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

CAROL VALENTA, *individually and on*)
behalf of all those similarly situated,)

Plaintiff,)

No. **'25CV1543 RSH DEB**

v.)

CLASS ACTION COMPLAINT

NAKED WHEY, INC. dba Naked Nutrition,)
a Florida corporation,)

Defendant.)

JURY TRIAL DEMANDED

Carol Valenta ("Plaintiff"), individually and on behalf of all others similarly situated in the state of California, by and through undersigned counsel, hereby brings this action against Naked Whey, Inc. dba Naked Nutrition ("Naked Nutrition" or "Defendant"), alleging that its Vegan Protein Powder products (Naked Pea, Naked PB, Naked Mass, Naked Shake, Naked Rice, Naked Almond, and Naked Seed) (collectively, "the Products"), which are manufactured, packaged, labeled, advertised, distributed, and sold by Defendant, are misbranded and falsely advertised because they feature deceptive protein claims on the label and misrepresent the percent of Recommended Daily Value of protein contained in each serving, and upon information and belief and investigation of counsel alleges as follows:

PARTIES

1
2 1. Plaintiff Carol Valenta is and at all times relevant was a citizen of the state of
3 California, domiciled in La Mesa, California.

4 2. Defendant Naked Whey, Inc. dba Naked Nutrition is a Florida corporation with
5 its principal place of business in Miami, Florida. On information and belief all decisions
6 regarding formulation and labeling of the Products are made at this principal place of business.

JURISDICTION AND VENUE

7
8 3. This Court has subject matter jurisdiction over this action pursuant to the Class
9 Action Fairness Act, Pub. L. 109-2, 119 Stat. 4 (codified in scattered sections of Title 28 of the
10 United States Code); specifically, under 28 U.S.C. § 1332(d), which provides for the original
11 jurisdiction of the federal district courts over “any civil action in which the matter in controversy
12 exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and [that] is a class
13 action in which . . . any member of a class of plaintiffs is a citizen of a State different from any
14 defendant.” 28 U.S.C. § 1332(d)(2)(A).

15 4. Plaintiff seeks to represent Class members who are citizens of states and countries
16 different from the Defendant.

17 5. The matter in controversy in this case exceeds \$5,000,000 in the aggregate,
18 exclusive of interest and costs.

19 6. In addition, “the number of members of all proposed plaintiff classes in the
20 aggregate” is greater than 100. *See* 28 U.S.C. § 1332(d)(5)(B).

21 7. In the alternative, the Court has jurisdiction over this matter pursuant to 28 U.S.C.
22 § 1332(a). The amount in controversy exceeds \$75,000, exclusive of interest and costs.

23 8. This Court has personal jurisdiction over Defendant because this action arises out
24 of and relates to Defendant’s contacts with this forum.

25 9. Those contacts include but are not limited to sales of the Products directly to
26 commercial and individual consumers located in this district, including Plaintiff; shipping the
27 Products to commercial and individual consumers in this district, including Plaintiff; knowingly
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1 directing advertising and marketing materials concerning the Products into this district through
 2 wires and mails, both directly and through electronic and print publications that are directed to
 3 commercial and individual consumers in this district; and operating an e-commerce web site
 4 that offers the Products for sale to commercial and individual consumers in this district, as well
 5 as offering the Products for sale through third-party e-commerce websites, through both of
 6 which commercial and individual consumers residing in this district have purchased the
 7 Products.

8 10. Defendant knowingly directs electronic activity and ships the Products into this
 9 district with the intent to engage in business interactions for profit, and it has in fact engaged in
 10 such interactions, including the sale of the Products to Plaintiff.

11 11. Defendant also sells the Products to retailers and wholesalers in this district for
 12 the purpose of making the Products available for purchase by individual consumers in this
 13 district.

14 12. Plaintiff's losses and those of other Class members were sustained in this district.

15 13. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of
 16 the events or omissions giving rise to Plaintiff's claims occurred within this district.

17 14. Venue is also proper pursuant to 28 U.S.C. § 1391(c)(2) because this Court
 18 maintains personal jurisdiction over Defendant.

19 **FACTUAL ALLEGATIONS**

20 15. Millions of Americans consume specific amounts of protein in order to lose or
 21 maintain weight, build muscle, and meet fitness goals.¹ The past several decades have seen not
 22 only the rise of protein-centered diets such as the Atkins, paleo, or keto diets—which require
 23 adherents to carefully track “macros,” including protein—but also increased evidence that a
 24 protein-heavy diet can be critical to supporting muscle growth, making weight training more
 25 efficient, and helping with weight loss and maintenance. In fact, “several clinical trials” have
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27 ¹ Heather J. Leidy, “Increased Dietary Protein as a Dietary Strategy to Prevent and/or Treat
 28 Obesity,” MO. MED. (Jan./Feb. 2014), *available at*
<https://pmc.ncbi.nlm.nih.gov/articles/PMC6179508/>.

1 found that a high-protein diet “not only reduces body weight (BW), but also enhances body
2 composition by decreasing fat mass while preserving fat-free mass (FFM),” more than “both
3 low-calorie and standard-calorie diets.”²

4 16. Central to the tracking of protein consumption is accurate nutritional labeling of
5 foods and dietary supplements. As noted by U.S. Food and Drug Administration (“FDA”)
6 Commissioner Margaret Hamburg during an October 2009 media briefing, “[s]tudies show that
7 consumers trust and believe the nutrition facts information and that many consumers use it to
8 help them build a healthy diet.” Indeed, FDA recommends relying on Nutrition Facts Labels as
9 primary “tool for monitoring consumption of protein.”³

10 17. Plaintiff Carol Valenta is among those millions of Americans. She tracks her
11 protein intake and take a daily protein powder supplement to ensure she gets enough protein in
12 her diet. She does so in order to maintain her weight and meet fitness goals. As such, ensuring
13 that she eats at least the Recommended Daily Value of protein—and more generally that she is
14 able to accurately track her protein intake—is important to Plaintiff.

15 18. Ms. Valenta purchased the chocolate flavor of the Naked Pea protein powder from
16 Amazon.com on at least the following dates: June 19, 2024; November 18, 2024; and March 2,
17 2025 (orders 111-1476748-0269840, 111-0983327-4878665, and 113-0606499-1839434). Ms.
18 Valenta believes and on that basis avers that she has purchased the Products at other times within
19 the Class period.

20 **A. Protein Quality and PDCAAS.**

21 19. Amino acids are the building blocks of proteins, whether that protein is derived
22 from animals or plants. Both animal and plant proteins are composed of approximately 20 amino
23

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25
26 ² Jaecheol Moon & Gwanpyo Koh, “Clinical Evidence and Mechanisms of High-Protein Diet-
Induced Weight Loss,” 29 J. OBESITY & METABOLIC SCI. 166-73 (2020), *available at*
27 <https://pmc.ncbi.nlm.nih.gov/articles/PMC7539343/>.

28 ³ FDA, “Interactive Nutrition Fact Label – Protein,” *available at*
https://www.accessdata.fda.gov/scripts/InteractiveNutritionFactsLabel/assets/InteractiveNFLProtein_October2021.pdf.

1 acids, which are essential for the synthesis of body proteins and other important nitrogen-
2 containing compounds such as creatine, peptide hormones, and some neurotransmitters.

3 20. There are nine amino acids that are not created by the human body: histidine,
4 isoleucine, leucine, lysine, methionine, phenylalanine, threonine, tryptophan, and valine, called
5 “essential amino acids.” Human beings must consume these amino acids by digesting meat,
6 animal products, plants, and other protein-rich foods that contain them.⁴

7 21. However, not all proteins are created equally. Various protein sources contain all
8 of the nine essential amino acids, while other protein types contain fewer of these amino acids.
9 Thus, the *quantity* of protein by itself does not tell the full story of protein from a human
10 nutritional standpoint. A protein’s *quality* is also critical because humans cannot fully digest or
11 utilize some proteins, while other proteins are missing essential amino acids.

12 22. Protein sources that contain all or almost all of the essential amino acids are
13 considered higher-quality proteins. These higher-quality proteins also tend to have a higher
14 “bioavailability,” a term connoting the digestibility or the absorptive quality of a protein, *i.e.*,
15 the ease with which the protein can be accessed and used by the human body in building muscle
16 and undertaking other tasks.⁵

17 23. Scientists have developed a measure of protein quality called the Protein
18 Digestibility Corrected Amino Acid Score, or PDCAAS. The relevant FDA regulations refer to
19 this as the “corrected amount of protein per serving.” 21 C.F.R. § 101.9(c)(7)(ii).

20 24. The PDCAAS method combines a protein source’s amino acid profile and its
21 percent digestibility into a discount factor ranging from 0.0 to 1.0 that, when multiplied by the
22 total protein quantity, shows how much protein in a product is actually available to support
23

24 ⁴ M.J. Lopez & S.S. Mohiuddin, “Biochemistry, Essential Amino Acids.” In StatPearls
25 [Internet] (2025), available at <https://www.ncbi.nlm.nih.gov/books/NBK557845/>.

26 ⁵ See generally Claire Gaudichon & Juliane Calvez, “Determinants of amino acid
27 bioavailability from ingested protein in relation to gut health.” 24 CURR. OP. CLIN. NUTR. &
28 METABOLIC CARE 55 (2021), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC7752214/>; Stephan van Vliet, Nicholas Burd & Luc van Loon, “The Skeletal Muscle Anabolic Response to Plant- versus Animal-Based Protein Consumption.” 145 J. NUTR. 1981 (2015), available at <https://pubmed.ncbi.nlm.nih.gov/26224750/>.

human nutritional requirements.⁶ The regulations term this the “corrected amount of protein per serving.” 21 C.F.R. § 101.9(c)(7)(ii).

25. Proteins have a range of PDCAAS. Animal-derived proteins such as cow’s milk, eggs, and whey have PDCAAS at or near 1.0. Soy also has a PDCAAS that is close to 1.0, while other plant-derived proteins have PDCAAS scores below 1.0—often much lower than 1.0—such as 0.7 for peas, 0.7 for peanuts, 0.61 for brown rice, and 0.2 to 0.4 for almonds.⁷

26. A PDCAAS of 1.0 signifies that the protein is a complete protein with optimal digestibility. A PDCAAS of 0.5 means that only half of the protein in that product is actually available to support human protein needs. If a product with a PDCAAS of 0.5 contained 10 grams total protein per serving, the “corrected” amount of protein as described in 21 C.F.R. § 101.9(c)(7)(ii) would be only 5 grams per serving. Thus, protein products can vary widely in their ability to support human protein needs—even between two similar products with the same total amount of protein.

B. PDCAAS and Food Labeling

27. Because the PDCAAS method makes the differences in bioavailability among different types of proteins apparent to consumers, the method has a critical role to play in nutritional labeling under relevant FDA regulations.

28. The FDA and other federal bodies set “Recommended Daily Values” for nutrients such as protein, which is the amount of that nutrient that the FDA recommends that a normal adult (or some other specified demographic) should consume every day to preserve their health and eat a balanced and nutrition diet. In the Nutrition Facts panel of foods (or the “Supplement Facts” panel of a dietary supplement), food manufacturers report the percentage of the

⁶ Gertjan Schaafsma, “The protein digestibility-corrected amino acid score,” 130 J. NUTR. 1865S-67S (2000), *available at* <https://pubmed.ncbi.nlm.nih.gov/10867064/>.

⁷ *Id.* See also Joyce Boye, Ramani Wijesinha-Bettoni & Barbara Burlingame, “Protein quality evaluation twenty years after the introduction of the protein digestibility corrected amino acid score method,” 108 BR. J. NUTR. S183–S211 (2021), *available at* <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 Recommended Daily Value (“%DRV”) provided by a serving of the food or supplement. *See*
2 FDA, “Daily Value on the Nutrition and Supplement Facts Labels,” *available at*
3 [https://www.fda.gov/food/nutrition-facts-label/daily-value-nutrition-and-supplement-facts-](https://www.fda.gov/food/nutrition-facts-label/daily-value-nutrition-and-supplement-facts-labels)
4 [labels.](https://www.fda.gov/food/nutrition-facts-label/daily-value-nutrition-and-supplement-facts-labels)

5 29. A manufacturer is not required (as a general matter) to report a %DRV for a food’s
6 protein content in the Nutrition or Supplement Facts panels. A manufacturer can simply leave
7 the %DRV of protein blank—and many manufacturers do.

8 30. But FDA regulations state that if a Nutrition Facts or Supplement Facts panel
9 expresses the protein content of a food in terms of %DRV, that disclosure must conform to and
10 incorporate the PDCAAS method. That is, the %DRV then must be “equal to the actual amount
11 of protein (gram) per serving multiplied by the amino acid score corrected for protein
12 digestibility,” which “shall be determined by methods given in sections 5.4.1, 7.2.1, and 8.00 in
13 ‘Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation.’” 21 C.F.R.
14 § 101.9(c)(7)(ii). *See also* Food Labeling: Nutrient Content Claims, General Principles,
15 Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid,
16 and Cholesterol Content of Food, 58 Fed. Reg. 2302, 2344 (Jan. 6, 1993) (when a nutritional
17 label presents %DRV of protein it “must represent the corrected amount of protein based on its
18 PDCAAS”).

19 31. These regulations are grounded in a recognition that 10 grams of pea or other
20 plant-based protein per serving does not offer the same %DRV of protein per serving as 10
21 grams of whey protein, because of whey protein’s 1.0 PDCAAS versus the much lower
22 PDCAAS of pea proteins. If the %DRV of a food containing such proteins is reported, it must
23 be “corrected” by applying the PDCAAS of the proteins in the manner set forth in 21 C.F.R. §
24 101.9(c)(7)(ii).

25 32. There is a second instance in which manufacturers are required to report a
26 PDCAAS-corrected %DRV in nutritional panels. Some foods or supplements make a “protein
27 claim,” which is a claim outside of the Nutrition Facts or Supplement Facts panel that
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1 “characterize[s] the amount of protein in the products.” *Nacarino v. Kashi Company*, 77 F.4th
 2 1201, 1205 (9th Cir. 2023). These are often label claims that a food contains “40 grams protein
 3 per serving,” or the like.

4 33. When a food makes a protein claim outside of the Nutrition Facts or Supplement
 5 Facts panel, the food manufacturer no longer has a choice whether or not to report a PDCAAS-
 6 corrected %DRV. In that instance, the manufacturer ***must*** disclose the PDCAAS-corrected
 7 %DRV in the panel. *See* 21 C.F.R. § 101.9(c)(7)(i). *See also Nacarino*, 77 F.4th at 1209 (“[I]f
 8 a product label includes a protein claim *outside* the [Nutrition Facts panel], section
 9 101.9(c)(7)(i)’s trigger provision requires the manufacturer to also include the PDCAAS-
 10 corrected percent daily value *inside* the NFP”) (emphasis in original); 1211 (“The text and
 11 structure of the FDA regulations demonstrate that Defendants’ protein claims could be
 12 misleading if ... the products did not display the quality-adjusted percent daily value in the
 13 NFP.”).

14 34. FDA has stated in guidance to the public that “Food manufacturers may
 15 *voluntarily* list the %D[R]V of protein per serving on the Nutrition Facts label, but they are
 16 *required* to list the %D[R]V of protein if a statement is made on the package labeling about the
 17 health effects or the amount of protein (for example, ‘high’ or ‘low’) contained in the food.”⁸

18 35. The reason for this requirement—that a food making a protein claim must display
 19 a PDCAAS-corrected %DRV in the Nutrition Facts panel—is to allow “consumers to readily
 20 identify foods of low protein quality.” Food Labeling: Mandatory Status of Nutrition Labeling
 21 and Nutrient Content Revision, Format for Nutrition Label, 58 Fed. Reg. 2,079, 2,102 (1993).
 22 FDA’s regulations recognize this requirement as “an important part of nutrition labeling.” *Id.* at
 23 2,103.

24 36. The regulations set forth FDA’s expert conclusion that (1) when manufacturers
 25 tout an amount of protein on a product’s label, that amount is likely to be material to purchasing
 26

27 ⁸ FDA, “Interactive Nutrition Fact Label – Protein,” *available at*
 28 https://www.accessdata.fda.gov/scripts/InteractiveNutritionFactsLabel/assets/InteractiveNFLProtein_October2021.pdf (emphases in original)

decisions, even though reasonable consumers may not know the total amount of protein they need to ingest on a daily basis to meet their Recommended Daily Value, and (2) not all proteins are the same in their ability to meet human nutritional requirements, so a simple statement about the number of grams does not actually inform consumers about how much usable protein they are receiving or how many servings they might need to consume meet their consumption goals.

37. Reporting of an accurate %DRV is especially important to the class of “protein-conscious consumers” who purchase protein-fortified products such as the Products, especially those who count protein macros or who otherwise track their protein intake. *Nacarino*, 77 F.4th at 1212. Consumers rely on nutritional labeling to make informed decisions regarding the amount of a food or supplement they must consume to achieve their protein consumption goals, and to contextualize protein claims made on label or otherwise outside of the nutritional panels.

38. A protein claim on a food or supplement is deceptive and misleading to consumers if it is not accompanied by a PDCAAS-corrected %DRV disclosure in the Nutrition Facts or Supplement Facts panel, because it gives reasonable consumers the impression that all of the protein in a product is high-quality protein that is bioavailable to consumers.

39. Naked Nutrition makes a protein claim on each of the Products’ labels, as set forth in this table below:

PRODUCT	PROTEIN SOURCE	PROTEIN CLAIM	STATED %DRV
Naked Pea	Pea	27g	54%
Naked PB	Peanut	7g	14%
Naked Mass	Pea & Brown Rice	50g	100%
Naked Shake	Pea	20g	40%
Naked Rice	Brown Rice	25g	50%
Naked Almond	Almond	10g	20%
Naked Seed	Pumpkin, Sunflower, Watermelon & Chia Seeds	20g	40%

1 40. The same claims are repeated on the Amazon.com page for the Products, which
2 Plaintiff viewed and the content of which, on information and belief, is controlled by Naked.
3 The same Amazon.com page describes the Products as providing “maximum nutrition,” as
4 shown in this example:

About this item

- ONLY ONE INGREDIENT: 100% Yellow Pea Protein with zero additives. Our pure plant protein powder contains no artificial sweeteners, flavors, or colors and is GMO-Free, Soy Free and Gluten-Free.
- VEGETARIAN AND VEGAN PROTEIN POWDER: Dairy Free and made solely from raw yellow peas grown on environmentally friendly farms in both the USA and Canada.
- MAXIMUM NUTRITION: 27g of Protein, 2g of Sugar, 2g of Carbs, 120 Calories, and 5.7g of BCAAs (branched-chain amino acids) per serving.
- PROTEIN SHAKES AND RECIPES: Create pure pea protein shakes, vegan smoothies and healthy green drinks. Provide your body with the daily protein it needs by adding to tea, sauces, and other recipes.
- CLEAN GAINS: To maintain a clean high-protein diet, use Naked Pea in pre and post workout shakes, smoothies and recipes for maximum recovery.

14 41. The PDCAAS of each form of protein used in the Products is significantly less
15 than 1.0.

16 42. Because of the protein claim on the front label of the Products, Naked Nutrition is
17 required under 21 C.F.R. § 101.9(c)(7) to report a PDCAAS-corrected %DRV in the Nutrition
18 Facts panel of the Products.

19 43. It does not. Instead, the Nutrition Facts panel on the Products presents a %DRV
20 that indicates that the protein used in the Products is fully digestible, as shown in the following
21 examples:

Nutrition Facts	
15 servings per container	
Serving size	30g (About 2 scoops)
Amount per serving	
Calories	120
% Daily Value*	
Total Fat 0.5g	<1%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 110mg	5%
Total Carbohydrate 2g	1%
Dietary Fiber 0g	0%
Total Sugars 2g	
Includes 0g Added Sugars	0%
Protein 27g	54%
Vitamin D 0mcg	0%
Calcium 95mg	7%
Iron 2.85mg	16%
Potassium 100mg	2%
*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.	

Nutrition Facts	
30 servings per container	
2 scoops = 78cc = 5.3 tbsp = 15.8 tsp	
Serving size	2 scoops (33g)
Amount per serving	
Calories	130
% Daily Value*	
Total Fat 3g	4%
Saturated Fat 1.5g	8%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 230mg	10%
Total Carbohydrate 7g	3%
Dietary Fiber 1g	4%
Total Sugars 3g	
Includes 3g Added Sugars	6%
Protein 20g	40%
Vitamin D 0mcg	0%
Calcium 56mg	4%
Iron 7mg	40%
Potassium 173mg	4%
*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.	

44. The protein claims on the principal display panels of the Products are deceptive and misleading to reasonable consumers because these claims are not clarified and contextualized by the disclosure of the quality-adjusted percent daily value in the Nutrition Facts panel.

45. Likewise, the protein claims in the Nutrition Facts Panel are deceptive and misleading to consumers because the panels do not report a PDCAAS-adjusted %DRV.

46. On information and belief, since the circulation of CLRA notices by the Plaintiff, Defendant has changed its labels to delete the %DRV in the Nutrition Facts panel. However, this claim remains deceptive because the Products continue to make a protein claim on the principal display panel.

C. Plaintiff Reasonably Relied on Defendant's Labelling Statements.

47. Labels are the chief means by which food product manufacturers convey critical information to consumers, and consumers have been conditioned to rely on the accuracy of the claims made on these labels.

1 48. Consumers including Plaintiff especially rely on label claims made by food
2 product manufacturers such as Defendant, as they cannot confirm or disprove those claims
3 simply by viewing or even consuming the Products.

4 49. Further, federal law and corresponding state law and regulations both reflect and
5 create reasonable consumer expectations concerning the contents of foods and beverages. That
6 is, consumers have been conditioned to rely on the %DRV disclosures in a Nutrition Facts or
7 Supplement Facts panel when determining how much of a food product they need to consume
8 to obtain a specific amount of protein in their diet.

9 50. Plaintiff reviewed the label and Nutrition Facts panel on the Products prior to her
10 purchases, as well as the other statements described herein, and reviewed the statements
11 regarding protein being made in those places. Consumers such as Plaintiff who viewed the
12 Products' labels reasonably understood the Products to contain a specific amount of fully
13 bioavailable, high-quality protein, comprising a specific percentage of the Recommended Daily
14 Value of protein, as set forth above. These representations were false.

15 51. Consumers including Plaintiff reasonably relied on these label statements such
16 that they would not have purchased the Products from Defendant if the truth about the Products
17 was known, or would have only been willing to pay a substantially reduced price for the Products
18 had they known that Defendant's representations were false and misleading.

19 52. In the alternative, because of its deceptive and false labelling statements,
20 Defendant was enabled to charge a premium for the Products relative to key competitors'
21 products, or relative to the average price charged in the marketplace.

22 53. In addition to being unlawful under the FDA regulations cited herein, Defendant's
23 prominent protein claim on the front of the package, in the absence of any statement of the
24 corrected amount of protein per serving expressed as a %DRV in the Nutrition Facts panel, is
25 also likely to mislead reasonable consumers. Unless they are told otherwise, consumers
26 reasonably expect that Defendant's Products will actually provide the full amount of
27 bioavailable protein per serving claimed on the front of the package and stated in the protein
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1 quantity section of the Nutrition Facts panel, *i.e.*, that the Products contain high quality proteins.
2 But Defendant's products do not. Instead, they consist of low-quality proteins that are not fully
3 bioavailable.

4 54. Had Defendant included a statement of the corrected amount of protein per serving
5 in the Nutrition Facts panel, as it was required to do under federal and state law, that disclosure
6 would have revealed that significantly less than the full protein quantity in the Products is
7 useable by the human body, and that the Products contain low quality proteins.

8 55. That information was material to reasonable consumers, especially the class of
9 protein-conscious consumers who are the target market of the Products. The absence of this
10 information also allowed Defendant to charge a price premium to consumers including Plaintiff.

11 56. Plaintiff suffered economic injury by Defendant's fraudulent and deceptive
12 conduct as stated herein, and there is a causal nexus between Defendant's deceptive conduct and
13 Plaintiff's injury.

14 57. All varieties of the Products make the same protein claims, which are deceptive
15 in the same manner, and sell for roughly the same price. Plaintiff's are therefore adequate
16 representatives of the Class despite not having purchased all varieties of the Products.

17 **CLASS ACTION ALLEGATIONS**

18 58. Plaintiff brings this action individually and as representatives of all those similarly
19 situated pursuant to Federal Rule of Civil Procedure 23 on behalf of all consumers in the state
20 of California who purchased the Products within four years prior to the filing of this Complaint.

21 59. Excluded from the Class are Defendant and its affiliates, parents, subsidiaries,
22 employees, officers, agents, and directors. Also excluded are any judicial officers presiding over
23 this matter and the members of their immediate families and judicial staff.

24 60. Plaintiff reserve the right to alter the Class definition, and to amend this Complaint
25 to add additional Subclasses, as necessary to the full extent permitted by applicable law.

26 61. Certification of Plaintiff's claims for class-wide treatment is appropriate because
27 Plaintiff can prove the elements of the claims on a class-wide basis using the same evidence as
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1 individual Class members would use to prove those elements in individual actions alleging the
2 same claims.

3 62. **Numerosity – Rule 23(a)(1):** The size of the Class is so large that joinder of all
4 Class members is impracticable. Plaintiff believes and avers there are thousands of Class
5 members geographically dispersed throughout the state of California.

6 63. **Existence and Predominance of Common Questions of Law and Fact – Rule**
7 **23(a)(2), (b)(3):** There are questions of law and fact common to the Class. These questions
8 predominate over any questions that affect only individual Class members. Common legal and
9 factual questions and issues include but are not limited to:

- 10 a. Whether the marketing, advertising, packaging, labeling, and other promotional
11 materials for Defendant's Products is misleading and deceptive;
12 b. Whether a reasonable consumer would understand Defendant's protein claim to
13 indicate that the Products contain a specific amount of fully bioavailable high-
14 quality protein and provide a specific percentage of the Daily Recommended
15 Value of protein, as set forth above, and reasonably relied upon that
16 representation;
17 c. Whether Defendant was unjustly enriched at the expense of the Plaintiff and Class
18 members;
19 d. Whether Defendant breached an express warranty;
20 e. the proper amount of damages;
21 f. the proper scope of injunctive relief; and
22 g. the proper amount of attorneys' fees.

23 64. Defendant engaged in a common course of conduct in contravention of the laws
24 Plaintiff seeks to enforce individually and on behalf of the Class. Similar or identical violations
25 of law, business practices, and injuries are involved. Individual questions, if any, pale by
26 comparison, in both quality and quantity, to the numerous common questions that predominate
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1 this action. The common questions will yield common answers that will substantially advance
2 the resolution of the case.

3 65. In short, these common questions of fact and law predominate over questions that
4 affect only individual Class members.

5 66. **Typicality – Rule 23(a)(3):** Plaintiff's claims are typical of the claims of the Class
6 members because they are based on the same underlying facts, events, and circumstances
7 relating to Defendant's conduct.

8 67. Specifically, all Class members, including Plaintiff, were harmed in the same way
9 due to Defendant's uniform misconduct described herein; all Class members suffered similar
10 economic injury due to Defendant's misrepresentations; and Plaintiff seeks the same relief as
11 the Class members.

12 68. There are no defenses available to Defendant that are unique to the named
13 Plaintiff.

14 69. **Adequacy of Representation – Rule 23(a)(4):** Plaintiff is a fair and adequate
15 representative of the Class because Plaintiff's interests do not conflict with the Class members'
16 interests. Plaintiff will prosecute this action vigorously and is highly motivated to seek redress
17 against Defendant.

18 70. Furthermore, Plaintiff has selected competent counsel who are experienced in
19 class action and other complex litigation. Plaintiff and Plaintiff's counsel are committed to
20 prosecuting this action vigorously on behalf of the Class and have the resources to do so.

21 71. **Superiority – Rule 23(b)(3):** The class action mechanism is superior to other
22 available means for the fair and efficient adjudication of this controversy for at least the
23 following reasons:

- 24 a. the damages individual Class members suffered are small compared to the burden
25 and expense of individual prosecution of the complex and extensive litigation
26 needed to address Defendant's conduct such that it would be virtually impossible
27 for the Class members individually to redress the wrongs done to them. In fact,
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1 they would have little incentive to do so given the amount of damage each member
2 has suffered when weighed against the costs and burdens of litigation;

3 b. the class procedure presents fewer management difficulties than individual
4 litigation and provides the benefits of single adjudication, economies of scale, and
5 supervision by a single Court;

6 c. the prosecution of separate actions by individual Class members would create a
7 risk of inconsistent or varying adjudications, which would establish incompatible
8 standards of conduct for Defendant; and

9 d. the prosecution of separate actions by individual Class members would create a
10 risk of adjudications with respect to them that would be dispositive of the interests
11 of other Class members or would substantively impair or impede their ability to
12 protect their interests.

13 72. Unless the Class is certified, Defendant will retain monies received as a result of
14 its unlawful and deceptive conduct alleged herein.

15 73. Unless a class-wide injunction is issued, Defendant will likely continue to
16 advertise, market, promote, and sell its Products in an unlawful and misleading manner, as
17 described throughout this Complaint, and members of the Class will continue to be misled,
18 harm, and denied their rights under the law. Defendant continues to mislabel the Products in
19 the manner described herein and sell them to the consuming public. Defendant would like to
20 purchase the Products and other products sold by Defendant in the future, but cannot currently
21 do so because he cannot rely on the Products' labelling, given the deceptions regarding protein
22 quality found there. An injunction prohibiting future deceptive labelling is therefore warranted
23 and would provide Plaintiff and the Class relief.

24 74. Furthermore, Plaintiff has not merely alleged an "informational" injury, but have
25 also alleged that Defendant has been enabled to charge a price premium for the Products.
26 Plaintiff has therefore alleged that compliance with federal and state regulations regarding the
27 accurate reporting of protein content and quality in the Products would cause a decrease in the
28

1 price of the Products at which Plaintiff and members of the Class would be willing to buy the
2 Products. As a result, Plaintiff has alleged more than simply an interest in Defendant telling the
3 truth on its labels, but an economic injury that further supports prospective injunctive relief.

4 75. **Ascertainability.** To the extent ascertainability is required, the Class members are
5 readily ascertainable from Defendant's records and/or its agents' records of retail and online
6 sales, as well as through public notice.

7 76. Defendant has acted on grounds applicable to the Class as a whole, thereby
8 making appropriate final injunctive and declaratory relief concerning the Class as a whole.

9
10 **COUNT 1**
11 **VIOLATION OF THE CONSUMER LEGAL REMEDIES ACT**
12 **CAL. CIV. CODE § 1750 *et seq.***

13 77. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
14 extent necessary, pleads this cause of action in the alternative.

15 78. Plaintiff is a "consumer" within the meaning of the Consumer Legal Remedies
16 Act ("CLRA"), Cal. Civ. Code § 1761(d).

17 79. The sale of Defendant's Products to Plaintiff and Class members was a
18 "transaction" within the meaning of the CLRA, Cal. Civ. Code § 1761(e).

19 80. The Products purchased by Plaintiff and Class members are "goods" within the
20 meaning of the CLRA, Cal. Civ. Code § 1761(a).

21 81. As alleged herein, Defendant's business practices are a violation of the CLRA
22 because Defendant deceptively failed to reveal facts that are material in light of the protein
23 claims that were made by Defendant on the principal display panel of its Products.

24 82. Defendant's ongoing failure to provide material facts about its Products on its
25 labels violates the following subsections of Cal. Civ. Code § 1770(a) in these respects:

- 26 a. Defendant's acts and practices constitute misrepresentations that its Products have
27 characteristics, benefits, or uses which they do not have;
28 b. Defendant misrepresented that its Products are of a particular standard, quality,
and/or grade, when they are of another;

- 1 c. Defendant's acts and practices constitute the advertisement of goods, without the
2 intent to sell them as advertised;
- 3 d. Defendant's acts and practices fail to represent that transactions involving its
4 Products involve actions that are prohibited by law, particularly the use of
5 misleading nutritional labelling; and
- 6 e. Defendant's acts and practices constitute representations that its Products have
7 been supplied in accordance with previous representations when they were not.

8 83. By reason of the foregoing, Plaintiff and the Class have been irreparably harmed,
9 entitling them to injunctive relief.

10 84. Pursuant to Cal. Civ. Code § 1782, Plaintiff notified Defendant in writing of the
11 particular violations of the CLRA described herein and demanded Defendant rectify the actions
12 described above by providing complete monetary relief, agreeing to be bound by its legal
13 obligations and to give notice to all affected customers of their intent to do so. Plaintiff sent this
14 notice by certified mail to Defendant, at least 30 days before the filing of this Complaint.

15 85. Pursuant to Cal. Civ. Code §§ 1770 and 1780, Plaintiff is entitled to enjoin
16 publication of misleading and deceptive nutritional labels on Defendant's Products and to
17 recover reasonable attorneys' fees and costs.

18 **COUNT 2**
19 **UNJUST ENRICHMENT**

20 86. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
21 extent necessary, pleads this cause of action in the alternative in the event that Plaintiff has an
22 inadequate remedy at law.

23 87. Under California law, a claim for unjust enrichment "describe[s] the theory
24 underlying a claim that a defendant has been unjustly conferred a benefit 'through mistake,
25 fraud, coercion, or request.'" *Astiana v. Hain Celestial Grp., Inc.* (9th Cir. 2015) 783 F.3d 753,
26 762 (quoting 55 *Cal. Jur. 3d Restitution* § 2). Thus, when a plaintiff alleges unjust enrichment,
27 the Court should "construe the cause of action as a quasi-contract claim seeking restitution."
28 *Rutherford Holdings, LLC v. Plaza Del Rey* (2014) 223 Cal.App.4th 221, 225. Courts in

1 California have allowed unjust enrichment and CLRA claims to proceed in the alternative. *See*
2 *Scheibe v. Livwell Prods., LLC*, No. 23-cv-216, 2023 WL 4414580, at *8 (S.D. Cal. 2023).

3 88. Defendant, through its marketing and labeling of the Products, misrepresented and
4 deceived consumers by misrepresenting that the Products contained a specific amount of fully
5 bioavailable protein that constituted a specific percent of the Recommended Daily Value of
6 protein, as set forth herein.

7 89. Defendant did so for the purpose of enriching itself and it in fact enriched itself
8 by doing so.

9 90. Consumers conferred a benefit on Defendant by purchasing the Products,
10 including an effective premium above their true value. Defendant appreciated, accepted, and
11 retained the benefit to the detriment of consumers.

12 91. Defendant continues to possess monies paid by consumers to which Defendant is
13 not entitled.

14 92. Under the circumstances it would be inequitable for Defendant to retain the benefit
15 conferred upon it and Defendant's retention of the benefit violates fundamental principles of
16 justice, equity, and good conscience.

17 93. Plaintiff seeks disgorgement of Defendant's ill-gotten gains and restitution of
18 Defendant's wrongful profits, revenue, and benefits, to the extent, and in the amount, deemed
19 appropriate by the Court, and such other relief as the Court deems just and proper to remedy
20 Defendant's unjust enrichment.

21 94. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact as
22 a result of Defendant's actions as set forth above.

23
24 **COUNT 3**
BREACH OF EXPRESS WARRANTY

25 95. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
26 extent necessary, pleads this cause of action in the alternative.
27
28

- 1 d. Ordering an awarding of injunctive relief as permitted by law, including enjoining
2 Defendant from continuing the unlawful practices as set forth herein, and ordering
3 Defendant to engage in a corrective advertising campaign;
4
5 e. Ordering Defendant to pay reasonable attorneys' fees and litigation costs to Plaintiff;
6
7 f. Ordering Defendant to pay both pre- and post-judgment interest on any amounts
8 awarded; and
9
10 g. Such other relief as the Court may deem just and proper.

11 TRIAL BY JURY IS DEMANDED ON ANY COUNTS SO TRIABLE.

12 Respectfully submitted,

13 /s/ Charles C. Weller
14 Charles C. Weller (Cal. SBN: 207034)
15 Attorney for Plaintiff

16 June 17, 2025
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