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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Outlaw Laboratory, LP a Texas
Limited Partnership,

Plaintiff,

vs.

Bambi Buckeye Operating, LLC, an
Arizona Limited Liability Company,
75th and Aujla Real Estate, LLC,
an Arizona Limited Liability
Company, **Valencia Venture LLC**,
an Arizona Limited Liability
Company, **Aujla and Thomas Real
Estate, LLC**, an Arizona Limited
Liability Company, **Cal, Inc.**, an
Arizona Corporation, **Aujla
Equipment Limited Partnership**, an
Arizona Limited Partnership, **Two
Brothers V, Inc.**, an Arizona
Corporation, **Hafiz Dawood LLC**, a
California Limited Liability
Company, **Twelfth Avenue LLC**, an
Arizona Limited Liability Company,
**27th Northern and Aujla Real
Estate, LLC**, an Arizona Limited
Liability Company, **A & V Partners,
LLC**, an Arizona Limited Liability
Company, **Aujla Corporation**, an
Arizona Corporation, **FFH, LLC**, an
Arizona Limited Liability Company,

CASE NO.

COMPLAINT FOR:

**1) FALSE ADVERTISING (Section
43(a)(1)(B) of the Lanham Act)**

[REQUEST FOR A JURY TRIAL]

1 **Two Brothers XII, Inc.**, an Arizona
2 Corporation, **MR Partnership, LLC**,
3 an Arizona Limited Liability
4 Company, **NADDAF LLC**, an
5 Arizona Limited Liability Company,
6 and DOES 1-100.

7 Defendants.

8 Plaintiff Outlaw Laboratory, LP, a Texas limited partnership (“OLP” or
9 “Plaintiff”), by and through its undersigned attorneys, submits this Complaint against
10 defendants, **BAMBI BUCKEYE OPERATING LLC**, an Arizona Limited Liability
11 Company, **75TH AND AUJLA REAL ESTATE, LLC**, an Arizona Limited Liability
12 Company, **VALENCIA VENTURE LLC**, an Arizona Limited Liability Company,
13 **AUJLA AND THOMAS REAL ESTATE, LLC**, an Arizona Limited Liability Company,
14 **CAL, INC.**, an Arizona Corporation, **AUJLA EQUIPMENT LIMITED PARTNERSHIP**,
15 an Arizona Limited Partnership, **TWO BROTHERS V, INC.**, an Arizona Corporation,
16 **HAFIZ DAWOOD LLC**, a California Limited Liability Company, **TWELFTH AVENUE**
17 **LLC**, an Arizona Limited Liability Company, **27TH NORTHERN AND AUJLA REAL**
18 **ESTATE, LLC**, an Arizona Limited Liability Company, **A & V PARTNERS, LLC**, an
19 Arizona Limited Liability Company, **AUJLA CORPORATION**, an Arizona Corporation,
20 **FFH, LLC**, an Arizona Limited Liability Company, **TWO BROTHERS XII, INC.**, an
21 Arizona Corporation, **MR PARTNERSHIP, LLC**, an Arizona Limited Liability
22 Company, **NADDAF LLC**, an Arizona Limited Liability Company, and DOES 1-100,
23 inclusive (collectively, the “Defendants”), and in support thereof avers as follows:

24 **INTRODUCTION**

25 1. Defendants are engaged in a scheme to distribute and sell “male
26 enhancement” pills containing undisclosed pharmaceuticals to the general public.
27 Specifically, Defendants advertise and offer for sale various sexual enhancement
28 supplements, including but not limited to, Rhino 7 Platinum 3000, Rhino 7 Platinum
5000, Rhino 8 Platinum 8000, Rhino 9 Premium 3500, Rhino Big Horn 3000, Rhino 11

1 Platinum 11000, Rhino 12 Titanium 6000, Rhino 25k 15000, Rhino 69 and Boss-Rhino
2 Gold X-tra Strength (collectively, the “Rhino Products”). All of the Rhino Products have
3 been the subject of laboratory testing and public announcements by the FDA, which
4 found these products to contain hidden drug ingredients such as sildenafil (a prescription
5 drug), desmethyl carbodenafil (an analogue of sildenafil), dapoxetine (an unapproved
6 anti-depressant drug) and tadalafil (a prescription drug), among other dangerous
7 undisclosed ingredients.

8 2. The Rhino Products are distributed by unknown suppliers (the “Supplier
9 Defendants”) through Arco-branded convenience stores which are named herein as co-
10 defendants (the “Retail Defendants”). Plaintiff has sent letters to each of the Retail
11 Defendants making demands that they cease and desist from the illicit activity.

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

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

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

1 6. Thus, Plaintiff’s only recourse is a civil action to protect the commercial
2 interests recognized by the Lanham Act and to expose the scheme detailed herein. As
3 such, Defendants have knowingly and materially participated in a false and misleading
4 advertising campaign to promote and sell the Rhino Products, giving consumers the false
5 impression that these products are safe when in reality, Defendants are well aware that
6 the Rhino Products contain hidden drug ingredients.

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

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

22 9. Such false and misleading marketing and advertising is dangerous to
23 individual consumers and harmful to the dietary supplement industry as a whole.
24 Defendants have created an illegitimate marketplace of consumers seeking to enhance
25 their sexual performance but who are not informed, or who are misinformed, of the
26 serious dangers of using Defendants’ Rhino Products. Consumers of the Rhino Products
27 have little or no incentive to use natural, legitimate and safe sexual performance Rhino
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1 Products, such as Plaintiff's TriSteel or TriSteel 8 Hour, until they are harmed or
2 Defendants' Rhino Products are taken off of the shelves. Defendants' continuing false,
3 misleading, and deceptive practices have violated the Lanham Act and have unjustly
4 enriched Defendants at the expense of Plaintiff, and have harmed Plaintiff's commercial
5 interests, including but not limited to, loss of revenue, disparagement and loss of
6 goodwill.

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

11 11. Among other things, this action seeks to enjoin Defendants from the
12 marketing and sale of any and all of the Rhino Products, and pursue the full range of
13 damages available to it under

14 **JURISDICTION AND VENUE**

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

22 13. Venue is proper in this judicial district because a substantial amount of the
23 events described occurred in this district.

24 **PARTIES**

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

1 15. Upon information and belief, defendant BAMBI BUCKEYE OPERATING
2 LLC is an Arizona limited liability company, which lists its Registered Agent as
3 GURVINDER AUJLA at 3159 W BUCKEYE RD, PHOENIX, AZ 85009.

4 16. Upon information and belief, defendant 75TH AND AUJLA REAL
5 ESTATE, LLC is an Arizona limited liability company, which lists its Registered Agent
6 as GINA GILL at 1811 N 24TH ST STE G, PHOENIX, AZ 85008.

7 17. Upon information and belief, defendant VALENCIA VENTURE LLC is an
8 Arizona limited liability company, which lists as its Registered Agent as AMAR KOHLI
9 at 11373 N 117TH ST, SCOTTSDALE, AZ 85259.

10 18. Upon information and belief, defendant AUJLA AND THOMAS REAL
11 ESTATE, LLC is an Arizona Limited Liability Company which lists its Registered Agent
12 as GINA GILL at 1811 N 24TH ST STE G, PHOENIX, AZ 85008.

13 19. Upon information and belief, defendant CAL, INC. is an Arizona
14 corporation, which lists its Registered Agent as SHAMSHER JOHAL at 20838 N 19TH
15 AVE , PHOENIX, AZ 85027.

16 20. Upon information and belief, defendant AUJLA EQUIPMENT LIMITED
17 PARTNERSHIP is an Arizona limited partnership, which lists its Registered Agent as
18 GURVINDER AUJLA at 6341 NORTH 35TH STREET, PARADISE VALLEY, AZ
19 85253.

20 21. Upon information and belief, defendant TWO BROTHERS V, INC. is an
21 Arizona Corporation, which lists its Registered Agent as SAAD N SAAD at 706 W
22 GRANT STE B , PHOENIX, AZ 85007.

23 22. Upon information and belief, defendant HAFIZ DAWOOD LLC, is a
24 California limited liability company, which lists its Registered Agent as DAWOOD
25 KHAN at 3610 E BELL RD, PHOENIX, AZ 85032.

26 23. Upon information and belief, defendant TWELFTH AVENUE LLC, is an
27 Arizona limited liability company, which lists its Registered Agent as LRR AGENT
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1 SERVICE OF ARIZONA INC at 201 E WASHINGTON ST STE 1200, PHOENIX, AZ
2 85004.

3 24. Upon information and belief, defendant 27TH NORTHERN AND AUJLA
4 REAL ESTATE, LLC is an Arizona limited liability company, which lists its Registered
5 Agent as GINA GILL at 1811 N 24TH ST STE G, PHOENIX, AZ 85008.

6 25. Upon information and belief, defendant A & V PARTNERS, LLC is an
7 Arizona limited liability company which lists its Registered Agent as MICHAEL E
8 HURLEY at 301 E BETHANY HOME RD STE A222, PHOENIX, AZ 85012.

9 26. Upon information and belief, defendant AUJLA CORPORATION, INC. is
10 an Arizona corporation which lists its Registered Agent as GINA GILL at 4908 E. LONE
11 MOUNTAIN RD, CAVE CREEK, AZ 85331.

12 27. Upon information and belief, defendant FFH, LLC is an Arizona limited
13 liability company which lists its Registered Agent as BOBBY CHUAN FOO at 7849 N
14 43RD AVE, PHOENIX, AZ 85051.

15 28. Upon information and belief, defendant TWO BROTHERS XII, INC. is an
16 Arizona corporation, which lists its Registered Agent as SAAD N SAAD at 706 W
17 GRANT STE B, PHOENIX, AZ 85007.

18 29. Upon information and belief, defendant MR PARTNERSHIP, LLC is an
19 Arizona limited liability company which lists its Registered Agent as SIMANT MISRA
20 at 1602 E BELL RD, PHOENIX, AZ 85022.

21 30. Upon information and belief, defendant NADDAF LLC is an Arizona
22 limited liability company which lists its Registered Agent as HARVEY M YEE at PO
23 BOX 6299, GLENDALE, AZ 85312.

24 31. Plaintiff is ignorant of the true names and capacities of defendants sued
25 herein as Does 1- 10, inclusive, and therefore sued these defendants by such fictitious
26 names. Plaintiff will amend this Complaint to allege their true names and capacities
27 when ascertained. Plaintiff is informed and believes and thereon alleges that each of
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1 these fictitiously named defendants is responsible in some manner for the occurrences
2 herein alleged, and that Plaintiff’s injuries as herein alleged were proximately caused by
3 the aforementioned defendants.

4 **FACTUAL ALLEGATIONS**

5 32. According to a recent public warning by the FDA, there is a growing trend
6 in the supplement industry of mislabeling “dietary supplements” that contain potentially
7 harmful hidden drugs and chemicals. Unscrupulous supplement manufacturers and
8 retailers market and advertise these products as enhancing sexual performance, weight
9 loss, and bodybuilding, and misrepresent their products as being “all natural.” Contrary
10 to their representations, these purported “dietary supplements” actually contain
11 potentially harmful hidden ingredients and drugs, and require a prescription from a
12 medical doctor for proper use. The FDA has approved sildenafil for treatment of erectile
13 dysfunction. However, because of known side effects, drug interactions and
14 contraindications, the FDA has deemed sildenafil to be a prescription drug that can only
15 be administered under the supervision of a medical professional.

16 33. The serious side effects of sildenafil include, for example, priapism (i.e.,
17 prolonged penile erections leading to tissue death and potential permanent erectile
18 dysfunction), severe hypotension (i.e., low blood pressure), myocardial infarction (i.e.,
19 heart attack), ventricular arrhythmias, stroke, increased intraocular pressure (i.e.,
20 increased eye fluid pressure), anterior optic neuropathy (i.e., permanent optic nerve
21 damage), blurred vision, sudden hearing loss, and dizziness.

22 34. The serious negative drug interactions of sildenafil include, for example, (i)
23 interacting with alkyl nitrites and alpha-1 blockers to cause angina and life-threatening
24 hypotension, (ii) interacting with protease inhibitors to increase the incidence and
25 severity of side effects of sildenafil alone, and (iii) interacting with erythromycin and
26 cimetidine to cause prolonged plasma half-life levels.

1 35. In addition to these risks, contraindications of sildenafil include underlying
2 cardiovascular risk factors (such as recent heart surgery, stroke or heart attack) since
3 consumption of sildenafil by individuals with these conditions can greatly increase the
4 risk of heart attack.

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

10 **Defendants' Scheme**

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

19 38. The Rhino Products are high-margin products and as such are situated at or
20 near the checkout counter. The Rhino Products are all subject to FDA public
21 announcements regarding their illicit contents; however, the Retail Defendants still
22 participate in their sale, due to their profitability.

23 **Defendants and The Rhino Products**

24 39. Defendants market, advertise, disseminate and offer for sale various sexual
25 enhancement supplements, including but not limited to, Rhino 7 Platinum 3000, Rhino 7
26 Platinum 5000, Rhino 8 Platinum 8000, Rhino 9 Premium 3500, Rhino Big Horn 3000,
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1 Rhino 11 Platinum 11000, Rhino 12 Titanium 6000, Rhino 25k 15000, Rhino 69 and
2 Boss-Rhino Gold X-tra Strength (the “Rhino Products”).

3 40. Defendants make numerous false and misleading representations regarding
4 the Rhino Products. For example, and without limitation, Defendants mislabel the Rhino
5 Products as “all natural” “dietary supplements,” and advertise and promote such products
6 as containing “no chemicals,” “all natural herbal formula,” and “no prescription
7 necessary,” among other misrepresentations.

8 41. Contrary to Defendants’ representations, recent laboratory analyses by the
9 FDA and otherwise have confirmed that the Rhino Products unlawfully contain hidden
10 drug ingredients, such as sildenafil. Sildenafil is the active ingredient in the FDA-
11 approved prescription drug Viagra, which is used to treat erectile dysfunction. Thus, the
12 Rhino Products are not “dietary supplements” as a matter of law, and Defendants’
13 representations to the contrary are false and misleading for this reason alone.

14 42. Moreover, Defendants fail to disclose that the Rhino Products contain
15 prescription drug ingredients, such as sildenafil. The sale of products containing hidden
16 drug ingredients (without requiring a prescription and without informing consumers of
17 the health and safety risks of these drugs) is unlawful and seriously endangers
18 consumers. In this regard, Defendants also fail to disclose any of the adverse health
19 consequences of taking PDE-5 Inhibitors, such as sildenafil, tadalafil and vardenafil.
20 According to the FDA, these undisclosed ingredients may interact with nitrates found in
21 some prescription drugs such as nitroglycerin and may lower blood pressure to dangerous
22 levels, among other negative side effects.

23 43. Defendants’ false and misleading advertising is harmful to the dietary
24 supplement industry as a whole and to individual consumers. Defendants have created
25 an illegitimate marketplace of consumers seeking to enhance their sexual performance,
26 but who are not informed (or misinformed) of the serious dangers of using the Rhino
27 Products.

1 44. Consequently, consumers of the Rhino Products have little or no incentive to
2 use other sexual performance Rhino Products, such as TriSteel, until they are injured or
3 the Rhino Products are taken off the shelves.

4 **Defendants' False Statements Regarding The Rhino Products**

5 45. Upon information and belief, BAMBI BUCKEYE OPERATING LLC owns
6 and operates the retail location at 702 W. Broadway Road, Phoenix, AZ 85041, which
7 promotes, advertises, disseminates and offers for sale various sexual enhancement
8 supplements, including Rhino 25k 15000.

9 46. Upon information and belief, 75TH AND AUJLA REAL ESTATE, LLC
10 owns and operates the retail location at 1207 N 75th Ave, Phoenix, AZ 85043, which
11 promotes, advertises, disseminates and offers for sale various sexual enhancement
12 supplements, including Rhino 11 Platinum 11000 and Rhino 69.

13 47. Upon information and belief, VALENCIA VENTURE LLC owns and
14 operates the retail location at 2341 W Bethany Home Rd, Phoenix, AZ 85015, which
15 promotes, advertises, disseminates and offers for sale various sexual enhancement
16 supplements, including Rhino 7 Platinum 5000 and Rhino 69.

17 48. Upon information and belief, AUJLA AND THOMAS REAL ESTATE,
18 LLC owns and operates the retail location at 6702 W. Thomas Road, Phoenix, AZ 85033,
19 which promotes, advertises, disseminates and offers for sale various sexual enhancement
20 supplements, including Rhino 7 Platinum 3000 and Super Panther 7k.

21 49. Upon information and belief, CAL, INC. owns and operates the retail
22 location at 20838 N 19th Ave, Phoenix, AZ 85027, which advertises and offers for sale
23 various sexual enhancement supplements, including Rhino 7 Platinum 5000 and
24 Libigrow.

25 50. Upon information and belief, AUJLA EQUIPMENT LIMITED
26 PARTNERSHIP owns and operates the retail location at 1825 N 24th St, Phoenix, AZ
27
28

1 85008, which advertises and offers for sale various sexual enhancement supplements,
2 including Rhino 7 Platinum 5000 and Super Panther 7k.

3 51. Upon information and belief, TWO BROTHERS V, INC. owns and operates
4 the retail location at 2635 W. Deer Valley Road, Phoenix, AZ 85027, which advertises
5 and offers for sale various sexual enhancement supplements, including Rhino 25K 15000
6 and Rhino 7k 9000.

7 52. Upon information and belief, HAFIZ DAWOOD LLC owns and operates
8 the retail location at 3610 E Bell Rd, Phoenix, AZ 85032, which advertises and offers for
9 sale various sexual enhancement supplements, including Black Mamba Premium and
10 Rhino 25K 15000.

11 53. Upon information and belief, TWELFTH AVENUE LLC, owns and
12 operates the retail location at 1201 E. Northern Avenue, Phoenix, AZ 85020, which
13 advertises and offers for sale various sexual enhancement supplements, including Rhino
14 7 Platinum 5000, Rhino 8 Platinum 8000, Triple Green and Super Panther 7k.

15 54. Upon information and belief, 27TH NORTHERN AND AUJLA REAL
16 ESTATE, LLC owns and operates the retail location at 2740 W Northern Ave, Phoenix,
17 AZ 85051, which advertises and offers for sale various sexual enhancement supplements,
18 including Rhino 69, Rhino 7, Super Panther 7k and Triple Green.

19 55. On information and belief, A & V PARTNERS, LLC owns and operates the
20 retail location at 2230 W Indian School Rd, Phoenix, AZ 85015, which advertises and
21 offers for sale various sexual enhancement supplements, including Rhino 7 Platinum
22 5000, Rhino 69, Libigrow XXX Treme and Super Panther 7k.

23 56. Upon information and belief, AUJLA CORPORATION owns and operates
24 the retail location at 2310 N 32nd St, Phoenix, AZ 85008, which advertises and offers for
25 sale various sexual enhancement supplements, including Rhino 7 Platinum 5000,
26 Libigrow XXX Treme and Super Panther 7k.

1 57. Upon information and belief, FFH, LLC owns and operates the retail
2 location at 7849 North 43rd Ave, Phoenix, AZ 85051, which advertises and offers for
3 sale various sexual enhancement supplements, including Rhino 7 Platinum 3000, Rhino 7
4 Platinum 5000, Rhino 12 Titanium 6000 and Libigrow XXX Treme.

5 58. Upon information and belief, TWO BROTHERS XII, INC. owns and
6 operates the retail location at 2711 Union Hills Dr, Phoenix, AZ 85027, which advertises
7 and offers for sale various sexual enhancement supplements, including Rhino 25K
8 15000, Super Panther 7K, and Rhino 7K 9000.

9 59. Upon information and belief, MR PARTNERSHIP, LLC owns and operates
10 the retail location at 1602 E Bell Road, Phoenix, AZ 85022, which advertises and offers
11 for sale various sexual enhancement supplements, including Rhino 25K 15000, Rhino 7K
12 9000 and Black Panther.

13 60. Upon information and belief, NADDAF LLC owns and operates the retail
14 location at 10001 N. 19th Avenue, Phoenix, AZ 85021, which advertises and offers for
15 sale various sexual enhancement supplements, including Rhino 25K 15000, Super
16 Panther 7K, Rhino 7K 9000 and New Stiff Nights Platinum 10K.

17 **Plaintiff's Dietary Supplements: TriSteel and TriSteel 8 Hour**

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

26 62. Natural products that work like TriSteel and TriSteel 8 Hour are
27 significantly more expensive to manufacture than the Illicit Products. Thus, Plaintiff is at
28

1 a significant commercial disadvantage when Defendants sell synthetic drugs that are
2 much more inexpensive to produce overseas, and falsely label them as being natural.
3 Moreover, the simple fact that the Illicit Products are sold “over-the-counter” gives the
4 impression to consumers that the Illicit Products are safe to consume. Defendants make
5 significant profits by disseminating false statements to the consuming public that would
6 instead purchase Plaintiffs directly competing products if Defendants were truthful about
7 the nature and origin of the Illicit Products.

8 **CAUSE OF ACTION**

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

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

12 64. Defendants advertise and offer for sale various sexual enhancement
13 supplements, including but not limited to, the Rhino Products.

14 65. Defendants make numerous false and misleading representations regarding
15 the Rhino Products. For example, and without limitation, Defendants mislabel the Rhino
16 Products as “all natural” “dietary supplements” and advertise and promote such products
17 as containing “no chemicals,” “NATURAL FORMULA,” and “no prescription
18 necessary,” among other misrepresentations.

19 66. Contrary to Defendants’ representations, recent laboratory analyses by the
20 FDA and otherwise have confirmed that the Rhino Products unlawfully contain hidden
21 drug ingredients, such as sildenafil. Sildenafil is the active ingredient in the FDA-
22 approved prescription drug Viagra, which is used to treat erectile dysfunction. Thus, the
23 Rhino Products are not “dietary supplements” as a matter of law, and Defendants’
24 representations to the contrary are false and misleading for this reason alone.

25 67. Moreover, Defendants fail to disclose that the Rhino Products contain
26 prescription drug ingredients, such as sildenafil. The sale of products containing hidden
27 drug ingredients (without requiring a prescription and without informing consumers of
28

1 the health and safety risks of these drugs) is unlawful and seriously endangers
2 consumers. In this regard, Defendants also fail to disclose any of the adverse health
3 consequences of taking PDE-5 Inhibitors, such as sildenafil, tadalafil and vardenafil.
4 According to the FDA, these undisclosed ingredients may interact with nitrates found in
5 some prescription drugs such as nitroglycerin and may lower blood pressure to dangerous
6 levels, among other negative side effects.

7 68. Defendants have used, promoted, and disseminated the false advertising and
8 have thus materially participated in a false and misleading advertising campaign to
9 promote and sell their Rhino Products, giving consumers the false impression that these
10 products are “all-natural” “dietary supplements,” which do not require a prescription. In
11 reality, Defendants knew, or should have known, that their Rhino Products contain
12 hidden drug ingredients and actually require a proper prescription from a medical doctor.

13 69. The use of such falsely advertised products has the tendency to deceive a
14 substantial segment of the public and consumers, including those in Texas, into believing
15 that they are purchasing a product with drastically different characteristics.

16 70. The deception is material because it is likely to influence a consumer’s
17 purchasing decisions, especially if the consumer is concerned about the consequences of
18 taking certain prescription drugs without the supervision of a medical doctor.

19 71. Defendants have introduced their false and misleading statements into
20 interstate commerce via marketing and advertising at their stores and shipment of their
21 products containing false and misleading advertising into interstate commerce.

22 72. Plaintiff has been injured as a result of Defendants’ false and misleading
23 statements. Specifically, Defendants’ false and misleading advertising concerning the
24 Enhancement Products has negatively impacted Plaintiff’s sales of TriSteel and TriSteel
25 8 Hour because both products are intended for sexual performance enhancement and
26 target the same consumers. Thus, Plaintiff has suffered both an ascertainable economic
27 loss of money and reputational injury by the diversion of business from Plaintiff to
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1 Defendants and the loss of goodwill in Plaintiff's products. The ubiquity of the
2 Enhancement Products, their relatively low cost to manufacture in comparison to
3 DSHEA-compliant products (like TriSteel and TriSteel 8 Hour), and their dramatic
4 pharmacologic effects makes it so that legitimate sexual performance enhancement
5 products, such as TriSteel or TriSteel 8 Hour, struggle to obtain market share. Moreover,
6 Defendants conduct has created reputational damage in that Defendants' misconduct
7 damages the marketplace as a whole and has the tendency to disparage Plaintiff's
8 products and goodwill.

9 73. Defendants' actions, as described above, constitute false and misleading
10 descriptions and misrepresentations of fact in commerce that, in commercial advertising
11 and promotion, misrepresent the nature, characteristics, and qualities of their products in
12 violation of Section 43(a)(1)(B) of the Lanham Act.\

13 **DEMAND FOR JURY TRIAL**

14 74. Plaintiff hereby demands a trial by jury.

15 **PRAYER**

16 Wherefore, Plaintiff prays for judgment against Defendants as follows:

- 17 1. For preliminary and permanent injunctive relief enjoining Defendant from
18 falsely advertising any of the Rhino Products
 - 19 2. For an award of compensatory damages to be proven at trial in accordance
20 with 15 U.S.C. § 1117;
 - 21 3. For an award of any and all of Defendant's profits arising from the
22 foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable
23 laws;
 - 24 4. For restitution of Defendant's ill-gotten gains;
 - 25 5. For treble damages in accordance with 15 U.S.C. § 1117;
 - 26 6. For punitive damages;
 - 27 7. For costs and attorneys' fees; and
- 28

