decl. ¶¶ 6-7.⁴ Readers are simply supposed to
 23 take Mr. Boakes’ description of this “testing,” as well as its import, at face value.

24
 25 protein sources analyzed in isolation. This cannot be done without knowing the precise
 26 formulation of the entire protein blend.

27 ⁴ It’s also worth noting that the “approximately” in that last sentence is doing mighty labor—we
 28 have no clue how “approximate” the proteins’ PDCAAS scores are relative to 1.0—and notable
 that Mr. Boakes declines to set forth the specific PDCAAS value of the proteins in the Products.
 On both points, readers are again just required to take Mr. Boakes’ word for it.

1 The declaration is also silent about Mr. Boakes’ expertise to conduct or read PDCAAS
 2 testing, or to formulate products to achieve the “complementary” balance he describes. While
 3 the declaration purports to be based on his personal knowledge, it nonetheless plainly holds forth
 4 on scientific and technical matters, specifically, testing of raw ingredients to determine
 5 PDCAAS scores, and the formulation of supplements “in appropriate ratios” to “compensate[]
 6 for amino-acid limitations.” Boakes Decl. ¶ 3. But the declaration is silent as to his qualifications
 7 and expertise in these areas—or even how many years he has been Huel’s Product Director, and
 8 how that job might bear on PDCAAS testing and reporting. *See, e.g., Kutzner v. Bank of Am.*
 9 *Corp.*, No. SACV12758JSTJPRX, 2012 WL 12892167, at *5 (C.D. Cal. 2012) (“Evidence of a
 10 purported expert’s qualifications is required. Without such evidence, the parties and the court
 11 are unable to determine whether the witness is in fact an expert.”) (quoting *In re Canvas*
 12 *Specialty, Inc.*, 261 B.R. 12, 18–19 (Bkr. C.D. Cal. 2001)).

13 But the most significant “tell” in the Boakes Declaration is his claim that it is “Huel’s
 14 practice, and industry standard, to extrapolate PDCAAS values based on testing of raw
 15 ingredients.” Boakes Decl. ¶ 6. Whatever Huel’s “practice” may be, that’s not how federal law
 16 requires protein quality in a Nutrition Facts panel to be calculated.

17 Instead, the federal regulation that Mr. Boakes does not mention—despite supposed
 18 expertise—is 21 C.F.R. § 101.9(c)(7)(ii), which states that the PDCAAS-corrected daily
 19 recommended value “shall be determined by methods given in sections 5.4.1, 7.2.1, and 8.00 in
 20 ‘Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation.’” These
 21 sections of this publication set forth a specific and highly reticulated method for correcting the
 22 reporting of protein content for protein quality. (The method, which covers multiple pages, can
 23 be viewed at https://www.google.com/books/edition/Protein_Quality_Evaluation/ieEEPqffcxEC?hl=en&gbpv=1). These procedures are wholly at odds with the vague
 24 “extrapolation” method that Mr. Boakes claims Huel employs. Boakes Decl. ¶ 6. The fact that
 25 Mr. Boakes does not even correctly identify federal requirements, much less discuss whether
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1 Huel’s “practice” is consistent with them, makes his declaration worthless for any evidentiary
2 purpose.

3 Ultimately, of course, this is all beside the point: Huel offers the Boakes Declaration to
4 cast doubt on Plaintiff’s allegations, but “the Federal Rules of Civil Procedure do not cast judges
5 as skeptics of pleadings.” *Quinn v. Proctor & Gamble Co.*, No. 24-CV-856 JLS (SBC), 2026
6 WL 26081, at *7 (S.D. Cal. 2026) (quoting *Scheibe v. ProSupps USA, LLC*, 141 F.4th 1094,
7 1100 (9th Cir. 2025)). In discovery, Huel will be free to advance its idiosyncratic “extrapolation”
8 method of protein quality reporting, through qualified expert testimony instead of conclusory
9 declarations. But this Court is not “free to ‘resolv[e] factual disputes’” on the pleadings (*Bowen*,
10 118 F.4th at 1145) just because Huel deploys its own employee to say, in effect, “trust us.”

11 CONCLUSION

12 The Products’ label is plausibly alleged to be non-compliant with federal law and
13 confusing to reasonable consumers. Considering the foregoing, Defendant’s motion to dismiss
14 the Complaint should be denied in its entirety. And even if the Court were to conclude that
15 something essential is lacking in Plaintiff’s averments, he should be granted leave to replead his
16 Complaint. *See Bly–Magee*, 236 F.3d at 1019.

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18 Dated: January 30, 2026

Respectfully submitted,

19
20 /s/ Charles C. Weller

Charles C. Weller (Cal. SBN: 207034)

21 Attorney for Plaintiff
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CERTIFICATE OF SERVICE

I hereby certify that on this date, January 30, 2026, I caused the foregoing to be filed into the docket of this matter via the Clerk of Court's CM/ECF system, which filing caused service to be made on all counsel of record.

Respectfully submitted,

/s/ Charles C. Weller
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