

**STUBBS ALDERTON & MARKILES, LLP**

Heather A. Antoine (SBN 246917)

*hantoine@stubbsalderton.com*

Jeffrey F. Gersh (SBN 87124)

*jgersh@stubbsalderton.com*

Michael A. Bernet (SBN 306657)

*mbernet@stubbsalderton.com*

Jose A. Meneses (SBN 346449)

*jmeneses@stubbsalderton.com*

15260 Ventura Boulevard, 20<sup>th</sup> Floor

Sherman Oaks, California 91403

Telephone: (818) 444-4548

Attorneys for Plaintiff,  
NAKED WHEY, INC.

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

NAKED WHEY, INC., a Florida  
corporation,

Plaintiff,

v.

NAKED WARRIOR RECOVERY LLC, a  
Delaware limited liability company, and  
DOES 1 through 10, inclusive,

Defendants.

Case No.: \_\_\_\_\_

**COMPLAINT FOR:**

- (1) TRADEMARK INFRINGEMENT  
(15 U.S.C. § 1114);**
- (2) FALSE DESIGNATION OF  
ORIGIN AND UNFAIR  
COMPETITION  
(15 U.S.C. § 1125(a)); and**
- (3) UNFAIR COMPETITION  
(Cal. Bus. & Prof. § 17200).**

**DEMAND FOR JURY TRIAL**

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1 Plaintiff NAKED WHEY, INC., a Florida corporation (“Naked” or “Plaintiff”),  
2 hereby complains and alleges against Defendant NAKED WARRIOR RECOVERY  
3 LLC, a Delaware limited liability company (“Naked Warrior” or “Defendant”) and  
4 DOES 1 through 10, inclusive (“Doe Defendants”) (the Doe Defendants and Naked  
5 Warrior are collectively referred to herein as “Defendants”), as follows:

6 **JURISDICTION AND VENUE**

7 1. This Court has original jurisdiction over this action pursuant to 28 U.S.C.  
8 §§ 1331 and 1338(a)-(b), because this action arises under the laws of the United  
9 States—namely, the Lanham Act. This Court has supplemental jurisdiction pursuant  
10 to 28 U.S.C. § 1367(a) over the related state law claims that are factually  
11 interdependent with the federal law claims, and that arise from the same case or  
12 controversy.

13 2. In the alternative, this Court also has original jurisdiction pursuant to 28  
14 U.S.C. § 1332(a) because, upon information and belief, Plaintiff and all Defendants are  
15 citizens of different states and the amount in controversy exceed \$75,000, exclusive of  
16 interest and costs.

17 3. Upon information and belief, this Court has personal jurisdiction over  
18 Defendants in that they transact substantial business in the State of California. Upon  
19 information and belief, Defendants promote, transact, and deliver goods to consumers  
20 in California, and this judicial district, including but not limited to the goods that are  
21 the subject of this action.

22 4. Upon information and belief, venue is proper in this judicial district  
23 pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the facts giving rise to  
24 the acts and/or omissions alleged herein took place in this judicial district. Venue is  
25 also proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(3) and 1391(c)(2)  
26 because Defendants are individuals and business entities subject to this Court’s  
27 personal jurisdiction.

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**PARTIES**

5. Plaintiff Naked Whey, Inc., is a Florida corporation with its principal place of business located at 4061 Palau Dr., Sarasota, FL 34241. Plaintiff is engaged in the business of, *inter alia*, selling nutritional and dietary supplements and providing informational services in connection with nutrition, diet, health and wellness throughout the United States and internationally.

6. Upon information and belief, Defendant Naked Warrior Recovery LLC, is a Delaware limited liability company, having its principal place of business at 436 Iliwahi Loop, Kailua, Hawaii 96734. Plaintiff is further informed that Defendant owns and operates the website located at [www.nw-recovery.com](http://www.nw-recovery.com) for the purpose of advertising and promoting the sale and distribution of nutritional and dietary supplements under the mark “NAKED WARRIOR RECOVERY,” and/or marks similar thereto.

7. Plaintiff is ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 10, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this Complaint to allege such names and capacities as soon as they are ascertained. Upon information and belief, each of the fictitiously named defendants is in some manner responsible, liable, and/or obligated to Plaintiff in connection with the acts alleged herein.

**FACTUAL ALLEGATIONS**

**A. Plaintiff Naked Whey, Inc.’s “NAKED” Trademark**

8. Naked Whey, Inc. was founded in 2014, at which time Plaintiff began using the “Naked” mark in interstate commerce in connection with nutritional and dietary supplements and to provide information online relating to nutrition, diet, health and wellness.

9. In connection with its business, Naked owns a family of “NAKED” formative marks, each of which contain the inherently distinctive term, “NAKED.” All registered trademarks, along with all common law trademark rights, each of which

1 is further described below, are collectively referred to herein as the “Naked Marks.”

2 10. The Naked Marks have been used in advertising and sales so as to create  
 3 common exposure to and recognition of by purchasers of the common characteristic as  
 4 indicating a common origin of the goods.

5 11. For example, and without limitation, Naked exclusively owns each of the  
 6 following valid and subsisting federally registered trademarks with the United States  
 7 Patent and Trademark Office (“USPTO”):

	<b>MARK:</b>	<b>PRIORITY DATE:</b>	<b>REGISTRATION NO. / REGISTRATION DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
10 11 12 13 14	1 NAKED PROTEIN	Application filed on June 11, 2014	Registration No. 4914510  Registered on March 8, 2016	005 – Dietary supplements; food supplements; nutritional supplements; all containing protein; none of the foregoing to be sold in liquid beverage form.
15 16 17 18 19	2 NAKED PEA	Application filed on June 14, 2015	Registration No. 5020266  Registered on August 16, 2016	005 - Dietary and nutritional supplements containing pea; Protein dietary supplements containing pea; Protein supplements containing pea.
20 21 22 23	3 NAKED EGG	First used in commerce on April 29, 2016	Registration No. 5204303  Registered on May 16, 2017	005 - Dietary and nutritional supplements containing egg; Protein dietary supplements containing egg; Protein supplements containing egg.
24 25 26 27 28	4 NAKED GOAT	First used in commerce on September 29, 2014	Registration No. 5204308  Registered on May 16, 2017	005 - Dietary and nutritional supplements containing goat's milk; Protein dietary supplements containing goat's milk; Protein supplements containing goat's milk.

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	<b>MARK:</b>	<b>PRIORITY DATE:</b>	<b>REGISTRATION NO. / REGISTRATION DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
5	NAKED RICE	First used in commerce on September 29, 2014	Registration No. 5204309 Registered on May 16, 2017	005 - Dietary and nutritional supplements containing rice; Protein dietary supplements containing rice; Protein supplements containing rice.
6	NAKED CASEIN	Application filed on September 30, 2014	Registration No. 5304096 Registered on October 10, 2017	005 - Casein dietary supplements; Protein dietary supplements containing casein; Protein supplements containing casein.
7	NAKED NUTRITION	Application filed on September 30, 2014	Registration No. 5304095 Registered on October 10, 2017	005 - Dietary and nutritional supplements.
8	NAKED WHEY	First used in commerce on September 29, 2014	Registration No. 5304094 Registered on October 10, 2017	005 - Protein dietary supplements containing whey; Protein supplements containing whey; Whey protein supplements.
9	LESS NAKED	First used in commerce on April 21, 2016	Registration No. 5370138 Registered on January 2, 2018	005 - Dietary and nutritional supplements.
10	NAKED PB	First used in commerce on September 20, 2014	Registration No. 5369917 Registered on January 2, 2018	005 - Powdered nutritional supplement drink mix containing namely, plant-based protein powder; nutritional supplements, namely, high protein powder formulas to be mixed with water; dietary and nutritional supplements, namely, peanut butter powder.

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	<b>MARK:</b>	<b>PRIORITY DATE:</b>	<b>REGISTRATION NO. / REGISTRATION DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
11	NAKED GLUTAMINE	First used in commerce on January 15, 2017	Registration No. 5378686 Registered on January 16, 2018	005 - Nutritional supplements consisting primarily of glutamine.
12	NAKED CREATINE	First used in commerce on January 15, 2015	Registration No. 5384586 Registered on January 23, 2018	005 - Dietary and nutritional supplements containing creatine; Dietary supplements containing creatine; Nutritional supplements containing creatine; Nutritional drinks containing creatine.
13	NAKED MASS	First used in commerce on April 8, 2015	Registration No. 5500843 Registered on June 26, 2018	005 - Dietary and nutritional supplements.
14	NAKED ENERGY	First used in commerce on July 20, 2017	Registration No. 5533423 Registered on August 7, 2018	005 - Dietary and nutritional supplements.
15	NAKED BCAAS	First used in commerce on April 30, 2017	Registration No. 5579321 Registered on October 9, 2018	005 - Dietary and nutritional supplements containing branched chain amino acids.
16	NAKED MEAL	Application filed on February 18, 2018	Registration No. 5741097 Registered on April 30, 2019	005 - Dietary and nutritional supplements; Food supplements; Powdered nutritional supplement drink mix; Vitamin and mineral supplements.
17	GET NAKED	First used in commerce on December 1, 2017	Registration No. 5748747 Registered on May 14, 2019	021 - Water bottles sold empty; Plastic water bottles sold empty; Reusable plastic water bottles sold empty.

	<b>MARK:</b>	<b>PRIORITY DATE:</b>	<b>REGISTRATION NO. / REGISTRATION DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
18	NAKED BAR	Application filed on October 16, 2018	Registration No. 5836288 Registered on August 13, 2019	005 - Nutritional and dietary supplements formed and packaged as bars; Protein supplements formed and packaged as bars.
19	NAKED COLLAGEN	First used in commerce on September 24, 2018	Registration No. 5849049 Registered on September 3, 2019	005 - Dietary and nutritional supplements, namely, collagen peptide powder.
20	NAKED	First used in commerce on September 29, 2014	Registration No. 5900057 Registered on November 5, 2019	005 - Dietary and nutritional supplements.
21	NAKED ONE TO ONE	First used in commerce on July 2, 2017	Registration No. 6032168 Registered on April 14, 2020	005 - Protein supplements; Protein dietary supplements; none of the foregoing being protein bars.
22	NAKED GREENS	Application filed on August 9, 2019	Registration No. 6143362 Registered on September 1, 2020	005 - Dietary supplements consisting primarily of green vegetables.
23	NAKED KETO	Application filed on October 16, 2018	Registration No. 6389744 Registered on June 15, 2021	005 - Dietary and nutritional supplements.
24	NAKED MILK	Application filed on November 30, 2018	Registration No. 6389768 Registered on June 15, 2021	005 - Dietary and nutritional supplements containing milk protein concentrates.
25	NAKEDADE	Application filed on May 22, 2020	Registration No. 6442431 Registered on August 3, 2021	005 - Electrolyte replacement solutions, in powdered form.

	<b>MARK:</b>	<b>PRIORITY DATE:</b>	<b>REGISTRATION NO. / REGISTRATION DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
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3	26 NAKED C	Application filed on September 23, 2020	Registration No. 6465264 Registered on August 24, 2021	005 - Powdered nutritional supplement drink mix containing vitamin C; Vitamin and mineral supplements containing vitamin C.
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7	27 NAKED SEED	Application filed on March 4, 2020	Registration No. 6512289 Registered on October 5, 2021	005 - Dietary and nutritional supplements containing seeds; Protein dietary supplements; Powdered nutritional supplement drink mix containing seeds.
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12	28 NAKED SHAKE	Application filed on January 5, 2021	Registration No. 6623901 Registered on January 18, 2022	005 - Nutritional supplement shakes.
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15	29 NAKED COOKIE	Application filed on April 22, 2019	Registration No. 6646807 Registered on February 15, 2022	005 - Dietary supplements in the form of cookies; Nutritional supplements in the form of cookies.
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19	30 NAKED	Application filed on November 1, 2019	Registration No. 6821531 Registered on August 16, 2022	005 - Liquid nutritional supplement; Liquid protein supplements; Liquid vitamin supplements; Nutritional supplements for boosting energy.
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23	31 NAKED GUT	First used in commerce on December 21, 2021	Registration No. 7022684 Registered on April 11, 2023	005 - Dietary and nutritional supplements.
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26	32 NAKED RECOVERY	First used in commerce on December 14, 2021	Registration No. 7022685 Registered on April 11, 2023	005 - Dietary and nutritional supplements.
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1 Collectively attached hereto as Exhibit 1 are true and correct copies of registration  
 2 certificates from the USPTO for each of the foregoing registered marks.

3 12. In addition to the federal rights conferred upon Naked by virtue of the  
 4 foregoing registration certificates, Naked also claims common law rights to each of the  
 5 foregoing marks due to Naked’s uses in commerce of such marks throughout the  
 6 United States.

7 13. Each of the Naked Marks is inherently distinctive. Indeed, Naked has  
 8 spent substantial time, effort, and money developing and promoting its Naked Marks  
 9 throughout the world. Naked advertises and sells its products in connection with the  
 10 Naked Marks through a variety of e-commerce channels, including but not limited to  
 11 through its own website, Amazon, and GoSupps.com.

12 14. Each of the Naked Marks is valid and subsisting. The registration  
 13 certificates for the foregoing marks are prima facie evidence that Naked exclusively  
 14 owns each of the marks, and that such marks are valid and legally protectable.

15 15. In addition, Naked exclusively owns and has also applied to register each  
 16 of the following marks with the USPTO:

	<b>MARK:</b>	<b>APPLICATION NUMBER:</b>	<b>PRIORITY DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>	
17	1	NAKED BONE BROTH	97761249	Application filed on January 19, 2023	005 - Dietary and nutritional supplements containing powdered beef bones.
18	2	NAKED FIBER	97761250	First used in commerce on August 19, 2021	005 - Dietary fiber to aid digestion.
19	3	NAKED EAAS	97863869	First used in commerce on November 15, 2022	005 - Dietary and nutritional supplements.
20	4	NAKED REDS	97866333	First used in commerce on January 10, 2023	005 - Dietary and nutritional supplements.
21	5	NAKED BAKE	97870219	Application filed on April 3, 2023	005 - Protein supplements.

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	<b>MARK:</b>	<b>APPLICATION NUMBER:</b>	<b>PRIORITY DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
6	NAKED BROWNIE	97870228	First used in commerce on February 7, 2023	005 - Protein supplements.
7	NAKED CAKE	97870223	First used in commerce on September 13, 2022	005 - Protein supplements.
8	NAKED COFFEE	98266480	Application filed on November 12, 2023	030 - Coffee; Coffee extracts.

These marks are each pending registration before the USPTO.

16. Since its founding, Plaintiff has continuously and exclusively promoted the Naked Marks in connection with the sale, marketing, and distribution of its dietary supplements, including protein powders and nutritional supplements, among other things. Naked has used the Naked Marks in connection with, primarily, International Class 005 for protein and nutritional supplements.

17. Plaintiff is a prominent, international brand, with products available nationwide in all major markets in the United States, the United Kingdom, and Canada.

18. Upon information and belief, the Naked Marks have also acquired distinctiveness. Specifically, the public has come to associate the Naked Marks with Naked's high-quality dietary supplements and related goods and services. Moreover, given Naked's product offerings, consumers have also come to associate the Naked Marks with dietary supplements and related products that are healthy, nutritional, and additive free.

**B. Defendant Naked Warrior Recovery, LLC's Trademark Applications**

19. Upon information and belief, Naked Warrior is currently engaged in the sale, marketing, and distribution of its dietary supplements, including protein powders, through its website located at [www.nw-recovery.com](http://www.nw-recovery.com).

20. Naked Warrior has filed two separate trademark applications with the USPTO, on the basis of actual use in commerce as follows:

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	<b>MARK:</b>	<b>APPLICATION NUMBER:</b>	<b>PRIORITY DATE:</b>	<b>CLASS - GOODS/SERVICES:</b>
1	NW RECOVERY	98270991	First used in commerce on March 1, 2020	005 - Dietary supplements for humans; Dietetic beverages adapted for medical use; Dietetic foods adapted for medical purposes; Food supplements; Nutritional supplement energy bars; Nutritional supplements; Protein dietary supplements; Vitamin and mineral preparations for medical use; Vitamin and mineral supplements.
2	NAKED WARRIOR RECOVERY	97720248	First used in commerce on March 1, 2020	005 - Dietary supplements; Food supplements; Health food supplements; Herbal supplements; Mineral supplements; Nutritional supplements.

21. The foregoing trademark applications are still pending before the USPTO.

22. On November 14, 2023, the USPTO issued a Non-final Office Action (the “Office Action”) regarding Naked Warrior’s trademark application to register the “NAKED WARRIOR RECOVERY” mark. In its Office Action, the USPTO refused registration based on likelihood of confusion with “NAKED RECOVERY” (Registration No. 7022685), which Plaintiff owns. Attached hereto as Exhibit 2 is a true and correct copy of the Office Action.

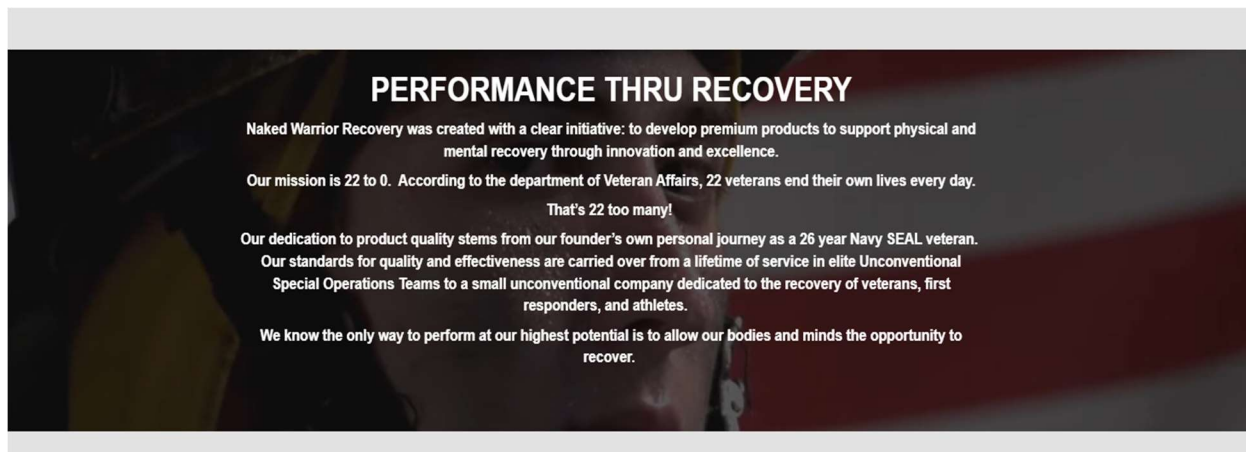
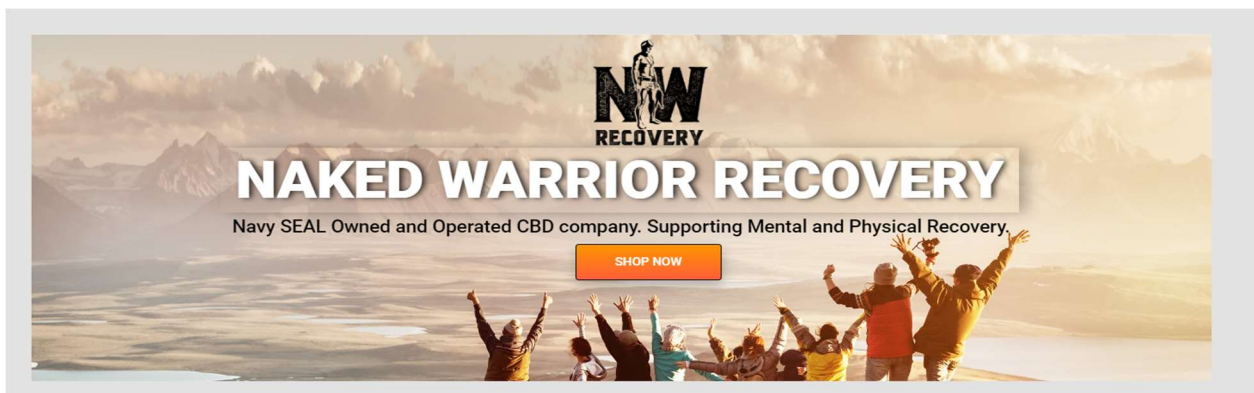
**C. Defendants’ Use of the Naked Marks In Connection With Dietary Supplements, Related Nutritional Products, and Apparel Merchandise Is Likely to Confuse Consumers**

23. Upon information and belief, with full knowledge of the Naked Marks, Defendants intentionally began and are still selling, offering to sell, distributing, and advertising goods and services to customers in and throughout the United States, using the Naked Marks – including Plaintiff’s trademark registrations for “NAKED”

1 (Registration Nos. 5,900,057 and 6,821,531) and “NAKED RECOVERY”  
2 (Registration No. 7,022,685) – and all marks confusingly similar thereto. As illustrated  
3 further below, Defendants’ use of the Naked Marks and/or marks confusingly similar  
4 thereto, is not limited to its marketing on its website and social media accounts as  
5 Defendants use same in some of the apparel merchandise that it sells to the public.

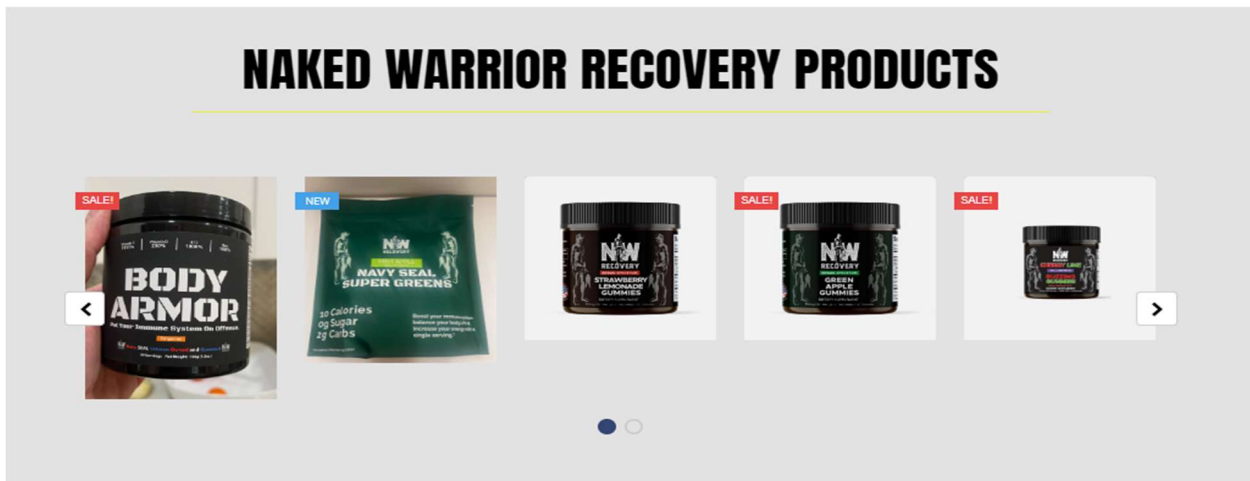
6 24. Throughout its website, Naked Warrior markets its products under the  
7 mark “NAKED WARRIOR RECOVERY,” and/or marks similar thereto, which fully  
8 incorporate the Naked Marks and are confusingly similar. This confusing use can be  
9 seen throughout Naked Warrior’s website and, as reflected further below, on its social  
10 media account. Below are true and correct copies of screenshots of Naked Warrior’s  
11 content, as taken from its website:

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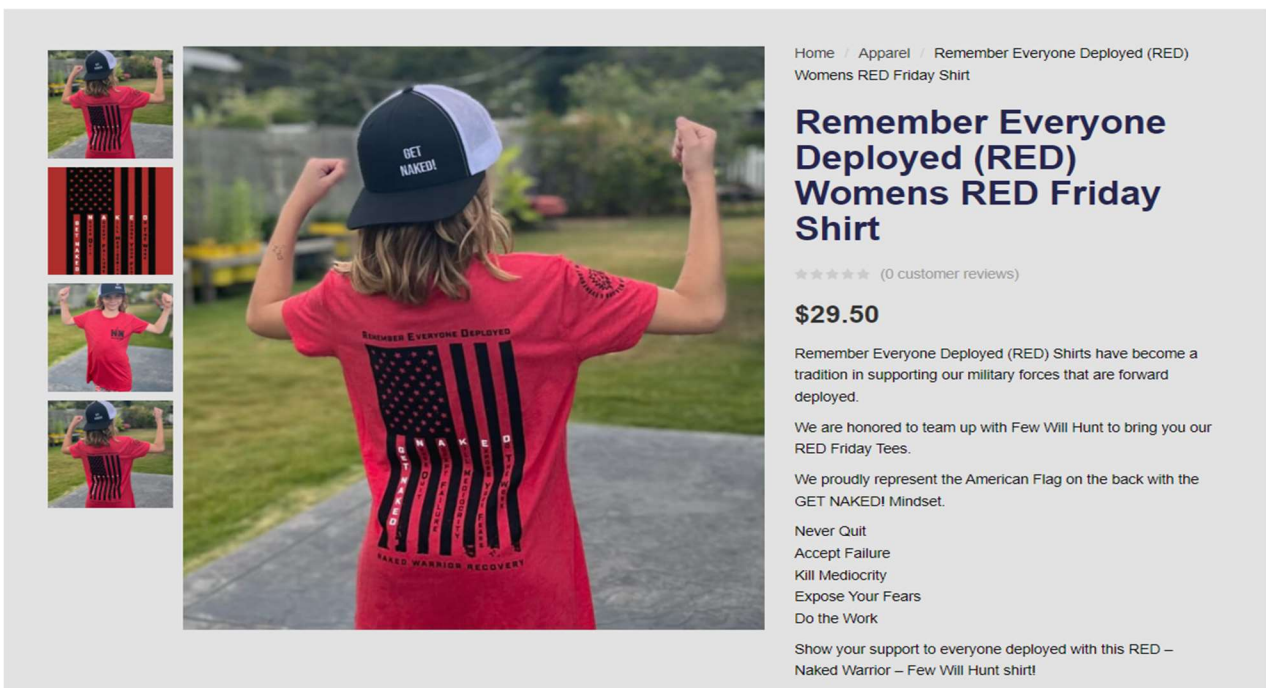


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25. Moreover, Naked Warrior sells, markets, and distributes apparel using the phrase “GET NAKED,” which Plaintiff similarly has registered (Registration No. 5,748,747). Below are true and correct copies of screenshots of products that Naked Warrior sells on its website, bearing Plaintiff’s “GET NAKED” mark and the Naked Marks:

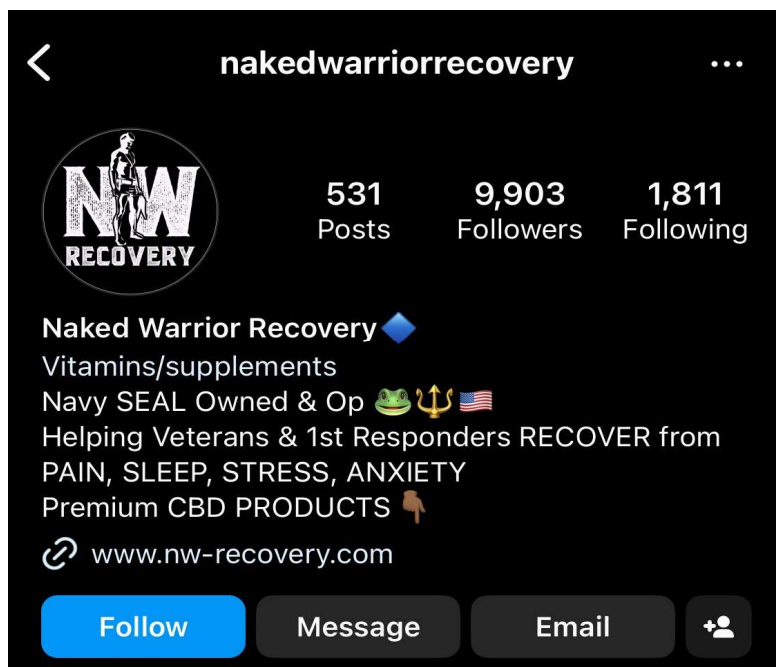


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26. Upon information and belief, Naked Warrior similarly uses the Naked Marks in connection with the promotion of Naked Warrior products on its Instagram page, using the handle “nakedwarriorrecovery” and the title “Naked Warrior Recovery”. Below is a true and correct copy of a screenshot of Naked Warrior’s Instagram page demonstrating same:



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27. Defendants’ use and display of the Naked Marks, and/or marks confusingly similar thereto, in connection with the promotion, distribution and sale of dietary supplements, related nutritional products, and apparel merchandise, is likely to cause consumer confusion.

28. Upon information and belief, by using the Naked Marks, or marks confusingly similar thereto, in connection with the sale, marketing, and distribution of Defendants’ products to consumers, Defendants are trading upon, and intend to trade upon, the highly valuable goodwill that Plaintiff has so meticulously created, built, and protected, and without Plaintiff’s consent.

29. Upon information and belief, Plaintiff has no adequate remedy at law and, if Defendants’ activities are not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its goodwill and reputation.

**COUNT ONE**

**(Federal Trademark Infringement – 15 U.S.C. § 1114)**

**(Against all Defendants)**

30. Plaintiff hereby incorporates and realleges each and every allegation contained in paragraphs 1 through 29, as though fully set forth herein.

31. Plaintiff is the exclusive owner of the Naked Marks, and has prior rights to the Naked Marks over Defendants. The Naked Marks, and Plaintiff’s goodwill associated therewith, in the United States and internationally, have become associated in the public mind with products of the highest quality and reputation with Plaintiff as the exclusive source of their origin.

32. Defendants have used the Naked Marks, or marks confusingly thereto, in connection with the sale, promotion, and distribution of their goods to consumers, without Plaintiff’s authorization and/or consent, and with full knowledge of Plaintiff’s prior and exclusive rights to the Naked Marks.

33. Defendants’ unauthorized use of the Naked Marks, or marks confusingly

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1 similar thereto, is likely to cause confusion to the general purchasing public.

2 34. Upon information and belief, Defendants’ use of the Naked Marks in  
3 commerce is likely to deceive the public into believing that Defendants’ distribution,  
4 sales, and promotion of goods are authorized by Plaintiff, when they are not.  
5 Specifically, because Defendants are similarly engaged in the business of selling  
6 dietary supplements and related products to consumers using the Naked Marks, or  
7 marks confusingly similar thereto, consumers are given the impression that Defendants  
8 and their products are associated with Plaintiff, when Defendants are not. Defendants’  
9 use of the Naked Marks, or marks confusingly similar thereto, is likely to confuse and  
10 deceive consumers into believing that Naked Warrior is the same company as Plaintiff,  
11 or a related company, when it is not.

12 35. On January 30, 2023, Defendants were put on notice of their  
13 infringements of the Naked Marks, when counsel for Plaintiff sent Defendants a cease-  
14 and-desist letter notifying them of same. Despite the notice, Defendants continued  
15 their infringement willfully and knowingly, within the meaning of 15 U.S.C. § 1117(a).  
16 As such, Defendants’ actions were undertaken intentionally to cause confusion,  
17 mistake, or deception.

18 36. Defendants’ acts constitute willful trademark infringement in violation of  
19 Section 32 of the Lanham Act, 15 U.S.C. § 1114.

20 37. Plaintiff has no adequate remedy at law and, if Defendants’ activities are  
21 not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its goodwill  
22 and reputation.

23 38. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to recover damages in  
24 an amount to be proven at trial (including actual damages and profits made by  
25 Defendants on the sale of its unauthorized products), in addition to injunctive relief,  
26 attorneys’ fees, and costs of suit.

27 ///

28 ///



**COUNT TWO**

**(False Designation of Origin and Unfair Competition – 15 U.S.C. § 1125(a))  
(Against all Defendants)**

39. Plaintiff hereby incorporates and realleges each and every allegation contained in paragraphs 1 through 38, as though fully set forth herein.

40. Defendants are using the Naked Marks, or marks confusingly similar thereto, without Plaintiff’s authorization and/or consent in connection with the distribution, sales, and promotion of Defendants’ own dietary supplement and related products in the United States, that are of the same general nature and type as those that Plaintiff has long used in connection with its Naked Marks.

41. Defendants’ unauthorized uses of the Naked Marks, or marks confusingly similar thereto, is likely to cause confusion to the general purchasing public.

42. By misappropriating and using the Naked Marks, Defendants are misrepresenting and falsely describing to the general public the nature, origin, and source of their products and create a likelihood of confusion by ultimate purchaser as to the source, sponsorship, affiliation, and/or endorsement of such products. Notably, consumers are likely to be confused and misconstrue that Plaintiff is the source, sponsor, affiliate, and/or endorser of Naked Warrior’s products, when it is not.

43. Defendants’ unlawful and unauthorized distribution, sale, and promotion of its dietary supplements and related products in the United States, in connection with the Naked Marks, or marks confusingly similar thereto, create express and implied misrepresentations that those products are authorized and/or approved for sale by Plaintiff, all for Defendants’ profit and Plaintiff’s damage and injury.

44. Defendants’ acts are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), in that Defendants’ use of the Naked Marks, or marks confusingly similar thereto, in connection with the selling, promotion, and distribution of Defendants’ goods in interstate commerce, constitutes trademark infringement, a false designation of origin, and unfair competition.

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15260 VENTURA BLVD.  
20<sup>TH</sup> FLOOR  
SHERMAN OAKS, CALIFORNIA 91403

1 45. Plaintiff has no adequate remedy at law and, if Defendants’ activities are  
2 not enjoined, Plaintiff will continue to suffer irreparable harm and injury to its goodwill  
3 and reputation.

4 46. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to recover damages in  
5 an amount to be proven at trial (including actual damages and profits made by  
6 Defendants on the sale of its unauthorized products), in addition to injunctive relief,  
7 attorneys’ fees, and costs of suit.

8 **COUNT THREE**

9 **(Unfair Competition –**

10 **California Business & Professions Code § 17200 *et seq.*)**

11 **(Against all Defendants)**

12 47. Plaintiff hereby incorporates and realleges each and every allegation  
13 contained in paragraphs 1 through 46, as though fully set forth herein.

14 48. California Business and Professions Code section 17200, *et seq.* (the  
15 “UCL”) prohibits unfair competition arising from any unlawful, unfair, or fraudulent  
16 business act or practice.

17 49. Defendants have committed the aforementioned unlawful acts, which  
18 constitute unfair competition under the UCL. These same acts by Defendants are likely  
19 to cause injury to Plaintiff’s reputation and result in Defendants’ unfairly competing  
20 with Plaintiff in violation of the UCL.

21 50. Defendants’ actions as alleged above violate the “unfair” prong of the  
22 UCL because such actions are (a) immoral, unethical, oppressive, unscrupulous, and  
23 substantially injurious to consumers, and (b) constitute a violation of federal law,  
24 namely trademark infringement under the Lanham Act. Without question, Defendants’  
25 aforementioned actions constitute acts that significantly threaten or harm competition.

26 51. Defendants’ actions as alleged above violate the “fraudulent” prong of the  
27 UCL because they are likely to mislead and confuse a significant percentage of  
28 reasonable consumers.

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15260 VENTURA BLVD.  
20<sup>TH</sup> FLOOR  
SHERMAN OAKS, CALIFORNIA 91403

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15260 VENTURA BLVD.  
20<sup>TH</sup> FLOOR  
SHERMAN OAKS, CALIFORNIA 91403

1 52. Defendants’ actions as alleged above violate the “unlawful” prong of the  
2 UCL because those same actions also constitute violations of federal law—trademark  
3 infringement under the Lanham Act. Defendants’ violation represents an  
4 independently actionable unlawful business practice in violation of the UCL.

5 53. As a direct and proximate result of the aforementioned acts by the  
6 Defendants, Plaintiff has suffered a monetary loss in an amount to be proven at trial.  
7 Accordingly, Plaintiff is entitled to restitution and/or disgorgement of profits realized  
8 by Defendants by reason of Defendants’ unlawful acts.

9 54. Defendants’ conduct has injured Plaintiff and unless enjoined, will  
10 continue to cause great, immediate, and irreparable injury to Plaintiff.

11 55. Plaintiff is without an adequate remedy at law.

12 56. Plaintiff is therefore entitled to injunctive relief, equitable relief, and an  
13 order for restitution (disgorgement of all of Defendants’ ill-gotten gains).

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff prays for relief against Defendants, and each of them,  
16 as follows:

17 1. For an order, pursuant to 15 U.S.C. § 1116 and California Business and  
18 Professions Code § 17203, permanently enjoining Defendants, and their officers,  
19 agents, employees, attorneys, and all persons in concert or participating with any of  
20 them from:

- 21 a. Committing any further acts of trademark infringement;
- 22 b. Using any term that is likely to be confused with the Naked Marks  
23 or tradename.
- 24 c. Representing directly or indirectly in any form or manner  
25 whatsoever that any product is associated with or approved by  
26 Plaintiff when, in fact, it is not;
- 27 d. Passing off or inducing or enabling others to sell or pass off any  
28 product as one of Plaintiff’s products or as a product that is

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15260 VENTURA BLVD.  
20<sup>TH</sup> FLOOR  
SHERMAN OAKS, CALIFORNIA 91403

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endorsed or approved by Plaintiff when, in fact, it is not; and

e. Committing any other act calculated to compete unfairly with Plaintiff, or cause any confusion with Plaintiff, in any manner.

2. For recovery of Plaintiff’s actual damages in an amount to be proven at trial, pursuant to 15 U.S.C. § 1117(a);

3. For the disgorgement of Defendants’ profits, pursuant to 15 U.S.C. § 1117(a);

4. For treble the amount of Plaintiff’s actual damages, pursuant to 15 U.S.C. § 1117(a);

5. For an award of reasonable attorneys’ fees and costs, pursuant to 15 U.S.C. § 1117(a);

6. For such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff NAKED WHEY, INC., hereby demands a trial by jury for all issues so triable in this action.

Dated: January 30, 2024

**STUBBS ALDERTON & MARKILES, LLP**

By: /s/ Heather Antoine

Heather A. Antoine

Jeffrey F. Gersh

Michael A. Bernet

Jose A. Meneses

Attorneys for Plaintiff, NAKED WHEY, INC.