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11 OUTLAW LABORATORY, LP
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OUTLAW LABORATORY, LP, a
Texas limited partnership,

Plaintiff,

vs.

DG IN PB, LLC dba QUIK CORNER
LIQUOR, a California Corporation,
KACHI ENTERPRISES INC. dba
HILLTOP LIQUOR, a California
Corporation, T&M LIQUOR, INC.
dba THE BOULEVARD WINE AND
SPIRITS, a California Corporation,
MAIN CALIF, INC. dba MAIN
STREET LIQUOR #4, a California
Corporation, PACIFIC BEACH GAS,
INC., a California Corporation, R&M
PALM, INC. dba PALM PLAZA
LIQUOR, a California Corporation,
ZAYA ENTERPRISES INC dba
NEW WAY LIQUOR, a California
Corporation, SUMMER'S LIQUOR,
INC., a California corporation,

CASE NO. '18CV0840 GPC BGS

COMPLAINT FOR:

**(1) FALSE ADVERTISING IN
VIOLATION OF THE
LANHAM ACT § 43 (a)(1)(B))**

[DEMAND FOR A JURY TRIAL]

1 FOUNTAIN TRADING CORP dba
2 MIDWAY WINE & SPIRITS, a
3 California corporation, JOHN
4 IBRAHIM dba SEA TRADER
5 LIQUOR & DELI, a California
6 corporation, EASHOU, INC. dba
7 SAN DIEGO CASH & CARRY, a
8 California corporation, and DOES 1
9 through 100, inclusive,

Defendants.

1 Plaintiff Outlaw Laboratory, LP, a Texas limited partnership (“OLP” or
2 “Plaintiff”), by and through its undersigned attorneys, submits this Complaint against
3 defendants DG IN PB, LLC dba QUIK CORNER LIQUOR, a California Corporation,
4 KACHI ENTERPRISES INC. dba HILLTOP LIQUOR, a California Corporation, T&M
5 LIQUOR, INC. dba THE BOULEVARD WINE AND SPIRITS, a California
6 Corporation, MAIN CALIF, INC. dba MAIN STREET LIQUOR #4, a California
7 Corporation, PACIFIC BEACH GAS, INC., a California Corporation, R&M PALM,
8 INC. dba PALM PLAZA LIQUOR, a California Corporation, ZAYA ENTERPRISES
9 INC dba NEW WAY LIQUOR, a California Corporation, SUMMER'S LIQUOR, INC.,
10 a California corporation, FOUNTAIN TRADING CORP dba MIDWAY WINE &
11 SPIRITS, a California corporation, JOHN IBRAHIM dba SEA TRADER LIQUOR &
12 DELI, a California corporation, EASHOU, INC. dba SAN DIEGO CASH & CARRY, a
13 California corporation, and Does 1-100 (collectively, the “Defendants”), and in support
14 thereof avers as follows:

15 **INTRODUCTION**

16 1. Defendants are engaged in a scheme to distribute and sell “male
17 enhancement” pills containing undisclosed pharmaceuticals to the general public.
18 Specifically, Defendants offer for sale various sexual enhancement products, including
19 but not limited to Black Mamba, Rhino 25K 15000, Boss-Rhino Gold X-tra Strength,
20 Rhino 5 1500, Bl4ck 4k Capsules, Rhino 7 Platinum 5000, Rhino 12 Titanium 6000,
21 New Stiff Nights Platinum 10K, Grande X 5800, Royal Honey VIP, Blue Diamond,
22 Triple Green, Libigrow XXXTREME, Rhino 7 Platinum 3000, Extreme Diamond 3000,
23 Libigirl, Libigrow, Herb Viagra, Hard Ten Days, Rhino 12 Titanium 6000, Rhino 8
24 Platinum 8000, and OrgaZen 3500 (collectively, the “Enhancement Products”). All of
25 the Enhancement Products have been the subject of laboratory testing and public
26 announcements by the FDA, which found these products to contain hidden drug
27 ingredients such as sildenafil (a prescription drug), desmethyl carbodenafil (an analogue

1 of sildenafil), dapoxetine (an unapproved anti-depressant drug) and tadalafil (a
2 prescription drug), among other dangerous undisclosed ingredients.

3 2. The Enhancement products are distributed by individuals and business
4 entities, including, without limitation, EASHOU, INC. dba San Diego Cash & Carry (the
5 “Supplier Defendants”) through retail stores which are named herein as co-defendants
6 (the “Retail Defendants”). Plaintiff has sent letters to each of the Retail Defendants
7 making demands that they cease and desist from the illicit activity. The Retail
8 Defendants have not complied with the demands.

9 3. The Retail Defendants profit from the sale of the Enhancement Products by
10 disseminating false statements including that the Enhancement Products are “all natural,”
11 contain “no harmful synthetic chemicals,” “no prescription necessary,” and have limited
12 side effects. Aside from these patently false statements, Defendants have failed to
13 disclose the true nature of the Enhancement Products to their customers, even though
14 they are aware of the dangerous secret ingredients.

15 4. Plaintiff is the manufacturer of competing products called “TriSteel” and
16 “TriSteel 8hour,” which are DSHEA-compliant male enhancement products made in the
17 USA and distributed for sale in all 50 US States.

18 5. The proliferation of mislabeled male enhancement pills has grown in the
19 shadows of intermittent enforcement of nutritional supplement laws. In this regard, the
20 FDA has issued several public notices regarding the use of sildenafil in over the counter
21 “male enhancement” supplements, but has only taken action on a handful of cases. The
22 Supplier Defendants and the Retail Defendants have taken full advantage of this
23 regulatory landscape, making significant profits selling dangerous products while openly
24 engaging in illicit activity.

25 6. Thus, Plaintiff’s only recourse is a civil action to protect the commercial
26 interests recognized by the Lanham Act and to expose the scheme detailed herein. As
27 such, Defendants have knowingly and materially participated in a false and misleading

1 advertising campaign to promote and sell its Enhancement Products, giving consumers
2 the false impression that these products are safe when in reality, Defendants are well
3 aware that the Enhancement Products contain hidden drug ingredients.

4 7. Defendants' false and misleading statements and advertising pose extreme
5 health risks to consumers in at least two ways. First, Defendants mislead consumers into
6 believing that the advice and authorization of a licensed medical professional is not
7 required to mitigate or avoid the potentially life-threatening side effects, drug interactions
8 and contraindications of the sildenafil and other drug ingredients hidden in the
9 Enhancement Products. Second, by failing to inform consumers that the Enhancement
10 Products contain sildenafil, consumers who know that their medical history and drug
11 prescriptions make sildenafil consumption dangerous may nevertheless consume the
12 Enhancement Products because they are not made aware they contain sildenafil.

13 8. Defendants have knowingly and materially participated in false and
14 misleading marketing, advertising, dissemination and labeling to promote and sell the
15 Enhancement Products, giving consumers the false impression that these products are
16 safe and natural dietary supplements when in reality Defendants know that the
17 Enhancement Products contain synthetic prescription drug ingredients that pose serious
18 health dangers when taken without the supervision of a licensed medical professional.

19 9. Such false and misleading marketing and advertising is dangerous to
20 individual consumers and harmful to the dietary supplement industry as a whole.
21 Defendants have created an illegitimate marketplace of consumers seeking to enhance
22 their sexual performance but who are not informed, or who are misinformed, of the
23 serious dangers of using Defendants' Enhancement Products. Consumers of the
24 Enhancement Products have little or no incentive to use natural, legitimate and safe
25 sexual performance enhancement products, such as Plaintiff's TriSteel or TriSteel 8hour,
26 until they are harmed or Defendants' Enhancement Products are taken off of the shelves.
27 Defendants' continuing false, misleading, and deceptive practices have violated the

1 Lanham Act and have unjustly enriched Defendants at the expense of Plaintiff, and have
2 harmed Plaintiff's commercial interests, including but not limited to, loss of revenue,
3 disparagement and loss of goodwill.

4 10. Among other things, this action seeks to enjoin Defendants from the
5 marketing and sale of any and all of the Enhancement Products, disgorgement of
6 Defendants' profits, treble damages, punitive damages and attorneys' fees provided by
7 the Lanham Act.

8 **JURISDICTION AND VENUE**

9 11. This Court has subject matter jurisdiction over this action pursuant to 15
10 U.S.C. § 1121 and 28 U.S.C. § 1331 (federal question jurisdiction).

11 12. This Court has personal jurisdiction over Defendants because they have,
12 directly or through their intermediaries (including distributors, retailers, and others),
13 developed, licensed, manufactured, shipped, distributed, offered for sale, sold, and
14 advertised their products, including but not limited to the Enhancement Products, in the
15 United States, the State of California and this district. Defendants have purposefully and
16 voluntarily placed these products into the stream of commerce with the expectation that
17 they will be purchased in this district.

18 13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2)
19 because a substantial part of the events or omissions which gave rise to the claim
20 occurred in this district and the Retail Defendants are all located in this district.

21 **PARTIES**

22 14. Plaintiff Outlaw Laboratory, LP is a Texas limited partnership organized
23 under the laws of the State of Texas.

24 15. Defendant DG in PB, LLC dba Quik Corner Liquor is a California limited
25 liability company with its principal place of business at 1059 Garnet Avenue, San Diego
26 California 92109.

1 16. Defendant Kachi Enterprises, Inc. dba Hilltop Liquor is a California
2 corporation with its principal place of business located at 2499 Market Street, San Diego
3 California 92102.

4 17. Defendant T&M Liquor, Inc. dba The Boulevard Wine and Spirits is a
5 California corporation with its principal place of business located at 4245 El Cajon Blvd.,
6 San Diego California 92105.

7 18. Main Calif, Inc. dba Main Street Liquor #4 is a California corporation with
8 its principal place of business located 2996 National Ave, San Diego, California 92113.

9 19. Defendant Pacific Beach Gas, Inc. is a California corporation with its
10 principal place of business located at 4404 Ingraham Street, San Diego, California 92109.

11 20. Defendant R&M Palm, Inc. Dba Palm Plaza Liquor is a California
12 corporation with its principal place of business located at 3329 Palm Ave., San Diego,
13 California 92154.

14 21. Defendant Zaya Enterprises, Inc. dba New Way Liquor is a California
15 corporation with its principal of business located at 5591 University Avenue, San Diego,
16 California 92105.

17 22. Defendant Summer's Liquor, Inc. is a California corporation with its
18 principal place of business located at 4602 Park Blvd., San Diego, California 92116.

19 23. Defendant Fountain Trading Corporation dba Midway Wine & Spirits is a
20 California corporation with its principal place of business located at 3040 Midway Drive,
21 San Diego, California 92110.

22 24. Defendant John Ibrahim dba Sea Trader Liquor & Deli is a California
23 corporation with its principal place of business located at 1403 Ebers Street, San Diego,
24 California 92107.

25 25. Defendant EASHOU, INC. dba San Diego Cash & Carry is a California
26 corporation with its principal place of business located at 1090 E Washington Ave., El
27 Cajon, California 92020.

1 consumption of sildenafil by individuals with these conditions can greatly increase the
2 risk of heart attack.

3 31. Because of these dangerous side effects, drug interactions and
4 contraindications, the advice and authorization of appropriate licensed medical
5 professionals is absolutely crucial for the safe consumption of sildenafil. Without such
6 safeguards, the consequences can be dire; the sale of mislabeled sildenafil in similar
7 circumstances has led to multiple deaths reported in the media.

8 **Defendants' Scheme**

9 32. The Supplier Defendants are wholesale suppliers and distributors of various
10 sexual enhancement supplements, which are often imported from China, rarely disclose
11 any manufacturer information on their packaging and contain hidden drug ingredients.
12 The Enhancement Products are generally sold in single-pill form. The Supplier
13 Defendants distribute the Enhancement Products through a network of Retail Defendants,
14 detailed herein, who own and operate independent businesses selling the Enhancement
15 Products, disseminate false claims about the Enhancement Products, and profit from the
16 sale of dangerous products to consumers at a large markup on each pill.

17 33. The Supplier Defendants contact retailers such as the Retail Defendants and
18 offer the Enhancement Products for sale. The Enhancement Products are high-margin
19 products and as such are situated at or near the checkout counter. The Enhancement
20 Products are all subject to FDA public announcements regarding their illicit contents;
21 however, the Retail Defendants still participate in their sale, due to their profitability.

22 **Defendants' False Statements Regarding The Enhancement Products**

23 34. DG in PB, LLC dba Quik Corner Liquor owns and operates the retail
24 location at 1059 Garnet Avenue, San Diego California 92109, which advertises and
25 offers for sale various sexual enhancement supplements, including without limitation,
26 Black Mamba, Rhino 25K 15000, Boss- Rhino Gold X-tra Strength, Rhino 5 1500, and
27 Bl4ck 4k capsules.

1 35. Kachi Enterprises, Inc. dba Hilltop Liquor owns and operates the retail
2 location at 2499 Market Street, San Diego California 92102, which advertises and offers
3 for sale various sexual enhancement supplements, including without limitation, Rhino 7
4 Platinum 5000, Rhino 12 Titanium 6000, Black Mamba, New Stiff Nights Platinum 10K,
5 Grande X 5800 and Rhino 8 Platinum 8000.

6 36. T&M Liquor, Inc. dba The Boulevard Wine and Spirits owns and operates
7 the retail location at 4245 El Cajon Blvd., San Diego California 92105, which advertises
8 and offers for sale various sexual enhancement supplements, including without
9 limitation, Rhino 7 Platinum 3000.

10 37. Main Calif, Inc. dba Main Street Liquor #4 owns and operates the retail
11 location at 2996 National Ave, San Diego, California 92113, which advertises and offers
12 for sale various sexual enhancement supplements, including without limitation, Royal
13 Honey VIP, Blue Diamond, Libigrow, Rhino 7 Platinum 3000, and Triple Green.

14 38. Pacific Beach Gas, Inc. owns and operates the retail location at 4404
15 Ingraham Street, San Diego, California 92109, which advertises and offers for sale
16 various sexual enhancement supplements, including without limitation, Rhino 8 Platinum
17 8000 and Libigrow.

18 39. R&M Palm, Inc. Dba Palm Plaza Liquor owns and operates the retail
19 location at 1868 Fuerte Valley Drive, El Cajon California 92019, which advertises and
20 offers for sale various sexual enhancement supplements, including without limitation,
21 Rhino 7 Platinum 5000, Rhino 8 Platinum 8000, Libigrow XXXXTREME, and Libigrow.

22 40. Zaya Enterprises, Inc. dba New Way Liquor owns and operates the retail
23 location at 5591 University Avenue, San Diego, California 92105, which advertises and
24 offers for sale various sexual enhancement supplements, including without limitation,
25 Libigrow, Rhino 7 Platinum 5000, Rhino 7 Platinum 3000, Extreme Diamond 3000 and
26 Libigirl.

1 41. Summer's Liquor, Inc. owns and operates the retail location at 4602 Park
2 Blvd., San Diego, California 92116, which advertises and offers for sale various sexual
3 enhancement supplements, including without limitation, Libigrow.

4 42. Fountain Trading Corporation dba Midway Wine & Spirits owns and
5 operates the retail location at 3040 Midway Drive, San Diego, California 92110, which
6 advertise and offer for sale various sexual enhancement supplements, including without
7 limitation, Rhino 7 Platinum 3000, Libigrow XXX TREME, Libigrow, Herb Viagra and
8 Hard Ten Days.

9 43. John Ibrahim dba Sea Trader Liquor & Deli owns and operates the retail
10 location at 1403 Ebers Street, San Diego, California 92107, which advertises and offers
11 for sale various sexual enhancement supplements, including without limitation, Rhino 7
12 Platinum 5000, Rhino 12 Titanium 6000, rhino 8 Platinum 8000, and OrgaZen 3500.

13 44. Eashou, Inc. dba San Diego Cash & Carry owns and operates the wholesale
14 supplier location at 1090 E. Washington Avenue, El Cajon, California 92020, which
15 supplies, distributes, advertises and offers for sale various sexual enhancement
16 supplements, including without limitation, the Enhancement Products.

17 45. The Defendants commercially market, advertise, distribute, disseminate,
18 offer for sale and profit from the Enhancement Products. The Enhancement Products
19 claim that they are "ALL NATURAL," a "NATURAL FORMULA," with "NO
20 HARMFUL synthetic chemicals" and "NO PRESCRIPTION necessary." They also
21 claim to offer "NO HEADACHE" and to have limited side effects. However, such
22 claims are materially false and misleading. Contrary to Defendants' statements, recent
23 FDA laboratory analyses have confirmed that the Enhancement Products contain
24 sildenafil, a synthetic pharmaceutical with profound side effects, among other hidden
25 drug ingredients.

26 46. Defendants' false statements and advertising pose extreme health risks to
27 consumers in at least two ways. First, by stating that no prescription is necessary to

1 consume the Enhancement Products, Defendants mislead consumers into believing that
2 the advice and authorization of a licensed medical professional is not required to mitigate
3 or avoid the potentially life-threatening side effects, drug interactions and
4 contraindications of sildenafil hidden in the Enhancement Products. Second, by failing to
5 inform consumers that the Enhancement Products contain sildenafil, consumers who
6 know that their medical history and drug prescriptions make sildenafil consumption
7 dangerous may nevertheless consume the Enhancement Products because they are
8 unaware that they contain sildenafil.

9 47. Accordingly, Defendants' false and misleading advertising is dangerous to
10 individual consumers and harmful to the dietary supplement industry as a whole.
11 Defendants have created an illegitimate marketplace of consumers seeking to enhance
12 their sexual performance but who are not informed, or who are misinformed, of the
13 serious dangers of using Defendants' Enhancement Products. The ubiquity of the
14 Enhancement Products, their relatively low cost to manufacture in comparison to natural
15 products, and their dramatic pharmacologic effects makes it so that legitimate sexual
16 performance enhancement products, such as TriSteel or TriSteel 8hour, are at a huge
17 disadvantage in their efforts to obtain market share.

18 **Plaintiff's Dietary Supplements: TriSteel and TriSteel 8hour**

19 48. Plaintiff OLP is a manufacturer of DSHEA-compliant dietary supplements.
20 Plaintiff manufactures and offers for sale TriSteel and TriSteel 8hour, male sexual
21 performance enhancement supplements that promote increased sexual desire and stamina.
22 The ingredients in TriSteel are Epimedium Extract (leaves), Yohimbe Extract (8mg
23 Yohimbine Alkaloids), Xanthoparmelia Scarbrosa Extract (Lichen), Gamma Amino
24 Butyric Acid (GABA), L-Arginine, Gelatin, Cellulose, Magnesium Stearate and Silica.
25 Plaintiff sells TriSteel and TriSteel 8hour in all 50 states through its website, as well as
26 through many other online and storefront retail locations.

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CLAIM FOR RELIEF

(False Advertising in Violation of Section 43(a)(1)(B) of the Lanham Act)

49. Plaintiff incorporates the allegations contained in the foregoing paragraphs as though fully set forth herein in their entirety.

50. Defendants have knowingly and purposely made false and misleading descriptions of fact concerning the nature, characteristics and qualities of the Enhancement Products by, without limitation, commercially marketing and claiming that the Enhancement Products that they sell are safe and natural “dietary supplements” that will enhance a consumer’s sexual performance without requiring a doctor’s prescription, all while purposefully omitting that (a) the Enhancement Products contain sildenafil and therefore cannot be “dietary supplements,” (b) sildenafil is not naturally occurring, (c) sildenafil is a prescription drug requiring the prior authorization and supervision of a licensed medical professional, and (d) consumption of sildenafil without consultation and advice from a licensed medical professional poses extreme health risks, including without limitation, hypotension, heart attack and death.

51. The use of such false, misleading and disingenuous marketing has the tendency to deceive a substantial segment of the public and consumers, including those in this district, into believing that they are purchasing a product with different characteristics.

52. This deception is material because it is likely to influence a consumer’s purchasing decision, especially if the consumer (a) is looking for an all-natural sexual enhancement dietary supplement, (b) is purchasing the Enhancement Products out of an attempt to avoid Sildenafil because the consumer knows that Sildenafil poses special health risks given such consumer’s medical history or current drug prescriptions, and/or (c) wants to avoid taking any prescription drugs, generally, but especially without the supervision of a licensed medical professional. The deception is also material because

1 consumers decision to purchase the Enhancement Products could lead to dangerous and
2 unanticipated health consequences of which consumers are not informed.

3 53. Defendants have introduced their false and misleading statements into
4 interstate commerce via marketing and advertising on product packages and labels, and
5 on display cases placed in retail locations in the state of California. Defendants sell or
6 offer to sell the Enhancement Products to transient interstate travelers.

7 54. Plaintiff has been injured as a result of Defendants' false and misleading
8 statements. Specifically, Defendants' false and misleading advertising concerning the
9 Enhancement Products has negatively impacted Plaintiff's sales of TriSteel and TriSteel
10 8hour because both products are intended for sexual performance enhancement and target
11 the same consumers. Thus, Plaintiff has suffered both an ascertainable economic loss of
12 money and reputational injury by the diversion of business from Plaintiff to Defendants
13 and the loss of goodwill in Plaintiff's products. The ubiquity of the Enhancement
14 Products, their relatively low cost to manufacture in comparison to natural products (like
15 TriSteel and TriSteel 8hour), and their dramatic pharmacologic effects makes it so that
16 legitimate sexual performance enhancement products, such as TriSteel or TriSteel 8hour,
17 struggle to obtain market share. Moreover, Defendants conduct has created reputational
18 damage in that Defendants' misconduct damages the marketplace as a whole and has the
19 tendency to disparage the goodwill associated with Plaintiff's brand.

20 55. Defendants' actions, as described above, constitute false and misleading
21 descriptions and misrepresentations of fact in commerce that, in commercial advertising
22 and promotion, misrepresent the nature, characteristics, and qualities of its products in
23 violation of Section 43(a)(1)(B) of the Lanham Act.

24 **PRAYER**

25 Wherefore, plaintiff OLP prays for judgment against Defendants as follows:

26 56. For preliminary and permanent injunctive relief enjoining Defendant from
27 producing, licensing, marketing, and selling any of the Enhancement Products, including

1 but not limited to, Black Mamba, Rhino 25K 15000, Boss-Rhino Gold X-tra Strength,
2 Rhino 5 1500, Bl4ck 4k Capsules, Rhino 7 Platinum 5000, Rhino 12 Titanium 6000,
3 New Stiff Nights Platinum 10K, Grande X 5800, Royal Honey VIP, Blue Diamond,
4 Triple Green, Libigrow XXXTREME, Rhino 7 Platinum 3000, Extreme Diamond 3000,
5 Libigirl, Libigrow, Herb Viagra, Hard Ten Days, Rhino 12 Titanium 6000, Rhino 8
6 Platinum 8000, and OrgaZen 3500;

7 57. For an award of compensatory damages to be proven at trial in accordance
8 with 15 U.S.C. § 1117;

9 58. For an award of any and all of Defendant's profits arising from the
10 foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws;

11 59. For restitution of Defendant's ill-gotten gains;

12 60. For treble damages in accordance with 15 U.S.C. § 1117;

13 61. For punitive damages;

14 62. For costs and attorneys' fees; and

15 63. Any other relief the Court may deem appropriate.

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17
18 DATED: May 2, 2018

TAULER SMITH LLP

19
20 By: /s/ Robert Tauler
21 Robert Tauler, Esq.
22 PLAINTIFF
23 OUTLAW LABORATORY, LP
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: May 2, 2018

TAULER SMITH LLP

By: /s/ Robert Tauler
Robert Tauler, Esq.
PLAINTIFF
OUTLAW LABORATORY, LP