

1 Reid A. Winthrop (SBN 223527)  
Henry Harmeling IV (SBN 207673)  
2 **WINTHROP LAW GROUP, P.C.**  
3 120 Newport Center Dr.  
Newport Beach, California 92660  
4 Phone: 949-269-3256 | Fax: 949-432-3526  
5 [reid@winthroplawgroup.com](mailto:reid@winthroplawgroup.com)

6 Attorney for Plaintiff SAVAGE ENTERPRISES

7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 SAVAGE ENTERPRISES, a Wyoming  
corporation;

12 Plaintiff,

13 v.

14 CHRISTOPHER WHEELER, an  
15 individual; PRESTON WHEELER, an  
individual; AMBYR FREESTONE, an  
16 individual; EXODUS HEMP LLC, a  
Wyoming limited liability company;  
17 SACRED EXODUS LLC, a Wyoming  
limited liability company; and DOES 1  
18 through 10, inclusive,

19 Defendants.  
20  
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Case No.:

**COMPLAINT FOR:**

- 1) **FALSE DESIGNATION OF ORIGIN / INFRINGEMENT OF UNREGISTERED TRADE DRESS [15 U.S.C. § 1125(a)];**
- 2) **BREACH OF CONTRACT – SALES AND ADVERTISING;**
- 3) **BREACH OF CONTRACT – DISPARAGEMENT; AND**
- 4) **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**

**JURY TRIAL REQUESTED**

1 Plaintiff Savage Enterprises (“Savage”) alleges, upon actual knowledge with  
2 respect to itself and its own acts, and on information and belief as to all other parties, as  
3 follows:

4 **PARTIES TO THE ACTION**

5 1. Plaintiff Savage Enterprises (“Savage”) is a Wyoming corporation with the  
6 principal place of business at 7505 Irvine Center Drive, Suite 200, Irvine, California  
7 92618.

8 2. Defendant Christopher Wheeler (“Wheeler”), an individual residing in  
9 Orange County, CA, is a former co-founder, director, President and CEO of Savage, as  
10 well as Trustee of the Chris Wheeler Trust.

11 3. Defendant Preston Wheeler (“P. Wheeler”), an individual residing in  
12 Orange County, CA, is a younger brother of Wheeler, who Wheeler publicly holds out  
13 as a business partner in Wheeler’s new company(s). P. Wheeler was formerly an  
14 employee of Savage, and is complicit in Defendant Wheeler’s bad acts.

15 5. Defendant Ambyr Freestone (“Freestone”) is an individual residing in  
16 Orange County, CA is a former employee of Savage and Defendant Wheeler’s assistant.  
17 On information and belief, Defendant Ambyr Freestone has a “personal relationship”  
18 with Defendant Wheeler and was and is complicit in, and aided and abetted, his bad  
19 acts prior to and after their departure from Savage.

20 7. Defendant Exodus Hemp, LLC (“Exodus”) is, and at all times relevant to  
21 this action was, a limited liability company organized and existing under the laws of the  
22 State of Wyoming, with its principal place of business in Orange County, California,  
23 and is a company created by Wheeler on May 17, 2023 to compete with Savage.

24 8. Defendant Sacred Exodus, LLC (“Sacred”) is, and at all times relevant to  
25 this action was, a limited liability company organized and existing under the laws of the  
26 State of Wyoming, with its principal place of business in Orange County, California,  
27 and is a company created by Wheeler on March 14, 2023 to compete with Savage.  
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1 9. Defendants Wheeler, P. Wheeler, Freestone, Exodus and Sacred will  
2 sometimes be referred to herein collectively as “Defendants.”

3 10. Defendants P. Wheeler and Freestone will sometimes be referred to herein  
4 collectively as the “Individual Defendants.”

5 11. Defendants Exodus and Sacred will sometimes be referred to herein as the  
6 “Exodus Parties.”

7 **DOE DEFENDANTS**

8 12. The true names and capacities of the defendants sued as DOES 1 through  
9 10, whether individual, corporate, associate or otherwise (“Doe Defendants”), are  
10 unknown to Plaintiff at the time of filing this Complaint and Plaintiff, therefore, sues  
11 said Doe Defendants by such fictitious names and will ask leave of Court to amend this  
12 Complaint to show their true names or capacities when the same have been ascertained.  
13 In particular, Defendant Wheeler has formed and operated several companies and/or  
14 corporations, the names and identities unknown to Plaintiff, and will be discovered  
15 during discovery in this action. For example, companies formerly operated by Wheeler  
16 – New Savage LLC and Exodus Enterprises LLC – appear to no longer operate. The  
17 identities of Wheeler’s current companies are therefore unknown. Plaintiff is informed  
18 and believes, and thereon alleges, that each of the Doe Defendants is, in some manner,  
19 responsible for the events and happenings herein set forth and proximately caused  
20 injury and damages to the Plaintiff as herein alleged.

21 13. Plaintiff is informed and believes and, on that basis, alleges that each of the  
22 fictitiously named Doe Defendants is in some manner responsible for the damages to  
23 Plaintiff as alleged in this Complaint. Plaintiff will amend this Complaint to show the  
24 true names and capacities of these fictitiously named Doe Defendants after their true  
25 names and capacities have been ascertained.

26 **JURISDICTION AND VENUE**

27 14. Jurisdiction rests with this Court, and venue is proper in this Court,  
28 pursuant to a Settlement Agreement/Stipulation entered into by Savage and Defendant

1 Christopher Wheeler, which Settlement Agreement/Stipulation was incorporated into an  
2 Order dated July 7, 2023 [Dkt. 57] that was entered by the Honorable Hernan D. Vera  
3 of the United States District Court for the Central District of California, in Case No.  
4 8:23-cv-00578-HDV-PVC (dismissed without prejudice) (the “Prior Action”), pursuant  
5 to which Stipulation and Order both Savage and Wheeler agreed to submit to  
6 themselves to the personal jurisdiction of the United States District Court for the  
7 Central District of California and that said court would be the exclusive and proper  
8 jurisdiction and venue for any future actions. Plaintiff is filing a Notice of Related Case  
9 regarding the Prior Action concurrently with the filing of this Complaint.

10 15. In addition to stipulating that this Court is the proper jurisdiction and  
11 venue for the claims made in this Complaint, both Savage and Wheeler stipulated that  
12 California law is to be applied to all of the claims and issues asserted in this Complaint.  
13 All Defendants named in this action were parties to the Settlement  
14 Agreement/Stipulation in the Prior Action including, but not limited to, Wheeler, P,  
15 Wheeler, Freestone, Exodus and Sacred. All acts alleged in this Complaint took place  
16 within the State of California and in this District. Venue is proper in this Court pursuant  
17 to 28 U.S.C. section 1391 because the documents and conduct at issue were executed  
18 and performed within the state of California in this District.

19 16. This is also an action for violations of the federal trademark and unfair  
20 competition laws (15 U.S.C. § 1125 *et seq.*). This Court has subject matter jurisdiction  
21 under 15 U.S.C. section 1121 and 28 U.S.C. section 1338(a), in that this case arises  
22 under the trademark laws of the United States and thus presents a federal question. The  
23 court also has supplemental jurisdiction over all claims not arising under the laws of the  
24 United States pursuant to 28 U.S.C. section 1367 because those claims are joined with  
25 substantial and related claims brought under the trademark laws.

26 **FACTUAL BACKGROUND**

27 17. Savage was founded in 2015 by Matthew Winters (“Winters”), and  
28 Defendant Christopher Wheeler (“Wheeler”).

1 18. Before Wheeler was removed from his position as President and CEO of  
2 Savage by Savage's Board of Directors in early 2023, Wheeler and Winters were the  
3 sole officers of Savage since its inception, with Winters acting as Secretary, Treasurer,  
4 and Chief Financial Officer since December 2021.

5 19. Winters, Wheeler, and Winters' sister, Brittany Hawkins, were the three  
6 directors of Savage from its inception until the events that gave rise to the Prior Action,  
7 as more fully detailed below.

8 20. Savage is in the business of designing, marketing, and selling flavored  
9 vape products, as well as hemp-derived and cannabis-related products, throughout the  
10 United States. As of 2022, Savage had gross sales in excess of \$150,000,000 and  
11 employed over 250 individuals.

12 21. Beginning in or about December 2022, while Wheeler was acting in his  
13 capacity as director, President, and CEO of Savage, Wheeler began pursuing the  
14 development of a new product line that included as an ingredient a psychoactive  
15 distillate, muscimol, found in the mushroom *Amanita muscaria*. A majority of  
16 shareholders and directors believed this product line was not ready for sale to the  
17 public, and at a meeting of shareholders and directors held on December 19, 2022,  
18 voted against pursuing this product line until further research could be conducted and  
19 an agreement could be reached by a majority of the shareholders and directors.

20 22. In violation of his Employment Agreement, Wheeler ignored the vote of  
21 the Board, and proceeded with directing Savage's financial, marketing, sales, and  
22 manufacturing resources to the development of an *Amanita muscaria* product line. His  
23 efforts, contrary to the express direction of the majority of the Board, led to product  
24 being manufactured, packaged, and being ready to ship to customers. The Board  
25 believed that the product line was not yet suitable for release for public consumption  
26 and instructed Wheeler to cease the pursuit of this activity.

27 23. Wheeler's efforts continued unabated and resulted in an investigation into  
28 Wheeler's activities while acting in his capacity as President and CEO. As a result of

1 this investigation, Savage discovered that Wheeler misappropriated company funds for  
2 his own personal use. Wheeler used the company account as his personal piggy bank,  
3 paying tens of thousands of dollars of personal expenses as if they were corporate  
4 expenses, evading both payment and personal tax liability. On information and belief,  
5 the accounting records reveal that Wheeler, despite his wealth, was stealing from the  
6 company.

7 24. Because Wheeler would not cease his unauthorized activities related to the  
8 launch of the Amanita muscaria product line, and in light of the discovery of the above-  
9 described misappropriation of funds, the majority of the Board of Directors terminated  
10 Wheeler as President and CEO of Savage on February 16, 2023; however, Wheeler  
11 could not be terminated as a director because no special meeting of shareholders had  
12 been convened for that purpose, due to the quick pace of the events that led to the need  
13 for his immediate termination. In any event, on March 9, 2023, Wheeler resigned as a  
14 director of Savage and any affiliated entities via email.

15 25. After his termination and while still a director of Savage, on or around  
16 February 20, 2023, Wheeler and his brother Defendant P Wheeler caused the creation  
17 of “The New Savage Inc.,” and on February 21, 2023, the entity was converted to The  
18 New Savage LLC (“New Savage”)., New Savage was a direct competitor to Savage.

19 26. Wheeler and New Savage engaged in active solicitation of Savage’s  
20 business partners and customers, in an effort to undermine their relationships with  
21 Savage, and spread misinformation to Savage’s customers (i.e. wholesalers and  
22 distributors of Savage’s products) that Savage was going out of business and that  
23 Wheeler’s new company, i.e. New Savage, was taking over.

24 27. Because of Wheeler’s unique position/platform, as a founder and former  
25 President and CEO of Savage, derogatory comments by Wheeler (as well as others  
26 working for Wheeler at his new company), raised the dangerous possibility of being  
27 especially damaging to Savage.  
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1           28. On March 30, 2023, in order to protect itself from Wheeler and his  
2 wrongful conduct, Savage filed the Prior Action in which Wheeler was the lead  
3 defendant: *Savage Enterprises v Christopher Wheeler et al*, United States District Court  
4 for the Central District of California, Case No. 8:23-cv-00578-HDV-PVC, which has  
5 previously been defined herein as the Prior Action.

6           29. On or about June 5, 2023, the parties to the Prior Action including, but not  
7 limited to, Defendants Wheeler, P, Wheeler, Freestone, Exodus and Sacred, entered into  
8 a Settlement Agreement in the form of a Stipulation and Proposed Order.

9           30. The Settlement Agreement/Stipulation and [Proposed] Order executed by  
10 Savage and Wheeler on or about June 5, 2023 when signed and submitted to the Court,  
11 was not complete in-and-of-itself, as it required and called for the future drafting and  
12 execution of several other documents, including a Stock Purchase Agreement by which  
13 Savage would buy Wheeler's Savage stock, and 2 Notes.

14           31. The parties included in the [Proposed] Order a request that the Court  
15 dismiss the Prior Action but retain jurisdiction over the parties in part so that additional  
16 ancillary but necessary documents were drafted and then executed. The Court did in  
17 fact retain jurisdiction pursuant to the July 7, 2023 Order by the Honorable Hernan D.  
18 Vera, Judge of the United States District Court [Dkt. Nos. 56 and 57].

19           32. After submitting the Settlement Agreement/Stipulation and [Proposed]  
20 Order, the parties eventually did complete, execute and exchange all of the necessary  
21 additional documents, such as the Stock Purchase Agreement and the 2 Notes.

22           33. On information and belief, Plaintiff alleges that Defendant Wheeler shut  
23 down certain former companies, New Savage and Exodus Enterprises LLC, and is  
24 currently operating two companies competing with Savage under the names Exodus and  
25 Sacred, which sell product through various channels including, but not limited to, the  
26 URL [www.exoclub.com](http://www.exoclub.com).

27           34. After all of the documents were drafted, executed and exchanged, Savage  
28 began making monthly payments to Wheeler in the amount of one hundred and twenty-



1 three thousand, nine hundred and twenty-four dollars (\$103,924), and did so through  
2 the entirety of 2023, and to date is current with its payments.

3 35. In Paragraph 3 of the Settlement Agreement/Stipulation attached hereto as  
4 **Exhibit 1**, which then became the Order of the Court and an agreed upon injunction  
5 attached hereto as **Exhibit 2**, Defendants agreed that “Defendants’ owners, officers,  
6 agents, servants, employees, and all persons acting in concert or in participation with  
7 Defendants are PERMANENTLY ENJOINED from:

- 8 a. Infringing the SAVAGE trademark, which Plaintiff owns U.S.  
9 trademark applications for, U.S. Serial Nos. 97009232 and 97009205;
- 10 b. Infringing Plaintiff’s packaging designs, which constitute Plaintiff’s  
11 inherently distinctive and valuable trade dress (the “Savage Trade  
12 Dress”) depicted in **Exhibit A** attached hereto;
- 13 c. Manufacturing, distributing, selling, marketing, advertising,  
14 promoting, or authorizing any third party to manufacture, distribute,  
15 sell, market, advertise, or promote goods bearing trade dress that  
16 infringes and is confusingly similar to the Savage Trade Dress or the  
17 Savage trade name and trademark or any other trade dress or trade  
18 name that is confusingly similar to Plaintiff’s trademark, trade name or  
19 the Savage Trade Dress;
- 20 d. Representing that Defendants are Plaintiff, including making or  
21 displaying any statement, representation, or depiction that is likely to  
22 lead the public or the trade to believe that: (i) Defendants’ goods are in  
23 any manner approved, endorsed, licensed, sponsored, authorized, or  
24 franchised by, or associated, affiliated, or otherwise connected with  
25 Plaintiff, or (ii) Plaintiff’s goods are in any manner approved,  
26 endorsed, licensed, sponsored, authorized, or franchised by, or  
27 associated, affiliated, or otherwise connected with Defendants;
- 28 e. Using or authorizing any third party to use any false description, false  
representation, or false designation of origin, or any marks, names,



1 words, symbols, devices, or trade dress that falsely associates such  
2 business, goods and/or services with Plaintiff or tend to do so; and  
3 f. Registering or applying to register any trademark, service mark,  
4 domain name, trade name, or any other mark that infringes or is likely  
5 to be confused with Plaintiff's Savage trade name and trademark or the  
6 Savage Trade Dress."

7 36. In agreeing to the terms of the Settlement Agreement/Stipulation and  
8 Injunction, among the most important and material terms was the Mutual Non-  
9 Disparagement Provision which states:

10 "10.1 MUTUAL NON-DISPARAGEMENT. Subject to applicable law, each of  
11 the Parties covenants and agrees that, neither it nor any of its respective agents,  
12 subsidiaries, controlled affiliates, successors, assigns, partners, members,  
13 officers, key employees or directors, shall in any way publicly disparage or  
14 otherwise defame or slander the other Party or such other Party's subsidiaries,  
15 affiliates, successors, assigns, partners, members, officers, directors, employees,  
16 stockholders, agents, attorneys or representatives, or any of their businesses,  
17 products or services, in any manner that would reasonably be expected to damage  
18 the business or reputation of such other Party, their businesses, products or  
19 services of their subsidiaries, affiliates, successors, assigns, officers (or former  
20 officers), directors (or former directors), employees, stockholders, agents,  
21 attorneys or representatives."

22 37. This Non-Disparagement Provision was absolutely critical to Savage's  
23 agreeing to the Settlement Agreement/Stipulation because of Wheeler's unique position  
24 as a founder and former President and CEO of Savage, which gave Wheeler a platform  
25 with the potential to destroy Savage by disparaging it and/or Savage's current  
26 leadership. Savage felt compelled to buy its peace with Wheeler to stop him from  
27 disparaging Savage and its leaders, and Savage believed that there was a real likelihood,  
28 and it had a genuine fear, that Wheeler's continuing disparagement of Savage to

1 Savage's customers and employees would destroy Savage as an ongoing and viable  
2 business. The other individual Defendants, P. Wheeler and Freeston, as well as the  
3 corporate defendants Exodus and Sacred, agreed to and were bound by the Non-  
4 Disparagement Provision in the Settlement Agreement/Stipulation.

5 38. Accordingly, the Non-Disparagement Provision, by which Wheeler, P.  
6 Wheeler, and Freestone agreed to stop disparaging Savage and its leadership team, was  
7 a critical and material reason why Savage agreed to the terms of the Settlement  
8 Agreement/Stipulation, including agreeing to pay Wheeler in cash and other assets  
9 (mostly real estate) which was valued at \$5,690,348, as Savage believed that by buying  
10 out Wheeler via the Settlement Agreement/Stipulation, Savage was to buy its peace  
11 with Wheeler, his employees and companies.

12 39. Despite Savage fully performing all of its obligations to Wheeler and the  
13 other Defendants, including making all of the \$103,924 monthly installment payments  
14 to him to date, and in breach of the Non-Disparagement Provision, Wheeler has made  
15 the following statements to members of the public, including but not limited to  
16 Savage's customers and its employees:

- 17 • Savage will go out of business by end of year/soon;
- 18 • [Savage's] Management has no idea what they are doing;
- 19 • [Savage's] Leadership is too busy fighting;
- 20 • We all know where all the money is going while Savage is tanking
- 21 • Savage is going to fail;
- 22 • You [Savage's employees] need to jump ship and come work for me
- 23 before it's too late;
- 24 • Savage can't ship orders;
- 25 • Savage can't come out with any new products;
- 26 • Only the name [Savage] has value anymore the business is dead;
- 27 • The business is run by bean counters and won't survive; and
- 28 • Savage is a "dumpster fire".

1           40. On information and belief, P. Wheeler and Freestone participated and/or  
2 made the same or similar disparaging statements to third parties and the public in  
3 violation of the Non-Disparagement Provision of the Settlement Agreement/Stipulation.

4           41. In addition to disparaging Savage in violation of the Non-Disparagement  
5 Provision, after Savage moved to its current location at 7505 Irvine Center Drive, Suite  
6 200, Irvine, California, Wheeler sought out and leased space for his new, competing  
7 company(s) kitty-corner from Savage's offices, so that Savage (and its employees) now  
8 share the same parking lot and can see each other's offices by simply looking out the  
9 window at each other. Upon information and belief, Wheeler chose to locate his new  
10 company as close as possible to Savage as an intentional act so that when his campaign  
11 of disparaging Savage, including his disparaging it to Savage's employees in order to  
12 steal them for his new, competitive business, which is designed to destroy Savage as a  
13 business, will allow him to steal Savage itself (i.e. its employees, brand and intellectual  
14 property) after he has ruined it as an ongoing business under its current ownership.

15           **BREACH OF THIS COURT'S JULY 7, 2023 ORDER; CONTEMPT**

16           42. In violation of this Court's July 7, 2023 Order ("Order") [*see* Docket No.  
17 56, attached hereto as **Exhibit 1**], which approved the parties' stipulated settlement  
18 agreement ("Settlement") and includes a Permanent Injunction (the "Injunction") [*see*  
19 Docket No. 57, attached hereto as **Exhibit 2**], Defendants have continued to sell,  
20 distribute, advertise, offer for sale and sell products using Savage's packaging designs,  
21 symbols and depictions, which constitute Savage's inherently distinctive and valuable  
22 trade dress (the Savage Trade Dress). In particular, Defendants continued to market  
23 and sell products with the distinctive symbols and depictions of "dripping fruit" and  
24 "dripping paint" that has characterized Savage products for years. These products were  
25 identified in the Complaint in the Prior Action, and Exhibit A to the Settlement, Order  
26 and Injunction. Such conduct by Savage is a direct and material breach of the  
27 Settlement, Order, and Injunction.  
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1 43. Defendants, and Wheeler in particular, also continue to disparage Savage,  
2 including making disparaging statements to Savage’s employees in effort to coerce – or  
3 “poach” – Savage’s employees from terminating their employment with Savage, and to  
4 work for Wheeler’s companies Exodus, Sacred, and Does 1-10 (previously defined as  
5 “Exodus Parties”). Wheeler’s conduct in violation of the Injunction and Settlement has  
6 materially frustrated the purpose of the Settlement, causing irreparable harm to Savage.

7 44. The violations of the Settlement and Injunction, as well as the breaches of  
8 the Settlement as to disparagement and solicitation, have caused Savage to suffer  
9 irreparable injury and damages.

10 45. Savage’s counsel made several attempts to resolve these issues informally  
11 with Defendants' counsel, including sending a Cease-and-Desist Letter dated January  
12 19, 2024, to no avail.

13 46. Further, Plaintiff was forced to file a Motion for Contempt in the Prior  
14 Action, which was granted in part and denied in part. Wheeler has been held in  
15 contempt of the Order. [Dkt No. 104, attached hereto as **Exhibit 3**]

16 47. This action stems from the damages inflicted upon Plaintiff by and through  
17 Defendants’ willful violation of the Settlement and Order. Savage is continuing to be  
18 irreparably harmed by Defendants’ willful and ongoing violations.

19 **FIRST CAUSE OF ACTION:**

20 **FALSE DESIGNATION OF ORIGIN / INFRINGEMENT OF UNREGISTERED**  
21 **TRADE DRESS**

22 **(15 U.S.C. § 1125(a) and California common law)**

23 (Plaintiff Savage Against Wheeler, Exodus, Sacred, and DOES 1-10, Inclusive)

24 48. Plaintiff hereby reincorporates by reference all the allegations in  
25 paragraphs 1 through 47 as if they were set forth in full in this paragraph.

26 49. Defendants’ conduct as alleged herein constitutes false designation of  
27 origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and  
28 infringement of unregistered trade dress under the California common law.

1 50. Savage has used the SAVAGE trademark and trade dress in interstate  
2 commerce since at least as early as May 1, 2021 and owns U.S. trademark applications  
3 for the SAVAGE mark, U.S. Serial Nos. 97009232 and 97009205.

4 51. As a result of its widespread, continuous, and exclusive use of the Savage  
5 Trade Dress to identify its vaping, CBD, and Amanita muscaria products and Savage as  
6 their source, Plaintiff owns valid and subsisting ownership rights to the Savage Trade  
7 Dress. The Savage Trade Dress is inherently distinctive and has gained substantial  
8 customer recognition in the marketplace. Savage has expended substantial time, money,  
9 and resources marketing, advertising, and promoting its goods sold under the Savage  
10 Trade Dress.

11 52. Savage advertises its CBD products sold under the Delta Extrax brand and  
12 Amanita muscaria products sold under the Trippy Extrax brand, both featuring the  
13 Savage Trade Dress, via respective websites, social media channels, and trade websites,  
14 shows, and publications.

15 53. Specifically, the infringing acts include, but are not limited to, the sale of  
16 products by Wheeler and the Exodus Parties on the [www.exoclub.com](http://www.exoclub.com) website, as well  
17 as on numerous third-party reseller sites.

18 54. More specifically, by way of example, the sale of the Exodus products  
19 “Amanita Mutiplex Vape” in Orange Pineapple and Strawberry Kiwi (**Exhibit 4**)  
20 clearly and unequivocally infringe on Savage's trade dress and depictions on the  
21 “Orange Crush Delta-6” and “Strawana” products (**Exhibit 5**), and violate the  
22 Injunction against authorizing the sale of products that is likely to lead the public to  
23 believe that Exodus products are connected with Savage. Attached hereto as **Exhibits 4**  
24 **and 5** are website printouts downloaded from the internet from January through March  
25 2024, which depict the following products for sale by Exodus as compared with  
26 Savage’s products:  
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|--|---|
| <p>Savage Product: <a href="https://www.deltaextrax.com/product/thc-b-delta-6-the-disposable-pre-heat-line/">https://www.deltaextrax.com/product/thc-b-delta-6-the-disposable-pre-heat-line/</a></p>  <p>The image shows a rectangular box for Savage Extrax Orange Pineapple vape. The box is white with a yellow and orange color scheme. It features a large orange slice with a green leaf and a yellow liquid dripping from it. The word "EXTRAX" is printed in a bold, yellow, sans-serif font at the top. Below the orange slice, the words "ORANGE PINEAPPLE" are written in a stylized, bubbly font. At the bottom of the box, it says "2.2 GRAM 2200MG DISPOSABLE".</p> | <p>Exodus Product: <a href="https://exoclub.com/product/1g-mushroom-vape-single-orange-pineapple/">https://exoclub.com/product/1g-mushroom-vape-single-orange-pineapple/</a></p>  <p>The image shows a rectangular box and a pink cylindrical vape device for Exodus Orange Pineapple. The box is white with a yellow and orange color scheme. It features a large orange slice with a green leaf and a yellow liquid dripping from it. The word "EXODUS" is printed in a bold, yellow, sans-serif font at the top. Below the orange slice, the words "ORANGE PINEAPPLE" are written in a stylized, bubbly font. At the bottom of the box, it says "AMANITA MULTIPLEX VAPE" and "2.2 GRAM 2200MG DISPOSABLE". The pink vape device is positioned to the right of the box.</p> |
| <p>Savage Product: <a href="https://www.deltaextrax.com/product/thc-b-delta-6-the-disposable-pre-heat-line/">https://www.deltaextrax.com/product/thc-b-delta-6-the-disposable-pre-heat-line/</a></p>  <p>The image shows a rectangular box for Savage Extrax Strawberry Kiwi vape. The box is white with a red and yellow color scheme. It features a large strawberry with a green leaf and a red liquid dripping from it. The word "EXTRAX" is printed in a bold, red, sans-serif font at the top. Below the strawberry, the words "STRAWBERRY KIWI" are written in a stylized, bubbly font. At the bottom of the box, it says "1 GRAM 2200MG DISPOSABLE".</p>                | <p>Exodus Product: <a href="https://exoclub.com/product/1g-mushroom-vape-strawberry-kiwi/">https://exoclub.com/product/1g-mushroom-vape-strawberry-kiwi/</a></p>  <p>The image shows a rectangular box for Exodus Strawberry Kiwi vape. The box is white with a red and yellow color scheme. It features a large strawberry with a green leaf and a red liquid dripping from it. The word "EXODUS" is printed in a bold, red, sans-serif font at the top. Below the strawberry, the words "STRAWBERRY KIWI" are written in a stylized, bubbly font. At the bottom of the box, it says "AMANITA MULTIPLEX VAPE" and "1 GRAM 2200MG DISPOSABLE".</p>  |

55. These products – the Orange, Strawberry, and Blue Berry flavors – contain Savage’s “dripping fruit” symbols and depictions that have been associate with Savage products for years.



1           56.    Thereafter, Savage’s Matthew Winters personally reviewed the  
2 [www.exoclub.com](http://www.exoclub.com) website, and identified the following products that Wheeler and  
3 Exodus continued to sell that violate the Injunction:

- 4           a. Exodus Amanita Multiplex Vape – Orange Pineapple;
- 5           b. Exodus Amanita Multiplex Vape – Strawberry Kiwi;
- 6           c. Exodus Amanita Multiplex Vape – Blueberry;
- 7           d. Exodus Pink Runtz + Orange Creamsicle Duo Cartridge 4G;
- 8           e. Exodus Pineapple Cake + Purple Tangie Duo Cartridge 4G;
- 9           f. Exodus Blue Widow + Lime Sherbet Duo Cartridge 4G;
- 10          g. Exodus Disposable 5G THC Vapes – Strawberry Amnesia, Orange Cake,  
11           Black Cherry Gelato, White Gummy, Purple Urkle, Dabbalicious, Blue  
12           Steel, Apple Fritter, and Gold Punch.

13           57.    Attached hereto as **Exhibit 6** are website printouts downloaded from the  
14 internet on or about January through March 2024, showing products that continue to be  
15 sold on the [www.exoclub.com](http://www.exoclub.com) website. Attached hereto as **Exhibit 7** are website  
16 printouts downloaded from the internet on or about January 25, 2024, that are sold on  
17 Savage’s [www.deltaextrax.com](http://www.deltaextrax.com) website. These products all contain Savage’s “dripping  
18 paint” symbols and depictions.

19           58.    These products, and others, were previously identified in the Complaint  
20 and First Amended Complaint filed in the Prior Action as products sold by Wheeler and  
21 the Exodus Parties that infringed upon Savage’s products. [Dkt. No. 53, **Exhibit 8**, also  
22 attached hereto.] These Savage products were thereafter included on **Exhibit A** to the  
23 Settlement and Injunction to clearly identify Savage’s trade dress and depictions that  
24 are protected by the Injunction. [Dkt. Nos. 56-4 and 57, also attached hereto as Exhibits  
25 1 and 2.] Despite the identification in the Settlement and Injunction, and despite  
26 Savage’s demands to cease and desist, Exodus continued to sell products with Savage’s  
27 trade dress and depictions on the [www.exoclub.com](http://www.exoclub.com) website. (See **Exhibits 4 and 6**  
28 attached hereto.) Specifically, the “dripping fruit” and “dripping paint” symbols and



1 depictions have been associated with Savage products for years, and were specifically  
 2 identified in the Injunction.

3 59. Further examples of the Exodus products sold on the [www.exoclub.com](http://www.exoclub.com)  
 4 website that infringe upon Savage Trade Dress, including symbols and depictions, in  
 5 violation of the Settlement and Injunction include:

| Exodus Product  | Savage Trade Dress   |
|---|--|
| 1. Exodus Strawberry Amnesia Disposable 5G  | <i>See Exhibit A, page 3</i>   |
|  <p>The image shows a white rectangular disposable vape pack with a clear window revealing a yellow cartridge. The top features the 'EXODUS' logo in white with red dripping paint effects. Below the window, the text reads 'STRAWBERRY AMNESIA', 'SATIVA', 'THCA + HX9-THC', 'DELTA 8 LIVE RESIN', and '5GRAM'.</p> |  <p>The image shows a red rectangular product box with a white cutout revealing two gold cartridges. The text on the box includes 'EXTRAX PANAMA RED', '9-HYDROXY-THC + THCA', '+ 9-HYDROXY-THC LIVE RESIN', 'TWO 2G CARTS', 'SATIVA', and 'NET WT. 40.0G (1.4 FL. OZ.)'.</p> |
| 2. Exodus 5G Disposables Bundle   | <i>See Exhibit A, page 3</i>   |



60. Savage also discovered that Wheeler and the Exodus Parties are and/or were selling such Exodus products on websites meant to engender confusion with Savage. Specifically, the Exodus products Amanita Multiplex Vape in Orange Pineapple and Strawberry Kiwi (captured above) are on sale through a website [www.cbdsavage.com](http://www.cbdsavage.com): [Exodus Amanita Multiplex Disposable | 1000mg | - CBD Savage](http://www.cbdsavage.com). The sale of Exodus products, with Savage trade dress on the *cbdsavage.com* website is an intentional effort to cause confusion in the marketplace. Attached hereto as **Exhibit 9** is a website printout downloaded from CBD Savage website [www.cbdsavage.com](http://www.cbdsavage.com) on or about January 24, 2024.

61. Wheeler and the Exodus Parties continued to advertise and sell infringing product through at least April 5, 2024. Exodus also continued to sell its products on the CBD Savage website, including products with the “dripping paint” symbols associated with Savage products.

62. Upon information and belief, Defendants have committed the foregoing acts of infringement with full knowledge of Plaintiff’s prior rights in the Savage

1 trademark and the Savage Trade Dress and with the willful intent to cause confusion  
2 and trade on Plaintiff’s goodwill.

3 63. Defendants’ conduct is causing immediate and irreparable harm and injury  
4 to Plaintiff, and to its goodwill and reputation, and will continue to both damage  
5 Plaintiff and confuse the public unless enjoined by this court. Plaintiff has no adequate  
6 remedy at law. Plaintiff is entitled to, among other relief, injunctive relief and an award  
7 of actual damages, Defendants’ profits, enhanced damages and profits, reasonable  
8 attorneys’ fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15  
9 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.

10 **SECOND CAUSE OF ACTION:**

11 **BREACH OF CONTRACT – ADVERTISING AND SALE OF PRODUCT**

12 (Plaintiff Savage Against All Defendants and DOES 1-10, Inclusive)

13 64. Plaintiff hereby reincorporates by reference all the allegations in  
14 paragraphs 1 through 63 as if they were set forth in full in this paragraph.

15 65. On or about June 5, 2023, Savage, on the one hand, and Wheeler, the  
16 Individual Defendant, and the Exodus Parties, on the other hand, entered into a contract  
17 in the form of a Settlement Agreement/Stipulation, including ancillary documents that  
18 were subsequently drafted, executed and exchanged between them.

19 66. Savage and Wheeler also entered into a Stock Purchase Agreement (the  
20 “SPA”), and two related notes, pursuant to which Savage agreed to buy-out Wheeler’s  
21 shares/ownership interest in Savage (and other related entities) in exchange for payment  
22 via cash and other assets valued at \$5,690,348.

23 67. Paragraph 3 of the Settlement Agreement/Stipulation enjoins Defendants  
24 from infringing on Savage’s marks and trade dress: “Defendants’ owners, officers,  
25 agents, servants, employees, and all persons acting in concert or in participation with  
26 Defendants are PERMANENTLY ENJOINED from:

- 27 a. Infringing the SAVAGE trademark, which Plaintiff owns U.S.  
28 trademark applications for, U.S. Serial Nos. 97009232 and 97009205;

- 1           b. Infringing Plaintiff’s packaging designs, which constitute Plaintiff’s  
2           inherently distinctive and valuable trade dress (the “Savage Trade  
3           Dress”) depicted in **Exhibit A** attached hereto;
- 4           c. Manufacturing, distributing, selling, marketing, advertising,  
5           promoting, or authorizing any third party to manufacture, distribute,  
6           sell, market, advertise, or promote goods bearing trade dress that  
7           infringes and is confusingly similar to the Savage Trade Dress or the  
8           Savage trade name and trademark or any other trade dress or trade  
9           name that is confusingly similar to Plaintiff’s trademark, trade name or  
10          the Savage Trade Dress;
- 11          d. Representing that Defendants are Plaintiff, including making or  
12          displaying any statement, representation, or depiction that is likely to  
13          lead the public or the trade to believe that: (i) Defendants’ goods are in  
14          any manner approved, endorsed, licensed, sponsored, authorized, or  
15          franchised by, or associated, affiliated, or otherwise connected with  
16          Plaintiff, or (ii) Plaintiff’s goods are in any manner approved,  
17          endorsed, licensed, sponsored, authorized, or franchised by, or  
18          associated, affiliated, or otherwise connected with Defendants;
- 19          e. Using or authorizing any third party to use any false description, false  
20          representation, or false designation of origin, or any marks, names,  
21          words, symbols, devices, or trade dress that falsely associates such  
22          business, goods and/or services with Plaintiff or tend to do so; and
- 23          f. Registering or applying to register any trademark, service mark,  
24          domain name, trade name, or any other mark that infringes or is likely  
25          to be confused with Plaintiff’s Savage trade name and trademark or the  
26          Savage Trade Dress.”

26           68. Paragraphs 3b and c, enjoin Defendants and Defendants' owners, officers,  
27 agents, servants, employees, and all persons acting in concert or participation with  
28 Defendants from use of the name "Savage" or any other derivation of the name

1 "Savage" in any manner including, but not limited to, in "marketing, advertising,  
2 promoting, or authorizing any third party to manufacture, distribute, sell, market,  
3 advertise, or promote goods bearing trade dress that infringes and is confusingly similar  
4 to the Savage Trade Dress or the Savage trade name and trademark."

5 69. Paragraph 3b also enjoins Defendants from "Infringing Plaintiff's  
6 packaging designs, which constitute Plaintiff's inherently distinctive and valuable trade  
7 dress.

8 70. Paragraph 3d enjoins Defendants from "making or displaying any  
9 statement, representation, or **depiction** that is likely to lead the public or the trade to  
10 believe that: (i) Defendants' goods are in any manner approved, endorsed, licensed,  
11 sponsored, authorized, or franchised by, or associated, affiliated, or otherwise  
12 connected with Plaintiff," and 3e enjoins Defendants from using any "marks, names,  
13 words, **symbols**, devices, or trade dress that falsely associates such business, goods  
14 and/or services with Plaintiff or tend to do so." (Emphasis added.)

15 71. Nevertheless, Defendants have continued to sell, distribute, advertise, offer  
16 for sale and sell products using Savage's packaging designs, symbols, and depictions,  
17 including those which constitute Savage's inherently distinctive and valuable trade dress  
18 (the Savage's Trade Dress).

19 72. Such advertising and sale of infringing products is a direct and material  
20 breach of the Settlement, as well as the agreed upon Order and Injunction, which has  
21 caused damage to Savage in an amount to be proven at trial, but in no event less than  
22 \$2,750,000 for purposes of a default.

23 **THIRD CAUSE OF ACTION:**

24 **BREACH OF CONTRACT – DISPARAGEMENT**

25 (Plaintiff Savage Against All Defendants and DOES 1-10, Inclusive)

26 73. Plaintiff hereby reincorporates by reference all the allegations in  
27 paragraphs 1 through 72 as if they were set forth in full in this paragraph.  
28

1           74. A material term in the Settlement is a Non-Disparagement Provision found  
2 at section 10.1 of the Settlement which expressly provides:

3           “10.1 MUTUAL NON-DISPARAGEMENT. Subject to applicable law, each of  
4 the Parties covenants and agrees that, neither it nor any of its respective agents,  
5 subsidiaries, controlled affiliates, successors, assigns, partners, members,  
6 officers, key employees or directors, shall in any way publicly disparage or  
7 otherwise defame or slander the other Party or such other Party’s subsidiaries,  
8 affiliates, successors, assigns, partners, members, officers, directors, employees,  
9 stockholders, agents, attorneys or representatives, or any of their businesses,  
10 products or services, in any manner that would reasonably be expected to damage  
11 the business or reputation of such other Party, their businesses, products or  
12 services of their subsidiaries, affiliates, successors, assigns, officers (or former  
13 officers), directors (or former directors), employees, stockholders, agents,  
14 attorneys or representatives.”

15           75. Savage has fully performed, or been excused from performance, all of its  
16 obligations to Wheeler and the Exodus Parties under the Settlement, including but not  
17 limited to causing the transfer of various interests in real property to Wheeler in a value  
18 of approximately two million dollars (\$2,000,000) and making all of the \$103,924  
19 monthly installment payments due to him to date.

20           76. Despite the contractual Non-Disparagement Provision which Defendants  
21 agreed to as part of the Settlement, and Savage’s timely transfer to Wheeler of  
22 approximately \$3,000,000 in cash and real estate interests, Wheeler, individually and as  
23 Owner and CEO of Exodus and Sacred, made numerous disparaging statements and/or  
24 public communications about Savage and Savage’s leadership team to members of the  
25 public in breach of the Non-Disparagement Provision, including but not limited to  
26 Savage’s customers and its employees:

- 27           • Savage will go out of business by end of year/soon;
- 28           • [Savage’s] Management has no idea what they are doing;



- 1 • [Savage’s] Leadership is too busy fighting;
- 2 • We all know where all the money is going while Savage is tanking
- 3 • Savage is going to fail;
- 4 • You [Savage’s employees] need to jump ship and come work for me
- 5 before it’s too late;
- 6 • Savage can’t ship orders;
- 7 • Savage can’t come out with any new products;
- 8 • Only the name [Savage] has value anymore the business is dead; and
- 9 • The business is run by bean counters and won’t survive; and
- 10 • Savage is a “dumpster fire”.

11 77. On information and belief, P. Wheeler and Freestone participated and/or  
12 made the same or similar disparaging statements to third parties and the public in  
13 violation of the Non-Disparagement Provision of the Settlement Agreement/Stipulation.

14 78. Savage has been directly harmed by Defendants’ disparaging statements  
15 about it and its leadership in direct breach of the Non-Disparagement Provision in that it  
16 has lost employees and customers as a direct result of Defendants’ disparaging  
17 statements and/or public communications, and Savage’s reputation with both its  
18 customers and generally within the industry has been substantially damaged due to  
19 Defendants’ breach of the Non-Disparagement Provision.

20 79. To date the amount of Savage’s damages caused by Defendants’ breach of  
21 the Non-Disparagement Provision has not been calculated and is increasing over time,  
22 as such Savage’s damages will be the subject of expert analysis, opinion and testimony,  
23 and will be determined according to proof at trial, but in no event less than \$2,750,000  
24 for purposes of a default.

25 ///

26 ///

27

28



**FOURTH CAUSE OF ACTION:**  
**BREACH OF THE IMPLIED COVENANT**  
**OF GOOD FAITH AND FAIR DEALING**

(Plaintiff Savage Against All Defendants and DOES 1-10, Inclusive)

80. Plaintiff hereby reincorporates by reference all the allegations in paragraphs 1 through 79 as if they were set forth in full in this paragraph.

81. Under California law, there is an implied covenant of good faith and fair dealing in every contract, including the Settlement between Savage, on the one hand, and Defendants, on the other hand, that neither party will do anything which will injure the right of the other to receive the benefits of the agreement.

82. Defendants have violated the Settlement’s covenant of good faith and fair dealing by, among other things, stealing/poaching Savage’s employees for his new, competing company (which was accomplished at least partially through disparagement of Savage and Savage’s leadership team), by harming Savage’s relationship with its customers (which was accomplished at least partially through disparagement of Savage and its leadership team), and by moving Wheeler new company offices, including Exodus and Sacred, and Does 1-10, directly kitty-corner to Savage’s new offices which now shares a parking lot with Savage, the cumulative result of all of these, (as well as other acts), has harmed Savage’s day-to-day operations and reduced Savage’s cash-flow, all while Savage transferred over \$2,000,000 in cash and other assets to Wheeler – and while Savage made monthly payments of \$103,924 to him for his Savage shares.

83. While some of Defendants’ wrongful conduct as alleged herein does not technically transgress the express covenants of the Settlement Agreement/Stipulation, e.g. poaching Savage’s employees and moving his company to a location directly kitty-corner to Savage’s new office, the intended result of these actions in conjunction with Wheeler’s ongoing campaign of disparaging Savage, along with the other Exodus Parties and Individual Defendants, is meant to harm Savage and its leadership to a point where Wheeler eventually destroys Savage’s ability to operate as an ongoing business,

1 especially while also paying Wheeler a monthly installment of \$103,924 for his Savage  
2 shares, so that Wheeler can later re-claim Savage's name, employees, brand, and all of  
3 its intellectual property.

4 84. These acts by Defendants were designed to, and in fact do, frustrate  
5 Savage's rights to the benefits of the Settlement that Savage reasonably expected when  
6 it thought it was buying its peace from Wheeler and the Exodus Parties, as well as the  
7 Individual Defendants, when it entered into the Settlement to stop Defendants from  
8 destroying Savage's relationships with its employees and customers, and harming its  
9 reputation in the industry.

10 85. Savage has been directly harmed by Defendants' actions in breach of the  
11 implied covenant of good faith and fair dealing in the Settlement in that it has lost  
12 employees and customers as a direct result of Defendants' disparaging statements  
13 and/or public communications, and Savage's reputation with both its customers and  
14 generally within the industry has been substantially damaged due to Defendants' breach  
15 of the Non-Disparagement Provision and other conduct directed at Savage meant to  
16 specifically and directly harm Savage in breach of the implied covenant of good faith  
17 and fair dealing in every contract, including the Settlement.

18 86. To date the amount of Savage's damages caused by Defendants' actions,  
19 and those of Does 1-10, in breach of the implied covenant of good faith and fair dealing  
20 in the Settlement has not been calculated and is increasing over time, as such Savage's  
21 damages will be the subject of expert analysis, opinion and testimony, and will be  
22 determined according to proof at trial, but in no event less than \$2,750,000 for purposes  
23 of a default.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff prays as follows with regard to the above causes of  
26 action:

27 1. For general and specific damages according to proof at time of trial, but in  
28 no event less than \$2,750,000;

2. For attorneys fees as allowed by contract and statute;
3. For punitive damages, where allowed, to be determined at trial;
4. For interest as allowed by law; and
5. For cost of suit herein.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial on its first, second, third, and fourth causes of action.

Dated: May 7, 2024

WINTHROP LAW GROUP, P.C.

*/s Reid Winthrop*

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Reid A. Winthrop  
Attorneys for Plaintiff,  
SAVAGE ENTERPRISES