

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE D1
COSTA MESA, CA 92626

KAZEROUNI LAW GROUP, APC
Abbas Kazerounian, Esq. (SBN: 249203)
ak@kazlg.com
Andrei Armas, Esq. (SBN: 299703)
andrei@kazlg.com
245 Fischer Avenue, Unit D1
Costa Mesa, CA 92626
Telephone: (800) 400-6808
Facsimile: (800) 520-5523

[ADDITIONAL PLAINTIFF’S COUNSEL
ON SIGNATURE PAGE]

Attorneys for Plaintiff,
Michael Radashkevich

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**MICHAEL RADASHKEVICH;
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**SUN BROTHERS, LLC – d/b/a/
SUNWARRIOR,**

Defendant.

Case No.: '15CV2887 CAB RBB

**CLASS ACTION COMPLAINT
FOR:**

- 1) **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (CAL. CIVIL CODE §§ 1750, ET SEQ.);**
- 2) **CALIFORNIA BUS. & PROF. §§ 17533.7 (CALIFORNIA FALSE “MADE IN USA” CLAIM);**
- 3) **CALIFORNIA BUS. & PROF. §§ 17200 ET SEQ.**

JURY TRIAL DEMANDED

//
//
//
//

INTRODUCTION

1
2 1. MICHAEL RADASHKEVICH (hereinafter “Plaintiff”) brings this Class
3 Action Complaint for damages, injunctive relief, and any other available
4 legal or equitable remedies, resulting from the illegal actions of SUN
5 BROTHERS, LLC - d/b/a SUNWARRIOR (hereinafter “Defendant”) in
6 unlawfully labeling Defendant’s consumable consumer packaged goods,
7 such as dietary supplements, with the false designation and representation
8 that the products are/were “Made in the USA.” The unlawfully labeled
9 products are sold via Defendant’s website, catalogue, and in various stores
10 throughout the United States.¹ Plaintiff alleges as follows upon personal
11 knowledge as to himself and his own acts and experiences, and, as to all
12 other matters, upon information and belief, including investigation
13 conducted by his attorneys.

14 2. As stated by the California Supreme Court in *Kwikset v. Superior Court*
15 (January 27, 2011) 51 Cal4th 310, 328-29:

16 **Simply stated: labels matter.** The marketing industry is
17 based on the premise that labels matter, that consumers
18 will choose one product over another similar product
19 based on its label and various tangible and intangible
20 qualities that may come to associate with a particular
21 source...In particular, **to some consumers**, the “Made in
22 USA” label matters. A range of motivations may fuel
23 this preference, from the desire to support domestic jobs
24 to beliefs about quality, to concerns about overseas
25 environmental or labor conditions, to simple patriotism.
26 The Legislature has recognized the materiality of this
27 representation by specifically outlawing deceptive and
28 fraudulent “Made in America” representations. (Cal. Bus.
& Prof. Code section 17533.7; see also Cal. Civ. Code §
1770, subd. (a)(4) (prohibiting deceptive representations
of geographic origin)). The object of section 17533.7 “is
to protect consumers from being misled when they
purchase products in the belief that they are advancing

¹ Plaintiff purchased the mislabeled SunWarrior protein product, which in part is the subject matter of this lawsuit, from Amazon.com.

1 the interest of the United States and its industries and
workers...”

- 2 3. The “Made in the USA” claim (or some derivative thereof) is prominently
3 printed on Defendant’s products, including the SunWarrior’s Warrior Blend
4 – Raw Vegan Protein product (the “Product”) purchased by Plaintiff.² (A
5 true and correct copy picture of Defendant’s Product is attached hereto as
6 “Exhibit A”). Contrary to Defendant’s representation and in violation of
7 California law, Defendant’s Class Products (*see* footnote 2), including the
8 specific Product purchased by Plaintiff, include foreign ingredients.
- 9 4. This nationwide sale and advertising of deceptively labeled products
10 constitutes violations of: (1) California’s Consumer Legal Remedies Act
11 (“CLRA”), Cal. Civ. Code §§ 1750 et seq.; (2) California’s False
12 Advertising Law (“FAL”), Bus. & Prof. Code § 17533.7; and, (3)
13 California’s Unfair Competition Law (“UCL”), Bus. & Prof. Code §§ 17200
14 et seq. This conduct caused Plaintiff and other similarly situated damages,
15 and requires restitution and injunctive relief to remedy and prevent further
16 harm.
- 17 5. Unless otherwise indicated, the use of any Defendant’s name in this
18 Complaint includes all agents, employees, officers, members, directors,
19 heirs, successors, assigns, principals, trustees, sureties, subrogees,
20 representatives and insurers of the named Defendant.

21 JURISDICTION AND VENUE

- 22 6. This Court has jurisdiction over this matter pursuant 28 U.S.C. § 1332(d)(2)
23 and the Class Action Fairness Act (CAFA) because Plaintiff, a resident of
24

25 ² Plaintiff seeks class wide relief on behalf of all purchasers of any of Defendant’s
26 consumable products that are substantially similar to the Product purchased by
27 Plaintiff and labeled as “Made In The USA” (or some derivative thereof), but
28 which are foreign-made or incorporate foreign-made components (in violation of
California law), not just the specific Product purchased by Plaintiff (the “Class
Products”).

1 California, seeks relief on behalf of a Class, which will result in at least one
 2 class member belonging to a different state than that of Defendant, a
 3 company incorporated in the state of Nevada, and because the amount in
 4 controversy in this matter exceeds \$5,000,000.00 as to all putative Class
 5 members, inclusive of attorneys' fees and costs, and injunctive relief. 28
 6 U.S.C. Sections 1332(d), 1453, and 1711-1715. Therefore, both diversity
 7 jurisdiction and the damages threshold under the Class Action Fairness Act
 8 of 2005 ("CAFA") are present, and this Court has jurisdiction. In addition,
 9 pursuant to 28 U.S.C. §1367, this Court has supplemental jurisdiction over
 10 Plaintiff's state law claims.

11 7. Venue is proper in the United States District Court for the Southern District
 12 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
 13 Plaintiff resides in the City of Chula Vista, County of San Diego, State of
 14 California, which is within this judicial district; (ii) the conduct complained
 15 of herein occurred within this judicial district; and, (iii) many of the acts and
 16 transactions giving rise to this action occurred in this district because
 17 Defendant:

- 18 (a) is authorized to conduct business in this district and has
 19 intentionally availed itself of the laws and markets within this
 20 district;
 21 (b) does substantial business within this district;
 22 (c) is subject to personal jurisdiction in this district because it has
 23 availed itself of the laws and markets within this district; and,
 24 (d) the harm to Plaintiff occurred within this district.

25 **PARTIES**

26 8. Plaintiff is an individual residing in the City of Chula Vista, County of San
 27 Diego, State of California.
 28

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 9. Defendant is a corporation that is organized and exists under the laws of the
2 State of Nevada and doing business in the State of California as
3 “SunWarrior.”

4 10. Defendant is an American manufacturer of dietary supplements and/or
5 exercise/sport products that conducts business through Internet sales and
6 mail orders, and at stores within the United States. One of the products sold
7 by Defendant is the Product purchased by Plaintiff.³

8 **NATURE OF THE CASE**

9 11. At all times relevant, Defendant made, and continues to make, affirmative
10 misrepresentations regarding its Class Products, including the Product
11 purchased by Plaintiff, it manufactures, markets and sells. Specifically,
12 Defendant packaged, advertised, marketed, promoted, and sold its Class
13 Products as “Made In The USA,” or some derivative thereof.

14 12. However, although Defendant represents that its Class Products are “Made
15 In The USA” (or some derivate thereof), Defendant’s Class Products are
16 wholly and/or substantially manufactured or produced with components that
17 are manufactured, grown and/or sourced outside of the United States.

18 13. Each consumer, including Plaintiff, were exposed to virtually the same
19 material misrepresentations, as the similar labels were prominently placed
20 on all of the Defendant’s Class Products that were sold, and are currently
21 being sold, throughout the U.S. and the State of California.

22 14. As a consequence of Defendant’s unfair and deceptive practices, Plaintiff
23 and other similarly situated consumers have purchased Defendant’s Class
24 Products under the false impression that the products were actually made in
25 the USA.

26 ³ Plaintiff purchased the mislabeled Product, which in part is the subject matter of
27 this lawsuit, from www.Amazon.com, but it is also available on Defendant’s
28 website, at the following web address: <http://www.sunwarrior.com/store/warrior-blend-natural-500g.html>.

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 15. As a result of Defendant’s misrepresentations, Plaintiff and other consumers
2 similarly situated overpaid for Defendant’s Class Products, and/or purchased
3 the Class Products under the false belief that the products they purchased
4 were made in the USA. Had Plaintiff and other consumers similarly situated
5 been made aware that Defendant’s Class Products were not actually made in
6 the USA, they would not have purchased the products.

7 16. As a result of Defendant’s false and misleading statements and failure to
8 disclose (or adequately disclose), as well as Defendant’s other conduct
9 described herein, Plaintiff and other similarly situated consumers purchased
10 thousands, if not millions, of Defendant’s Class Products and have suffered,
11 and continue to suffer, injury in fact, including the loss of money and/or
12 property.

13 17. Defendant’s conduct as alleged herein violates several California laws, as
14 more fully set forth herein.

15 18. This action seeks, among other things, equitable and injunctive relief;
16 restitution of all amounts illegally retained by Defendant; and disgorgement
17 of all ill-gotten profits from Defendant’s wrongdoing alleged herein.

18 **FACTUAL ALLEGATIONS**

19 19. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
20 of this Complaint as though fully stated herein.

21 20. Defendant manufactures, markets and/or sells various consumable products
22 that have been and are currently still represented as “Made In The USA” (or
23 some derivative thereof). Defendant’s makes these representations on the
24 Class Products themselves.

25 21. Contrary to the representation, Defendant’s Class Products are wholly and/or
26 substantially manufactured or produced with components that are
27 manufactured outside of the United States.
28

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 22. Based upon information and belief, the offending Product purchased by
2 Plaintiff contains foreign ingredients.

3 23. Based upon information and belief, the offending Product purchased by
4 Plaintiff, and presumably all of Defendant's Class Products that are
5 substantially similar and contain foreign ingredients, are wholly or partially
6 made of and/or manufactured with foreign materials, contrary to
7 Defendant's "Made In The USA" representations (or some derivative
8 thereof).

9 24. Defendant markets, and continues to market, and represent to the general
10 public via its Class Products' labels that the Class Products are "Made In
11 The USA" (or some derivative thereof). As such, Defendant fraudulently
12 concealed the material facts at issue in this matter by misrepresenting to the
13 general public the true country of origin of the offending products.
14 Defendant possesses superior knowledge of the true facts that were not
15 disclosed, thereby tolling the running of any applicable statute of limitations.

16 25. Consumers are particularly vulnerable to these deceptive and fraudulent
17 practices. Most consumers possess limited knowledge of the likelihood that
18 products, including the component products therein, claimed to be made in
19 the United States are in fact manufactured in foreign countries. This is a
20 material factor in many individuals' purchasing decisions, as they believe
21 they are purchasing superior goods while supporting American companies
22 and American jobs.

23 26. Consumers generally believe that "Made In The USA" products are of
24 higher quality than their foreign-manufactured counterparts. Due to
25 Defendant's scheme to defraud the market, members of the general public
26 were fraudulently induced to purchase Defendant's products at inflated
27 prices.
28

1 27. On information and belief, Defendant charged excess monies for its Class
2 Products in comparison to Defendant's competitors and/or fraudulently
3 induced consumers to purchase the Class Products under the false belief that
4 the products they purchased were made in the USA during the entirety of the
5 relevant four-year statutory time period, based on the false "Made In The
6 USA" designation (or some derivative thereof). California laws are designed
7 to protect consumers from such false representations and predatory conduct.
8 Defendant's scheme to defraud consumers for its own self-interest and
9 monetary gain is ongoing and will victimize consumers daily for the
10 foreseeable future unless altered by judicial intervention.

11 28. Sometime in June 2015, Plaintiff purchased Defendant's Product from
12 www.amazon.com. At the time of Plaintiff's purchase, the description of the
13 offending Product described the supplement as "Made In The USA," when
14 the Product actually was made and/or contained components made outside
15 of the United States. As such, Defendant is not entitled to lawfully make
16 representations that the Product was "Made In The USA."

17 29. In making the decision to purchase Defendant's Product, Plaintiff relied
18 upon the advertising and/or other promotional materials prepared and
19 approved by Defendant and its agents, and disseminated through its Class
20 Products' packaging containing the misrepresentations alleged herein. Had
21 Plaintiff been made aware that the Product was not actually "Made In The
22 USA," he would not have purchased the Product. In other words, Plaintiff
23 would not have purchased Defendant's Product, but for the "Made In The
24 USA" representations on Defendant's Product's label.

25 30. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
26 Defendant as a result of Defendant's false "Made In The USA" designation
27 set forth on Defendant's Product's packaging.
28

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 31. In each case when Plaintiff and putative Class members purchased a Class
2 Product, they relied upon Defendant’s “Made In The USA” representation
3 (or some derivative thereof) in their purchasing decision, which is typical of
4 most U.S. consumers. Consequently, they were deceived as a result of
5 Defendant’s actions. Plaintiff believed at the time he purchased the Product
6 that he was purchasing a superior quality product, supporting U.S. jobs and
7 the U.S. economy, and also supporting ethical working conditions.

8 32. Component parts made in the USA are subject to strict regulatory
9 requirements, including but not limited to environmental, labor, and safety
10 standards. Foreign made component parts are not subject to the same U.S.
11 standards and as a result can be potentially much more dangerous to
12 consumers, especially when ingested like Defendant’s Class Products.
13 Further, foreign made component parts are also generally of lower quality
14 than their U.S. made counterparts, and routinely less reliable and less
15 durable than their U.S. made counterparts.

16 33. Consequently, Defendant Class Products containing the foreign ingredients,
17 including the Product purchased by Plaintiff, are of inferior quality,
18 potentially more dangerous and less reliable, as Defendant falsely
19 represented that these products are “Made In The USA.” This results in
20 lower overall customer satisfaction than if the Class Products, including the
21 Product purchased by Plaintiff, were truly “Made In The USA” and/or
22 consisting of component parts made in the United States.

23 34. On information and belief, Defendant’s Class Products containing the
24 foreign ingredients, including the Product purchased by Plaintiff, is not
25 worth the purchase price paid by Plaintiff and putative Class members. The
26 precise amount of damages will be proven at the time of trial, in large part,
27 by expert testimony.
28

1 35.Plaintiff and Class members were undoubtedly injured as a result of
2 Defendant’s false “Made In The USA” representations that are at issue in
3 this matter.

4 **CLASS ACTION ALLEGATIONS**

5 36.Plaintiff re-alleges and incorporates by reference all of the above paragraphs
6 of this Complaint as though fully stated herein.

7 37.Plaintiff brings this action individually and on behalf of all others similarly
8 situated against Defendant, pursuant to Federal Rules of Civil Procedure,
9 Rules 23(a), 23(b)(1), 23(b)(2) and 23(b)(3).

10 38.Plaintiff represents, and is a member of the class, (“the Class”) consisting
11 of:

12 “All persons similarly situated within the state of
13 California who purchased one or more of Defendant’s
14 Class Products, which were advertised with a “Made In
15 The USA” country of origin designation (or some
16 derivative thereof) but were foreign-made and/or
17 composed of foreign-made component parts, within the
18 four years prior to the filing of the Complaint.”

19 39.Excluded from the Class are Defendant and any of its officers, directors, and
20 employees. Plaintiff reserves the right to modify or amend the Class
21 definition before the Court determines whether certification is appropriate.

22 40.The “Class Period” means four years prior to the filing of the Complaint in
23 this action.

24 41.Ascertainability. Plaintiff does not know the number of members in the
25 Class, but Plaintiff currently believes that there are hundreds of thousands, if
26 not more, members of the Class within the State of California. Because of
27 the nature of Defendant’s products, Defendant and Defendant’s distributors
28 must keep detailed and accurate records of distribution in order to accurately
and effectively execute a recall if so ordered by the Food and Drug

1 Administration or any other organization. Therefore, the members of the
2 Class are ascertainable through Defendant's records and/or Defendant's
3 agents' records regarding retail and online sales, as well as through public
4 notice. This matter should therefore be certified as a Class action to assist in
5 the expeditious litigation of this matter.

6 42. Numerosity. The numerosity requirement of Fed. R. Civ. P. Rule 23(a)(1) is
7 satisfied for the aforementioned Class because the members of the Class are
8 so numerous and geographically disbursed that joinder of all Class members
9 is impractical, and the disposition of their claims in the Class action will
10 provide substantial benefits both to the parties and to the court.

11 43. Existence and Predominance of Common Questions of Law and Fact. There
12 is a well-defined community of interest in the questions of law and fact
13 involved affecting the parties to be represented. Common questions of fact
14 and law exist in this matter that predominate over questions that may affect
15 individual Class members, satisfying the requirement of Fed. R. Civ. P.,
16 Rule 23(a)(2), including, but not limited to, the following:

- 17 a. Whether Defendant committed the wrongful conduct alleged herein;
- 18 b. Whether Defendant's acts, transactions, or course of conduct
19 constitute the violations of law alleged herein;
- 20 c. Whether Defendant, through its conduct, received money that, in
21 equity and good conscience, belongs to Plaintiff and members of the
22 Class;
- 23 d. Whether the members of the Class sustained and/or continue to
24 sustain damages attributable to Defendant's conduct, and, if so, the
25 proper measure and appropriate formula to be applied in determining
26 such damages; and
- 27 e. Whether the members of the Class are entitled to injunctive and/or
28 any other equitable relief

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 44. Typicality. As a person who purchased one or more of Defendant’s Class
2 Products, that were advertised with a “Made In The USA” country of origin
3 designation (or some derivative thereof), but contain foreign-made
4 ingredients and/or composed of foreign-made component parts, Plaintiff is
5 asserting claims that are typical of the Class. Plaintiff’s claims involve the
6 same violations of law by Defendant as other Class members’ claims.
7 Plaintiff and members of the Class also sustained damages arising out of
8 Defendant’s common course of conduct complained herein. Accordingly,
9 Plaintiff satisfies the “typicality” requirement of Fed. R. Civ. P., Rule
10 23(a)(3) with respect to the Class.

11 45. Adequacy of Representation. Plaintiff will fairly and adequately represent
12 and protect the interests of other members of the Class in that Plaintiff has
13 no interests antagonistic to any member of the Class. Further, Plaintiff has
14 retained counsel experienced in handling class action claims and claims
15 involving violations of the consumer laws, and specifically violations of the
16 California Business and Professions Code. Thus, Fed. R. Civ. P., Rule
17 23(a)(4) is satisfied.

18 46. Superiority. A class action is superior to all other available means for the fair
19 and efficient adjudication of this controversy. Individualized litigation would
20 create the danger of inconsistent and/or contradictory judgments arising
21 from the same set of facts. Individualized litigation would also increase the
22 delay and expense to all parties and court system and the issues raised by
23 this action. The damages or other financial detriment suffered by individual
24 Class members may be relatively small compared to the burden and expense
25 that would be entailed by individual litigation of the claims against the
26 Defendant. The injury suffered by each individual member of the proposed
27 class is relatively small in comparison to the burden and expense of
28 individual prosecution of the complex and extensive litigation necessitated

1 by Defendant's conduct. It would be virtually impossible for members of the
 2 proposed Class to individually redress effectively the wrongs to them. Even
 3 if the members of the proposed Class could afford such litigation, the court
 4 system could not. Individualized litigation increases the delay and expense
 5 to all parties, and to the court system, presented by the complex legal and
 6 factual issues of the case. By contrast, the class action device presents far
 7 fewer management difficulties, and provides the benefits of single
 8 adjudication, economy of scale, and comprehensive supervision by a single
 9 court. Therefore, a class action is maintainable pursuant to Fed. R. Civ. P.
 10 23(b)(3).

11 47. Unless the Class is certified, Defendant will retain monies received as a
 12 result of Defendant's unlawful and deceptive conduct alleged herein. Unless
 13 a class-wide injunction is issued, Defendant will also likely continue to, or
 14 allow its resellers to, advertise, market, promote and package Defendant's
 15 Class Products in an unlawful and misleading manner, and members of the
 16 Class will continue to be misled, harmed, and denied their rights under
 17 California law.

18 48. Further, Defendant has acted or refused to act on grounds that are generally
 19 applicable to the class so that declaratory and injunctive relief is appropriate
 20 to the Class as a whole, making class certification appropriate pursuant to
 21 Fed. R. Civ. P. 23(b)(2).

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

24 **CAL. CIV. CODE SECTION 1750, ET SEQ.**

25 49. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
 26 of this Complaint as though fully stated herein.

27 50. California Civil Code Section 1750 et seq., entitled the Consumers Legal
 28 Remedies Act (hereinafter "CLRA"), provides a list of "unfair or deceptive"

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 practices in a “transaction” relating to the sale of “goods” or “services” to a
2 “consumer.” The Legislature’s intent in promulgating the CLRA is
3 expressed in Civil Code Section 1760, which provides, *inter alia*, that its
4 terms are to be:

5 Construed liberally and applied to promote its underlying
6 purposes, which are to protect consumers against unfair
and deceptive business practices and to provide efficient
and economical procedures to secure such protection.

7 51. Defendant’s products constitute “goods” as defined pursuant to Civil Code
8 Section 1761(a).

9 52. Plaintiff, and the Class members, are each a “consumer” as defined pursuant
10 to Civil Code Section 1761(d).

11 53. Each of Plaintiff’s and the Class members’ purchases of Defendant’s
12 products constituted a “Transaction” as defined pursuant to Civil Code
13 Section 1761(e).

14 54. Civil Code Section 1770(a)(2), (4), (5), (7) and (9) provides that:

15 The following unfair methods of competition and unfair
16 or deceptive acts or practices undertaken by any person
17 in a transaction intended to result or which results in the
sale or lease of goods or services to any consumer are
unlawful:

18 (2) [m]isrepresenting the source, sponsorship, approval,
or certification of goods or services;

19 (4) [u]sing deceptive representations or designations of
geographic origin in connection with goods or services;

20 (5) [r]epresenting that goods or services have
21 sponsorship, approval, characteristics, ingredients, uses,
benefits, or quantities which they do not have or that a
22 person has a sponsorship, approval, status, affiliation, or
connection which he or she does not have;

23 (7) [r]epresenting that goods or services are of a
particular standard, quality, or grade...; [and]

24 (9) [a]dvertising goods or services with intent not to sell
25 them as advertised.”

26 55. Defendant violated Civil Code Section 1770(a)(2), (4), (5), (7) and (9) by
27 marketing, selling and offering to sell products in the State of California
28 with the “Made In The USA” country of origin designation (or some

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 derivative thereof) as fully set forth herein, when Defendant’s products
2 actually contain foreign-made or manufactured ingredients.

3 56. On information and belief, Defendant’s violations of the CLRA set forth
4 herein were done with awareness of the fact that the conduct alleged was
5 wrongful and was motivated solely for Defendant’s self-interest, monetary
6 gain and increased profit. Plaintiff further alleges that Defendant committed
7 these acts knowing the harm that would result to Plaintiff and Defendant
8 engaged in such unfair and deceptive conduct notwithstanding such
9 knowledge.

10 57. Plaintiff further alleges that Defendant committed these acts knowing the
11 harm that would result to Plaintiff and Defendant engaged in such unfair and
12 deceptive conduct notwithstanding such knowledge.

13 58. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
14 Defendant as a result of Defendant’s false “Made In The USA”
15 representations set forth on Defendant’s actual Class Products.

16 59. As a direct and proximate result of Defendant’s violations of the CLRA,
17 Plaintiff and members of the Class are entitled to a declaration that
18 Defendant violated the Consumer Legal Remedies Act.

19 60. Plaintiff and the Class are also entitled to and seek injunctive relief
20 prohibiting such conduct in the future.

21 61. In prosecuting this action for the enforcement of important rights affecting
22 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
23 available to a prevailing plaintiff in class action cases such as this matter.

24 **SECOND CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

26 **BUS. & PROF. CODE, SECTION 17533.7**

27 62. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
28 of this Complaint as though fully stated herein.

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 63. Business & Professions Code § 17533.7 provides:

2 It is unlawful for any person, firm, corporation or
3 merchandise on which merchandise or on its container
4 there appears the words “Made in USA,” “Made in
5 America,” “ USA,” or similar words when the
6 merchandise or any article, unit, or part thereof, has been
7 entirely or substantially made, manufactured, or
8 produced outside of the United States.

9 64. Defendant violated Bus. & Prof. Code § 17533.7 by marketing, selling and
10 offering to sell products in the State of California with the “Made In The
11 USA” country of origin designation (or some derivative thereof) as fully set
12 forth herein. The Class Products at issue in this matter are wholly
13 manufactured outside of the United States and/or contain ingredients that are
14 manufactured outside of the United States in violation of California law.

15 65. On information and belief, Defendant’s violations of Bus. & Prof. Code §
16 17533.7 as set forth herein were done with awareness of the fact that the
17 conduct alleged was wrongful and was motivated solely for Defendant’s
18 self-interest, monetary gain and increased profit. Plaintiff further alleges that
19 Defendant committed these acts knowing the harm that would result to
20 Plaintiff and Defendant engaged in such unfair and deceptive conduct
21 notwithstanding such knowledge.

22 66. As a direct and proximate result of Defendant’s violations of Bus. & Prof.
23 Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess
24 monies paid to Defendant by Plaintiff and the Class relating to the false
25 “Made In The USA” representations set forth on the Defendant’s actual
26 products.

27 67. In prosecuting this action for the enforcement of important rights affecting
28 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
available to a prevailing plaintiff in class action cases such as this matter.

///

///

THIRD CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE
BUS. & PROF. CODE, SECTION 17200, ET SEQ.

68. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

69. Plaintiff and Defendants are each “person[s]” as defined by California Business & Professions Code § 17201. California Business & Professions Code § 17204 authorizes a private right of action on both an individual and representative basis.

70. “Unfair competition” is defined by Business and Professions Code Section § 17200 as encompassing several types of business “wrongs,” four of which are at issue here: (1) an “unlawful” business act or practice, (2) an “unfair” business act or practice, (3) a “fraudulent” business act or practice, and (4) “unfair, deceptive, untrue or misleading advertising.” The definitions in § 17200 are drafted in the disjunctive, meaning that each of these “wrongs” operates independently from the others.

71. By and through Defendant’s conduct alleged in further detail above and herein, Defendant engaged in conduct which constitutes unlawful, unfair, and/or fraudulent business practices prohibited by Bus. & Prof. Code § 17200 et seq.

A. “Unlawful” Prong

72. Beginning at a date currently unknown through the time of this Complaint, Defendant has committed acts of unfair competition, including those described above, by engaging in a pattern of “unlawful” business practices, within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing, distributing, and/or marketing Defendant’s Class Products with a false country of origin designation, in violation of California’s CLRA, Civil Code

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 § 1750, et seq., California’s False Made In the USA statute, Bus. & Prof.
2 Code §§ 17533.7, and California’s Health & Safety Code §§110660 by
3 falsely representing that the products referenced herein are “Made In The
4 USA,” when Defendant’s products are in fact foreign-made and/or
5 composed of component parts manufactured and/or grown outside of the
6 United States.

7 **B. “Unfair” Prong**

8
9 73.Beginning at a date currently unknown and continuing up through the time
10 of this Complaint, Defendant has committed acts of unfair competition that
11 are prohibited by Bus. & Prof. Code section 17200 et seq. Defendant
12 engaged in a pattern of “unfair” business practices that violate the wording
13 and intent of the statutes by engaging conduct and practices that threaten an
14 incipient violation of law/s or violate the policy or spirit of law/s by
15 manufacturing, distributing, and/or marketing Defendant’s Class Products
16 with a false country of origin designation, of in violation of California’s
17 CLRA, Civil Code § 1750, et seq., California’s False Made In the USA
18 statute, Bus. & Prof. Code §§ 17533.7, and California’s Health & Safety
19 Code §§110660 by falsely representing that the products referenced herein
20 are “Made In The USA,” when Defendant’s products are in fact foreign-
21 made and/or composed of component parts manufactured and/or grown
22 outside of the United States.

23 74.Alternatively, Defendant engaged in a pattern of “unfair” business practices
24 that violate the wording and intent of the abovementioned statute/s by
25 engaging in practices that are immoral, unethical, oppressive or
26 unscrupulous, the utility of such conduct, if any, being far outweighed by the
27 harm done to consumers and against public policy by manufacturing,
28 distributing, and/or marketing Defendant’s Class Products with a false

1 country of origin designation, in violation of California’s CLRA, Civil Code
 2 § 1750, et seq., California’s False Made In the USA statute, Bus. & Prof.
 3 Code §§ 17533.7, and California’s Health & Safety Code §§110660 by
 4 falsely representing that the products referenced herein are “Made In The
 5 USA,” when Defendant’s products are in fact foreign-made and/or
 6 composed of component parts manufactured and/or grown outside of the
 7 United States.

8 75. Alternatively, Defendant engaged in a pattern of “unfair” business practices
 9 that violate the wording and intent of the abovementioned statute/s by
 10 engaging in practices, including manufacturing, distributing, marketing,
 11 and/or advertising Defendant’s Class Products with a false country of origin
 12 designation, wherein: (1) the injury to the consumer was substantial; (2) the
 13 injury was not outweighed by any countervailing benefits to consumers or
 14 competition; and (3) the injury was not of the kind that consumers
 15 themselves could not have reasonably avoided.

16 C. “Fraudulent” Prong

17 76. Beginning at a date currently unknown and continuing up through the time
 18 of this Complaint, Defendant engaged in acts of unfair competition,
 19 including those described above and herein, and in violation of Bus. & Prof.
 20 Code § 17200 et seq., by engaging in a pattern of “fraudulent” business
 21 practices within the meaning of Bus. & Prof. Code § 17200 et seq., by
 22 manufacturing, distributing, and/or marketing Defendant’s Class Products in
 23 violation of California’s CLRA, Civil Code § 1750, et seq., California’s
 24 False Made In the USA statute, Bus. & Prof. Code §§ 17533.7, and
 25 California’s Health & Safety Code §§110660 by falsely representing that the
 26 products referenced herein are “Made In The USA,” when Defendant’s
 27
 28

1 products are, in fact, foreign-made and/or composed of component parts
2 manufactured and/or grown outside of the United States.

3 77. Plaintiff reserves the right to allege further conduct that constitutes other
4 fraudulent business acts or practices. Such conduct is ongoing and continues
5 to this date

6 **D. “Unfair, Deceptive, Untrue or Misleading Advertising” Prong**

7
8 78. Defendant’s advertising is unfair, deceptive, untrue or misleading in that
9 consumers are led to believe that Defendant’s Class Products are made in the
10 USA, when Defendant’s products are in fact foreign-made and/or composed
11 of component parts manufactured and/or grown outside of the United States.

12 79. Plaintiff, a reasonable consumer, and the public would likely be, and, in fact
13 were, deceived and misled by Defendant’s advertising as they would, and
14 did, interpret the representation in accord with its ordinary usage, that the
15 products are actually made in the USA.

16 80. Defendant’s unlawful, unfair, and fraudulent business practices and unfair,
17 deceptive, untrue or misleading advertising presents a continuing threat to
18 the public in that Defendant continues to engage in unlawful conduct
19 resulting in harm to consumers.

20 81. Defendant engaged in these unlawful, unfair, and fraudulent business
21 practices motivated solely by Defendant’s self-interest with the primary
22 purpose of collecting unlawful and unauthorized monies from Plaintiff and
23 all others similarly situated; thereby unjustly enriching Defendant.

24 82. Such acts and omissions by Defendant are unlawful and/or unfair and/or
25 fraudulent and constitute a violation of Business & Professions Code section
26 17200 et seq. Plaintiff reserves the right to identify additional violations by
27 Defendant as may be established through discovery.
28

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

1 83.As a direct and proximate result of the aforementioned acts and
2 representations described above and herein, Defendant received and
3 continues to receive unearned commercial benefits at the expense of their
4 competitors and the public.

5 84.As a direct and proximate result of Defendant’s unlawful, unfair and
6 fraudulent conduct described herein, Defendant has been and will continue
7 to be unjustly enriched by the receipt of ill-gotten gains from customers,
8 including Plaintiff, who unwittingly provided money to Defendant based on
9 Defendant’s fraudulent representations.

10 85.Plaintiff, and the Class members, suffered an “injury in fact” because
11 Plaintiff’s money, and that of the Class, was taken by Defendant as a result
12 of Defendant’s false representations set forth on the Defendant’s Class
13 Products, including the Product purchased by Plaintiff.

14 86.In prosecuting this action for the enforcement of important rights affecting
15 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
16 available to a prevailing plaintiff in class action cases such as this matter.

17 **PRAYER FOR RELIEF**

18 **WHEREFORE**, Plaintiff respectfully requests the Court grant Plaintiff and
19 the Class members the following relief against Defendant:

- 20 • That the Court determine that this action may be maintained as a Class
21 Action by certifying this case as a Class Action;
- 22 • That the Court certify Plaintiff to serve as the Class representative in this
23 matter;
- 24 • That Defendant’s wrongful conduct alleged herein be adjudged and
25 decreed to violate the consumer protection statutory claims asserted
26 herein;
- 27 • That Plaintiff and each of the other members of the Class recover the
28 amounts by which Defendant has been unjustly enriched;

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE DI
COSTA MESA, CA 92626

- That Defendant be enjoined from continuing the wrongful conduct alleged herein and required to comply with all applicable laws;
- That Plaintiff and each of the other members of the class recover their costs of suit, including reasonable attorneys’ fees and expenses as provided by law; and
- That Plaintiff and the members of the Class be granted any other relief the Court may deem just and proper.

TRIAL BY JURY

87. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: December 22, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ ABBAS KAZEROUNIAN
ABBAS KAZEROUNIAN, ESQ.
ATTORNEYS FOR PLAINTIFF

[ADDITIONAL PLAINTIFF’S COUNSEL]

HYDE & SWIGART
Joshua B. Swigart, Esq. (SBN: 225557)
josh@westcoastlitigation.com
2221 Camino Del Rio South, Suite 101
San Diego, CA 92108-3551
Telephone: (619) 233-7770
Facsimile: (619) 297-1022

CIVIL COVER SHEET

15CV2887 CAB RBB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael Radashkevich; Individually And On Behalf Of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Abbas Kazerounian, Esq. (249203) Kazerouni Law Group, APC 245 Embarcadero Avenue, Suite D4, Costa Mesa, CA 92626 (949) 400-6900

DEFENDANTS

Sun Brothers, LLC - dba SunWarrior

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Monty Agarwal, Esq. (191568) Arnold & Porter, LLP Three Embarcadero Center, 10th Floor, San Francisco, CA 94111

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1391
Brief description of cause: Violations of the CA Consumers Legal Remedies Act, Business & Professions Code §§ 17533.7 and 17200.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 12/22/2015 SIGNATURE OF ATTORNEY OF RECORD s/Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

PLAINTIFF'S EXHIBIT A

Sun Warrior's Warrior Blend – Raw Vegan Protein—

In The Case Of

*Michael Radashkevich; Individually And On Behalf Of All Others
Similarly Situated,*

v.

Sun Brothers, LLC – dba SunWarrior

1) Front Label



2. Back Label - (containing "MADE IN THE USA" language).

