

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS

JW NGUYEN

PLAINTIFF

v.

Case No: 23CV-22-683

CHRISTOPHER G. WHEELER,
SAVAGE ENTERPRISES,
KUNAL MANMEET, LLC, d/b/a VAPOR PLANET,
MARIN ANALYTICS, LLC
and JOHN DOES 1-10.

DEFENDANTS.

AMENDED COMPLAINT

Comes Plaintiff, through counsel, and for this Amended Complaint states:

I. INTRODUCTION

1. D9 THC is the psychoactive component of the cannabis commonly referred to as Marijuana. D8 THC is also psychoactive, but D8 THC is hemp derived and is not a controlled substance under federal law. If D8 THC is produced, D9 THC is also produced¹. Plaintiff files this suit to vindicate the federal laws prohibiting the cultivation and sale of D9 cannabis and their rights under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), the Arkansas Deceptive Trade Practices Act, and the Magnuson-Moss Act. Plaintiff seeks redress under RICO, which requires those who engage in racketeering activity—including the commercial production of illegal D9 products—to pay those they injure treble damages, costs, and attorneys’ fees. Plaintiff also seeks an injunction under RICO directing the cannabis operations defrauding Plaintiff and the Class to stop violating the federal drug laws.

2. It is a bedrock principle of the United States Constitution that federal law is the supreme law of the land. State laws that are flatly inconsistent with constitutionally authorized federal

¹ Any amount of synthetic D9 THC in a product is illegal. Hemp derived D9 THC can be present in a product so long as the amount does not exceed .3% D9 THC by weight.

law have no force or effect. The Hemp Farming Act of 2018 removed hemp (defined as cannabis with less than 0.3% THC by weight²) from Schedule I controlled substances and making it an ordinary agricultural commodity. Its provisions were incorporated in the 2018 United States farm bill that became law on December 20, 2018.

3. Then, the interim final rule entitled “Implementation of the Agriculture Improvement Act of 2018” effective on August 21, 2020 (85 Fed. Reg. 51,639) made a product containing more than .3 D9 THC illegal.

4. As used in this Complaint an illegal D8 vape means a vape that contains more than .3 D9 hemp derived THC or synthetic THC.

5. Studies suggest that some Cannabinoids not very reliable or safe. In 2020, the FDA did a study on products that claimed to have a specific amount of CBD and those claimed amounts were compared to the FDA testing results. Of the 102 products that indicated a specific amount of CBD, 18 products (18%) contained less than 80% of the amount of CBD indicated, 46 products (45%) contained CBD within 20 percent of the amount indicated, and 38 products (37%) contained more than 120 percent of the amount of CBD indicated. Of great concern is that 49% of the products tested contained THC.

6. The *Journal of the American Medical Association* published a letter demonstrating the results of “undercover” purchases of CBD. Of 84 samples tested, THC was detected in 21%. There were other defects in the mislabeled products. Only 30.95% were accurately labeled. Accuracy of labeling depended on product type, with vaporization liquid most frequently mislabeled (87.50%) and oil most frequently labeled accurately (45.0 %). THC was detected (up to 6.43 mg/mL) in 18 of the 84 samples tested (21.43%). But Defendants appear to certify and sell products that contain

² It is important to note that the 0.3% D9 THC allowable in hemp is not an amount, but a proportion. For example, consider a dry hemp flower that weighs 1 gram. The level of THC within that particular dry hemp flower is expected to be 0.3% of its weight. And in this case, 0.3% of 1 gram comes to **0.003 grams** or 3 milligrams

1000% of the allowed limit of D9 THC or synthetically derived Delta 9 THC.

7. A Johns Hopkins researcher tested CBD products. Testing showed 44 products (59%) had detectible levels of CBD, but the average ratio of THC to CBD was 36-to-1. Only one product had a 1-to-1 ratio, which some research suggests is associated with fewer side effects and improved clinical benefit compared with higher ratios of THC to CBD. The testing indicated the edible cannabis products may have very little CBD.

8. A study published by the National Institute of Health showed that products were mislabeled with 26% containing less CBD than labeled and 43% containing more, indicating a high degree of variability and poor standardization of online products. Notably, the oil-based products were more likely to be accurate (45% compared to 25% for tincture and 12.5% for vaporization liquid) and had a smaller percentage of deviation. Oil based products also had a higher range of concentration. In addition to CBD mislabeling, THC was detected in 21% of samples. This study also notes that products containing THC could have sufficient enough concentrations to produce intoxication in children.

9. On the issue of D9 THC, federal law is clear: it is a felony under the Controlled Substances Act of 1970 (“CSA”) to sell a cannabis product that contains more than .3% D9 by weight.

10. Of course, in recent years the United States Department of Justice has largely declined to bring prosecutions under the federal cannabis laws, prompting hundreds of millions of investment dollars and thousands of new customers to flow into the D8 commercial hemp industry. But the Justice Department’s current policy of non-enforcement does not strike a single word from the U.S. Code or deprive private individuals of their judicially- enforceable rights under federal law. The Department of Justice can no more amend a federal statute than can the State of Arkansas, and cannabis remains just as illegal under federal law today as it was when Congress passed the Controlled Substances Act in 1970 (CSA herein).

11. Persons like the Defendants who market their products as medicine should be held to reasonable production standards to make certain this “medicine” is effective. Plaintiff is filing this suit to vindicate his federal rights under RICO, 18 U.S.C. §§ 1961 et seq., the CSA, 21 U.S.C. §§ 801 et seq., and the Supremacy Clause.

12. Dealing in cannabis that contains more than .3% D9 THC by weight is racketeering activity under RICO or that contains synthetic D9 THC D9, and those who engage in a pattern of racketeering activity through a corporation or other enterprise are liable for three times the economic harm they cause plus costs and attorneys’ fees.

13. Those who conspire with racketeers by agreeing to assist them are likewise liable. RICO also gives federal courts the power to order racketeering enterprises and their coconspirators to cease their unlawful operations.

14. Accordingly, the Plaintiff asks this Court to award them the damages, costs, and fees to which they are entitled, and both Plaintiffs request that the Court order the RICO Defendants to cease their open and notorious violation of federal law.

II. JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over Plaintiffs’ RICO and Magnuson-Moss claims, as well as personal jurisdiction over the Defendants.

16. Venue is proper in this Court because Plaintiff resides in Faulkner County, Arkansas and a substantial portion of the events giving rise to this suit occurred in Faulkner County, Arkansas. Venue over Plaintiffs’ RICO claims is also proper under 18 U.S.C. § 1965(a) because the RICO defendants either reside in Arkansas or transact business in Arkansas.

III. PARTIES

17. Plaintiff is a resident and citizen of Arkansas who has purchased and ingested the products described in Exhibit “A.”

18. Plaintiff JW Nguyen is a resident of the State of Arkansas who has purchased product that was fraudulently certified by the John Doe 5. Mr. Nguyen bought product tested by The Lab and relied upon the Lab's certification to his detriment.

19. Defendant Savage Enterprises is a corporation that has its principal place of business in California or Minnesota, where it operates a facility that produces the products pictured in Exhibit "A." Christopher Wheeler is the CEO of Savage Enterprises who has directed the development of this criminal enterprise.

20. Defendant Marin Analytics, LLC (the Lab hereinafter) is believed to be a California limited liability company that has its principal place of business in California, where it tests products for Savage and others.

21. Defendants John Doe 1-10 are labs, vendors, distributors, law firms and banks who have assisted the Named Defendants in operating the criminal enterprise alleged herein and will continue to do so in the absence of injunctive relief.

22. The Named Defendants and John Doe Defendants are hereinafter referred to as the "RICO Defendants."

IV. FACTUAL ALLEGATIONS

Federal Law Prohibits the Production and Distribution of D9 Marijuana

23. Congress passed the CSA in 1970 as Title II of the Comprehensive Drug Abuse Prevention and Control Act. 84 Stat. 1236. Among the purposes of the CSA was to reduce drug abuse and the illegitimate traffic in controlled substances in the United States by prohibiting the unauthorized production, distribution, or possession of controlled substances.

24. In 2022, Nguyen purchased a D8 vape reflected in Exhibit "A" from Vape World manufactured by Savage and falsely certified by Marin as having a legal percentage of THC to

address certain medical issues, as his physician suggested.

25. Mr. Nguyen is a member of the military. Members of the military are barred from ingesting products containing an illegal amount of D9 THC.

26. Plaintiff used the D8 vape.

27. Plaintiff was then drug tested, and the drug test was positive for D9 THC.

28. Plaintiff did not ingest any form of D9 THC other than that D9 THC that was present in Savage's product.

29. As a result, Plaintiff was demoted.

30. So, Plaintiff had the product he ingested tested. The tests revealed that Defendants routinely produce, certify and sell marijuana that has been falsely labeled to the Plaintiff.

31. Based in Irvine, California, Savage Enterprises claims "it was founded in 2014 by co-owners Christopher G. Wheeler and Matt Winters with the vision of bringing innovation to the counter-culture space." Savage alleges it has been committed to improving the community it serves by providing superior, consumer-centered and cost-effective products that are third-party lab tested with quality assurance, consistency, and traceability. Savage says its goal is to create the benchmark for quality and assurance in the industry. Under its Delta Extrax brand (www.DeltaExtrax.com), Savage Enterprises sells delta-10-THC cartridges, disposables and tinctures, delta-8-THC-infused shots, vape cartridges, concentrates, disposables, edibles, delta-8-THC-infused hemp flower, pods, tinctures, THC-O, HHC, THC-V and THC-P products over the internet for delivery in Arkansas and across the nation. Each Defendant has done business in the state of Arkansas and hundreds of thousands of dollars of illegal product has been sold. Defendants have received and deposited money from the sale of a controlled substance in violation of 18 USC 1956 and 18 USC 1957, which are predicate acts under RICO.

32. Defendant Savage Enterprises manufactured some of the products Plaintiff

purchased from VaporWorld in Conway, Arkansas, after buying the product from a Distributor, who is named as John Doe 1. Savage falsely states on its website:

Delta-8 THC is an isomer of CBD, is derived from hemp and CBD, and is a psychoactive cannabinoid that packs several benefits. The unique cannabinoid is different, chemically, from its close relative, Delta-9 THC. It only differs from a few atomic bonds. However, it occurs in small concentrations and is Hemp derived making it Hemp compliant because it contains less than 0.3% of Delta 9 THC as required under the 2018 Farm Bill.

Watermelon Candy Kush Premium Delta 8 THC Disposable - Delta Extrax

33. Acting at Savage's direction, Marin produced a certificate that falsely reflected that the product Plaintiff purchased (Exhibit "A") contained legal amounts of D9 THC.

34. Delta-8 is a cannabis compound that has become popular because of its similarity to Delta-9 THC, the main compound in cannabis that gets one high, causing euphoria, happiness, and sedation.

35. Delta-8 is short for its scientific name, delta-8-tetrahydrocannabinol, or simply just delta-8 THC. Some people just call it "D-8." Delta-8 THC can cause effects similar to regular delta-9 THC, but they will be much less potent in the same amount.

36. Delta 8 THC is a natural cannabis compound that occurs in both marijuana and hemp. However, its presence is usually so little that one needs a massive amount of plant material to procure any significant quantity of this compound.

37. Delta-8, like delta-9 (regular THC), binds to the body's endocannabinoid system, which causes one to feel high. Chemically speaking, delta-8 and delta-9 are similar but distinctly different. One or more Defendants claim:

The double bond is thought to produce the intoxicating effects that make you feel high. D8 and D9 THCs are chemically different in the placement of the double bond. Both cannabinoids have a chain of carbon atoms, but delta-8 has the double bond on the eighth carbon, whereas delta-9 has it on the ninth. Delta-8 binds to the endocannabinoid system in a

slightly different manner because of the location of its double bond. This reason makes delta-8 much less potent than regular THC. So, in order to obtain D8 THC in sufficient concentrations to vape and achieve a “high,” D9 THC is created in illegal amounts.

38. Had Plaintiff known that there was D9 in illegal amounts in the product, she would not have ingested the product, but he did.

39. The products Plaintiff purchased contained synthetic D9 THC or more than .3% hemp derived D9 THC by weight. Thus, the products Plaintiff purchased were controlled substances under the CSA.

40. When it passed the CSA, Congress found that “[t]he illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people,” 21 U.S.C. § 801(2), and that “[a] major portion of the traffic in controlled substances flows through interstate and foreign commerce,” *id.* § 801(3). The CSA seeks to address the social and economic ills caused by drug abuse and drug trafficking by prohibiting the illicit drug trade.

41. The CSA categorizes drugs according to a series of schedules, with the most dangerous drugs falling under Schedule I. *See id.* § 812(b). Schedule I drugs have “a high potential for abuse.” *Id.* § 812(b)(1). In enacting the CSA, Congress has classified D9 products containing more than .3 % D9 cannabis by weight as a Schedule I drug. *Id.* § 812(c). Congress thus deemed cannabis to have a high potential for abuse. *Id.* § 812(b)(1). By classifying cannabis as a Schedule I drug, as opposed to listing it on a lesser schedule, Congress has made the manufacture, distribution, or possession of products containing more than .3% D9 cannabis by weight a criminal offense, with the sole exception being use of the drug as part of a Food and Drug Administration preapproved research study. *Id.* §§ 823(f), 841(a)(1), 844(a).

42. The large-scale manufacture and distribution of synthetic D9 THC is a serious felony under the CSA, as is the sale and distribution of products containing more than .3% hemp-derived

D9 THC. A first-time offender convicted of producing or distributing 1,000 or more cannabis plants is subject to a sentence of 10 years to life imprisonment. *Id.* § 841(b)(1)(A). Growing 100 or more cannabis plants that contain more than .3 D9 THC by weight subjects the first-time offender to a sentence of 5 to 40 years imprisonment. *Id.* § 841(b)(1)(B). The cultivation and sale of smaller amounts of cannabis is punishable by maximum sentences that can be as long as 20 years. *See id.* § 841(b)(1)(C), (D). The CSA also criminalizes the possession of synthetic D9 THC and hemp derived D9 THC, unless it contains less than .3 D9 THC by weight. Unless otherwise authorized by federal law, possession of cannabis by a first-time offender is punishable by up to 1 year of imprisonment. *Id.* § 844(a).

43. In addition to its prohibitions on cultivation, sale, and possession of synthetic D9 THC and hemp derived THC, unless it contains less than .3 D9 THC by weight, the CSA also forbids a wide range of other activities connected with the operations of a cannabis business. Thus, it is a crime to possess “any equipment, chemical, product, or material” with the intention of using it to manufacture marijuana, *id.* § 843(a)(6), or to distribute any such material with the knowledge that it will be used to manufacture marijuana, *id.* § 843(a)(7). The CSA bars the use a telephone, email, mail, or any other “communication facility” in furtherance of the manufacture or sale of marijuana, *id.* § 843(b), and it is a federal crime to use the Internet to advertise the sale of marijuana, *id.* § 843(c)(2)(A). Reinvesting the proceeds from cannabis operations is also a crime, *id.* § 854(a), as is knowingly facilitating a financial transaction involving funds derived from manufacturing and selling marijuana, 18 U.S.C. §§ 1956, 1957, 1960. It is also a crime to knowingly lease, rent, maintain, manage, or control a place where cannabis is manufactured or sold. 21 U.S.C. § 856. Leading a group of five or more people who commit a continuing series of federal cannabis crimes like Defendants have done here is an especially serious offense. *Id.* § 848. And attempting or conspiring to commit most of those crimes is also a criminal offense. *See id.* § 846; 18 U.S.C. §§ 1956(a)(1), 1956(h),

1957(a). Each Defendant has knowingly leased, rented, maintained, managed, or controlled a place where D8 vape is manufactured or sold

44. These criminal prohibitions on virtually every aspect of the D9 THC business make the federal policy embodied in the CSA unmistakably clear: D9 THC is a dangerous drug that is banned throughout the United States. And because RICO defines most violations of the CSA as “racketeering activity,” *see* 18 U.S.C. § 1961(1)(D), any business engaged in the commercial cultivation and sale and certification of hemp products that contain more than .3% D9 THC by weight is a criminal enterprise for purposes of federal law. Those like Defendants who conduct or conspire to assist such enterprises are subject to the severe criminal sanctions and civil liability that RICO imposes. *See id.* § 1962(c), (d).

The RICO Defendants Operate Racketeering Enterprises that Cultivate and Distribute D8 Vapes

45. Nguyen purchased D8 vape certified by Marin as having D9 hemp derived THC that contains less than .3 D9 THC by weight.

46. Actually, Plaintiff purchased a D8 vape for more than \$25.00, that contains more than .3 D9 THC by weight that may not be derived from hemp.

47. So, after he was demoted, Nguyen bought a D8 vape, then had the D8 vape tested. The tests revealed that Defendants routinely sell, certify, and manufacture products that contain contains more than .3% D9 THC by weight and that has been falsely labeled to the Plaintiff.

48. So, Defendants, in conspiracy with the cultivators and John Doe Defendants have misrepresented the amount of D9 THC in the cannabis Plaintiff brought and may have misrepresented the amount of synthetic D9 THC in the product.

49. To facilitate this fraud, Defendants publish the false test results over the internet hundreds of times and such activity amounts to wire fraud.

50. Defendants intended that Plaintiff and the Class rely on these test results, and Plaintiff and the Class reasonably relied on these test results to their detriment.

51. Leasing or maintaining property for the production of synthetic D9 THC or D9 hemp derived THC, unless it contains less than .3 D9 THC by weight, is a crime under 21 U.S.C. § 856 and is racketeering activity under 18 U.S.C. § 1961(1)(D).

52. Defendants, together with their respective law firms and bankers, also conspired and agreed to work together so that the Defendants could sell, certify, or manufacture products that contain synthetic D9 or that contains more than .3 D9 THC by weight and to contribute to the ongoing violations of the CSA inherent in those operations. Entering into such an agreement is conspiracy under 21 U.S.C. § 846 and is racketeering activity under 18 U.S.C. § 1961(1)(D).

53. Defendants repeatedly used the telephone, email, or other communication facilities to take steps in furtherance of their efforts to unlawfully sell D9 THC that had been mislabeled. Such uses of communication facilities violate 21 U.S.C. § 843(b) and are racketeering activity under 18 U.S.C. § 1961(1)(D).

54. One or more Defendants advertised D9 hemp derived THC, that contains synthetic D9 THC or more than .3 D9 THC by weight for sale and their services over the Internet in violation of 21 U.S.C. § 843(c)(2)(A), and this is racketeering activity under 18 U.S.C. § 1961(1)(D). And the receipt and investment money derived from the sale of a controlled substance is money laundering under 18 USC 1956 and 1957.

55. The RICO Defendants together formed an association-in-fact enterprise for the purpose of manufacturing D9 THC products and selling it to vendors in Arkansas and across the nation. To that end, they pooled their resources, knowledge, skills, and labor to achieve through the enterprise efficiencies in the cultivation and distribution of D9 hemp derived THC containing more than .3 D9 THC by weight that none of them could have achieved individually.

56. All of the RICO defendants have contractual and other relationships with each other and are collaborating together to contribute to the association-in-fact enterprise's efforts to produce D9 hemp derived THC, that contains more than .3 D9 THC by weight and thereby engages in an ongoing pattern of racketeering activity.

57. All of the RICO defendants agreed to participate in and assist the enterprise with full knowledge of its overall aim of growing and selling illegal D8 vapes. As set forth above, that goal could only be accomplished through numerous violations of the CSA. Each such violation of the CSA is racketeering activity, and all of the RICO defendants thus knew and intended that in agreeing to assist the enterprise they would help it carry out a pattern of racketeering activity.

58. 18 U.S.C §1956 prohibits the financial transactions that involve the proceeds of an unlawful activity for the intent to promote that unlawful activity. Each Defendant has initiated and received financial transactions to facilitate the sale of products that violate the Controlled Substances Act of 1971.

CLAIMS FOR RELIEF RICO COUNTS
COUNT I VIOLATION OF 18 U.S.C. § 1962(C)

59. Plaintiff incorporates by reference the allegations of the preceding paragraphs.

60. RICO creates a private right of action for “[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962].” 18 U.S.C. § 1964(c). Under 18 U.S.C.

§ 1962(c), it is “unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.” Defendants violated this provision of 18 U.S.C. § 1962.

61. All of the RICO Defendants formed an association-in-fact enterprise within the meaning of 18 U.S.C. § 1961(4) by establishing contractual and other relationships with each other,

collaborating to manufacture D8 vapes to sell that product. This enterprise enables the RICO Defendants to more efficiently achieve their collective purpose of distributing D8 vapes that contain an illegal amount of D9.

62. Funding, goods, and services procured by the enterprise have moved in interstate commerce and the enterprise plans to sell cannabis in interstate commerce.

63. Defendants have each conducted or participated in the conduct of the affairs of the enterprise through a pattern of racketeering activity. Because the D8 vapes contain an illegal amount of D9 vapes, Defendants collectively entered into an agreement that will be used to commit numerous crimes under the CSA, and that agreement violates 21 U.S.C. § 856.

64. Defendants also conspired, in violation of 21 U.S.C. § 846, to work together with the rest of the enterprise for the success of Savage's open-ended illegal D8 vape business. On information and belief, they used communication facilities to sell the D8 vape and further their drug conspiracy in violation of 21 U.S.C. § 843(b). Defendants already possess materials, goods, and facilities for the manufacture of illegal D8 vapes in violation of 21 U.S.C. § 843(a)(6). All of those crimes are racketeering activity under 18 U.S.C. § 1961(1)(D).

65. The racketeering activities of Defendants directly and proximately injured the Plaintiff and the Class' property by selling them products that contained more than .3 percent D9 THC but advertised "legal" hemp derived D9 THC vape containing less than .3% Delta 9 THC.

COUNT II

Violation of 18 U.S.C. § 1962(d) Against All RICO Defendants

66. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.

67. RICO creates a private right of action for "[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962]." 18 U.S.C. § 1964(c). Under 18 U.S.C.

§ 1962(d), it is "unlawful for any person to conspire to violate any of the provisions of

subsection (a), (b), or (c) of this section.”

68. The RICO Defendants, for their mutual and individual profit, agreed and conspired to violate 18 U.S.C. § 1962(c) by forming an association-in-fact enterprise for the purpose of manufacturing D8 vapes that they knew or should have known contain illegal amounts of D9 THC are sold and selling them throughout the nation.

69. The RICO Defendants know that this is patently unlawful under the CSA. This scheme or artifice to defraud and commit violations of federal law could only be accomplished through a pattern of racketeering activity, for maintaining a premises at which products that contain illegal amounts of D9 THC are sold, cultivating and selling D9 THC, and possessing the goods and materials needed to manufacture illegal D8 vapes are all crimes under the CSA. *See, e.g.*, 21 U.S.C. §§ 841(a), 843(a)(6), 856.

70. Funding, goods, and services procured by Defendants in furtherance of their association-in-fact enterprise for the purpose of cultivating and selling D8 vapes have moved in interstate commerce, and the enterprise plans to sell products derived from the cannabis in interstate commerce.

71. The RICO Defendants have engaged in racketeering activity in furtherance of their conspiracy to violate 18 U.S.C. § 1962(c). All of the RICO Defendants violated 21 U.S.C. § 846 by agreeing and conspiring to assist in the distribution and sale of the D8 product. Defendants and their agents entered into an agreement to operate a medical cannabis cultivation in violation of 21 U.S.C. § 856.

72. Racketeering activities undertaken in furtherance of the RICO Defendants’ conspiracy to violate 18 U.S.C. § 1962(c) have injured the Plaintiff’s property.

73. Had Plaintiff known the product contained more than .3% D9 THC by weight, he would not have purchased the product, so he seeks disgorgement.

74. The racketeering activities of Defendants and John Doe 1-10 directly and proximately injured the Plaintiff's property by a scheme such that Plaintiff should receive treble damages for his purchase price, as well as for the loss of income and retirement associated with the demotion.

COUNT III
Violation of 18 U.S.C. § 1962(c)

76. Plaintiffs incorporate the foregoing as if fully set out herein.

77. RICO creates a private right of action for “[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962].” 18 U.S.C. § 1964(c). Under 18 U.S.C. § 1962(c), it is “unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt.”

78. An “enterprise” for purposes of RICO “includes any . . . partnership, corporation, association, or other legal entity.” 18 U.S.C. § 1961(4). Defendants are each a limited liability company or corporation. Thus, there is a RICO “enterprise.”

79. Funding, goods, and services procured by Defendants’ unlawful activities have moved in interstate commerce, and Defendants sell D8 vape in the interstate market.

80. The racketeering activities of Defendants directly and proximately injured the Plaintiff’s property by selling them “legal” D8 vapes that was actually illegal.

81. The racketeering activities of Defendants and John Doe 1-10 directly and proximately injured the Plaintiff’s property by a scheme such that Plaintiff should receive treble damages for his purchase price, as well as for the loss of income and retirement associated with the demotion.

COUNT IV
Violation of 18 U.S.C. § 1962(d)

82. Plaintiffs incorporate by reference the allegations of the preceding paragraphs.

83. RICO creates a private right of action for “[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962].” 18 U.S.C. § 1964(c). Under 18 U.S.C. § 1962(d), it is “unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.” Defendants agreed and conspired to violate 18 U.S.C. § 1962(c).

84. An “enterprise” for purposes of RICO “includes any . . . partnership, corporation, association, or other legal entity.” 18 U.S.C. § 1961(4). Defendants are a limited liability company or a corporation. It is a RICO “enterprise.”

85. Funding, goods, and services procured by Defendants in furtherance of Defendants’ unlawful activities have moved in interstate commerce, and each Defendant sells cannabis in the interstate market.

86. Defendants understood that their collective efforts to establish and operate the illegal cannabis operations across the nation could only be accomplished through a pattern of racketeering activity. Specifically, all understood and agreed that Defendants would violate the CSA by cultivating hemp and selling it, 21 U.S.C. § 841(a), possessing the equipment and materials necessary for hemp cultivation, *id.* § 843(a)(6), and maintaining the premises for cultivating and selling hemp products that contained more than .3% D9 THC by weight, *id.* §§ 849, 856. Each of those crimes is racketeering activity, and together they form an ongoing pattern.

87. Racketeering activities undertaken in furtherance of the conspiracy among Defendants to violate 18 U.S.C. § 1962(c) have injured the Plaintiff and the Class’ property. Specifically, the concealment of synthetic D9 THC or understatement of D9 THC directly and

proximately injured the Plaintiff's property by inducing him into an illegal contract, defrauding them and interfering with his employment, decreasing his earning capacity, and causing him to ingest harmful substances into his body.

88. The racketeering activities of Defendants and John Doe 1-10 directly and proximately injured the Plaintiff's property by a scheme such that Plaintiff should receive treble damages for his purchase price, as well as for the loss of income and retirement associated with the demotion.

COUNT V
Violation of 18 U.S.C. § 1962(c)

89. Plaintiff incorporates by reference the allegations of the preceding paragraphs.

90. RICO creates a private right of action for "[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962]." 18 U.S.C. § 1964(c). Under 18 U.S.C. § 1962(c), it is "unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt."

91. An "enterprise" for purposes of RICO "includes any . . . partnership, corporation, association, or other legal entity." 18 U.S.C. § 1961(4). Defendants are a limited liability company or a corporation. It is a RICO "enterprise."

92. Each Defendant has conducted or participated in the conduct of the affairs of Savage Enterprises through a pattern of racketeering activity. On information and belief, Defendants have used the telephone, email, or other communication facilities in furtherance of his other violations of the CSA, thus violating 21 U.S.C. § 843(b). Those crimes are racketeering activity under 18 U.S.C. § 1961(1)(D) and together form a pattern.

93. The racketeering activities of Defendants directly and proximately injured the the Plaintiff and the Class' property by understating the percentage, type, or D9 THC in the product which caused Plaintiff to engage an illegal transaction unknowingly.

94. Had Plaintiff known the D8 vape was illegal, he would not have purchased the Savage's product.

95. RICO creates a private right of action for "[a]ny person injured in his business or property by reason of a violation of [18 U.S.C. § 1962]." 18 U.S.C. § 1964(c). Under 18 U.S.C. § 1962(d), it is "unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section." Defendants agreed and conspired to violate 18 U.S.C. § 1962(c) by producing hemp products that contain more than .3% D9 THC by weight.

96. An "enterprise" for purposes of RICO "includes any . . . partnership, corporation, association, or other legal entity." 18 U.S.C. § 1961(4). Each Defendant is a limited liability company or corporation is a RICO "enterprise."

97. Savage manufactures D8 vapes for sale nationally, including Arkansas, that are illegal under federal law, and materials necessary to produce the vape pen have been acquired in interstate commerce.

98. Defendants have engaged in a pattern of racketeering activity in connection with the sale of D8 vapes. On information and belief, Defendants have used the telephone, email, or other communication facilities in furtherance of their drug conspiracy, thus violating 21 U.S.C. § 843(b). Those crimes are racketeering activity under 18 U.S.C. § 1961(1)(D) and together form a pattern.

99. The racketeering activities of Defendants and John Doe 1-10 directly and proximately injured the Plaintiff and the Class' property by a scheme such that Defendants should disgorge the money Plaintiff and the Class into a common fund because there was an illegal

contract.

COUNT VI

Violation of the Magnuson-Moss Warranty Act

100. Plaintiff incorporates by reference the allegations of the preceding paragraphs.
101. Plaintiff brings this claim individually.
102. Defendant Savage's products are consumer products as defined in 15 U.S.C. § 2301.
103. Plaintiff is a consumer as defined in 15 U.S.C. § 2301.
104. Plaintiff purchased Defendant's products costing more than \$5.00 and their individual claims are greater than \$25.00 as required by 15 U.S.C. § 2302(e) and 15 U.S.C. § 2310(d)(3)(A).
105. Savage is a supplier and warrantor as defined in 15 U.S.C. § 2301(4) and (5).
106. In connection with the sale of its D8 products, Savage issued written warranties as defined in 15 U.S.C. § 2301(6) which warranted that the products conformed to Defendant's promise of less than .3% D9 THC by weight and that it did not contain synthetic D9 THC.
107. Savage breached these written warranties because the D8 products did in fact contain an illegal amount of D9 THC.
108. By reason of Savage's breach of the written warranties, Savage violated the statutory rights due Plaintiff pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 et seq., thereby damaging Plaintiff members.
109. Savage's Magnuson Moss violations directly and proximately injured the Plaintiff's property by a scheme such that Plaintiff should receive damages for his purchase price, as well as for the loss of income and retirement associated with the demotion..

COUNT VII

Violations of the Arkansas Deceptive Trade Practices Act

110. Plaintiff incorporates by reference the allegations of the preceding paragraphs.

111. Plaintiff sues Defendants individually for fraud and violation of the Arkansas Deceptive Trade Practices Act. Each Defendant aided and abetted the fraud perpetrated on the Plaintiff.

112. In connection with the sale of its D8 products, each Defendant issued written warranties as defined in 15 U.S.C. § 2301(6) which warranted that the products conformed to Defendant's promise of less than .3% D9 THC by weight and that it did not contain synthetic D9 THC.

113. Each Defendant breached these written warranties because its CBD products did in fact contain more than .3% D9 THC by weight.

114. Each Defendant defrauded Plaintiff by selling her a product that contained more than .3% D9 THC by weight.

115. Plaintiff reasonably relied upon Defendants' intentional misrepresentation to her detriment.

116. The misrepresentations of Defendants and John Doe 1-10 directly and proximately injured the Plaintiff's property such that Plaintiff should receive damages for his purchase price, as well as for the loss of income and retirement associated with the demotion.

117. Defendants have been so reckless so as to justify the imposition of punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for an order and judgment:

a. Awarding the Plaintiff three times the damages or disgorgement to their property that was caused by the RICO Defendants' racketeering activities.

b. Enjoining the RICO Defendants from continuing to engage in racketeering activities.

c. Awarding Plaintiffs their reasonable costs, including attorneys' fees incurred in

bringing this litigation.

- d. Awarding Plaintiff compensatory and punitive damages.
- e. Granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

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