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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 J.J. and C.D., individually and on behalf
13 of all others similarly situated,

14 Plaintiffs,

15 v.

16 ASHLYNN MARKETING GROUP,
17 INC.,

18 Defendant.

19 Case No. '24CV0311 GPC MSB

20 **CLASS ACTION COMPLAINT**

21 JURY TRIAL DEMANDED

1 Plaintiffs J.J. and C.D. (“Plaintiffs”) bring this action on behalf of themselves
2 and all others similarly situated against Defendant Ashlynn Marketing Group, Inc.,
3 d/b/a Krave Botanicals (“Defendant” or “Krave”).

4 **NATURE OF THE ACTION**

5 1. This is a class action against Defendant Ashlynn Marketing Group, Inc.
6 for false, misleading, deceptive, and negligent sales practices regarding its kratom
7 powder, capsule, and liquid extract products (the “Products”).

8 2. Kratom is a type of plant indigenous to Southeast Asia which can
9 produce psychoactive effects when ingested. Dried kratom leaves are sold as a loose
10 powder, packaged into gel capsules, or made into an extract. However, what
11 reasonable consumers do not know, and what Defendant fails to disclose, is that the
12 “active ingredients” in kratom are similar to opioids. That is, kratom works on the
13 exact same opioid receptors in the human brain as morphine and its analogs, has
14 similar effects as such, and critically, has similar risks of physical addiction and
15 dependency, with similar withdrawal symptoms.

16 3. When reasonable consumers think of opiates and opioids, they think of
17 heroin, fentanyl, hydrocodone, oxycodone, and morphine; they do not expect that the
18 “all natural” product bought at their local corner store operates like an opioid, with
19 similar addiction and dependency risks. Kratom is perniciously addictive – on a
20 whole different level than a compound like caffeine – and it has sunk its hooks into
21 tens of thousands of unsuspecting consumers and caused them serious physical,
22 psychological, and financial harm.

23 4. Defendant intentionally and negligently failed to disclose these material
24 facts anywhere on its labeling, packaging, or marketing materials, and it has violated
25 warranty law and state consumer protection laws in the process.

26 5. Defendant relies on its Products’ innocuous packaging and the public’s
27 limited knowledge about kratom and its pharmacology to get users addicted, while
28 reaping profits along the way. Reasonable consumers do not expect the bottles and

1 pouches of kratom powder, which they can purchase at gas stations and corner
2 stores, to be like an opioid with the same addictive potential of morphine and its
3 analogs. Defendant relies on this ignorance and does nothing to correct it. Such
4 activity is outrageous and is in contravention of California law and public policy.

5 6. Defendant has engaged in a systemic effort to peddle an addictive
6 substance to unsuspecting and oftentimes vulnerable consumers. Plaintiffs seek
7 relief in this action individually and as a class action on behalf of similarly situated
8 purchasers of Defendant's Products, for: (i) violation of California's Unfair
9 Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200, *et seq.*; (ii) violation
10 of California's Consumers Legal Remedies Act ("CLRA"), Cal. Civil Code §§ 1750,
11 *et seq.*; (iii) violation of California's False Advertising Law ("FAL"), Cal. Bus. &
12 Prof. Code §§ 17500, *et seq.*; (iv) breach of implied warranty; (v) unjust enrichment;
13 and (vi) fraud by omission.

14 7. Because this action concerns issues of addiction and medical status,
15 Plaintiffs are filing under their initials for the sake of their personal privacy.
16 Plaintiffs are reasonable consumers who fell victim to Defendant's omissions and
17 misrepresentations about the addictive nature of kratom, which operates like an
18 opioid, and became addicted as a result. Since addiction issues are still wrongly
19 stigmatized, Plaintiffs are filing this matter anonymously but will reveal their names
20 as necessary to the Court under seal.

21 **PARTIES**

22 8. Plaintiff J.J. is a citizen of California who resides in San Diego,
23 California.

24 9. Plaintiff C.D. is a citizen of California who resides in South Lake
25 Tahoe, California.

26 10. Defendant Ashlynn Marketing Group, Inc., is a California corporation
27 with its principal place of business in Santee, California.
28

11. Plaintiffs reserve the right to amend this Complaint to add different or additional defendants, including without limitation any officer, director, employee, supplier, or distributor of Defendant who has knowingly and willfully aided, abetted, and/or conspired in the false and deceptive conduct alleged herein.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all members of the proposed class are in excess of \$5,000,000.00, exclusive of interest and costs, and at least one member of the proposed class is citizen of state different from Defendant.

13. This Court has general jurisdiction over Defendant because Defendant is a California corporation and maintains its principal place of business within this District.

14. Pursuant to 28 U.S.C. § 1391, this Court is the proper venue for this action because Defendant resides in this District.

FACTUAL ALLEGATIONS

Background and Pharmacology of Kratom

15. Kratom is a drug¹ which is derived from the kratom plant, *mitragyna speciosa*, indigenous to Southeast Asia, where it has been used in herbal medicine since at least the early 19th Century. Use of the plant has been particularly well-documented in Thailand, Indonesia, and Malaysia, and it remains popular in each of those countries to this day. Kratom is the most widely used drug in Thailand, for example.

16. The first reported use of Kratom in the scientific literature dates back to 1836 when it was noted that the leaves of the tree were used by Malays as a substitute for opium.

¹ Kratom is unregulated by the FDA, so the usage of the word “drug” here is meant in the colloquial sense, rather than as a defined term under the Food, Drug, and Cosmetic Act.

1 17. The plant’s leaves are harvested, dried, and crushed into a fine powder
2 which is then packaged, either straight into a pouch or in capsules. The drug can
3 also be extracted into a liquid formulation, colloquially called a kratom “shot.”
4 Defendant sells kratom in each of these forms, and more.

5 18. In the West, Kratom is sold through the Internet and at herbal stores, gas
6 stations, corner stores, smoke shops, and “head” shops where it is primarily marketed
7 as an herbal medicine or supplement to treat a variety of ailments (*e.g.*, pain, mental
8 health, opioid withdrawal symptoms), as well as a “legal” or “natural” high by some
9 manufacturers.

10 19. The chemicals in the plant which produce psychoactive effects when
11 ingested are called “alkaloids.”

12 20. The primary alkaloids in kratom plant leaves responsible for the kratom
13 “high” are Mitragynine² (“MG”) and 7-hydroxymitragynine (“7-MG”).

14 21. MG and 7-MG exhibit a wide variety of pharmacological effects,
15 resulting in a highly dose-dependent response. For example, a low dose (0.5 grams
16 to 3 grams) of kratom is typically described as stimulating or energizing, whereas a
17 high dose (3+ grams) is described as euphoric, sedating, and analgesic. On the
18 whole, however, kratom’s high is not overwhelming like it would be for a “hard”
19 drug like cocaine or heroin – it is somewhat more subtle, but its effects are
20 nonetheless substantially similar to opiate-based painkillers such as hydrocodone and
21 oxycodone in sufficient dosages.

22 22. Kratom’s variable but not debilitating effects have always been part of
23 its appeal. For instance, the use of kratom in Southeast Asia has been documented
24 for at least 150 years, and the earliest accounts described both a stimulant effect for
25 use in hard day-labor when fresh leaves are chewed, and an analgesic and relaxing
26 effect if brewed into a tea at the end of the day.

27 _____
28 ² Pronounced “Mitra-Guy-Neen.”

1 23. MG and 7-MG produce such a wide spectrum of effects because they
2 interact with many different receptors in the brain. Studies have shown that MG and
3 7-MG interact with alpha-2 adrenergic receptors (adrenaline), D2 dopamine
4 receptors, and the serotonin receptors 5-HT2A and 5-HT2C, all of which contribute
5 to the drug’s mood-lifting and stimulant-like effects.

6 24. Most crucially, MG and 7-MG also interact with the mu-opioid
7 receptor.

8 25. The mu-opioid receptor is known as “the gateway to addiction” because
9 it is the receptor which all opiates/opioids interact with to produce the classic opiate
10 high: euphoric, sedating, and analgesic. This means that MG and 7-MG interact with
11 the primary receptor that heroin and oxycodone interact with.

12 26. There are other opioid receptors, but the mu-opioid receptor produces
13 the most “hedonic” or habit-forming effects such as euphoria and analgesia.

14 27. Mitragynine and 7-hydroxymitragynine were found to be more potent to
15 the mu-opioid receptor than morphine via oral administration, according to one 2004
16 study, though the actual effect of kratom is dose-dependent, as discussed above.

17 28. Kratom is therefore considered by health professionals to be similar to
18 an “opioid” and a “quasi-opiate.”

19 29. The notion that kratom is substantially similar to an opioid, and a quasi-
20 opiate, is reaffirmed by a few facts. First, kratom’s effects are very similar to those
21 of other opioids. Second, when administered, kratom alleviates opioid withdrawal
22 symptoms. Third, repeated use of kratom in itself results in opioid withdrawal
23 symptoms.

24 30. All substances that act on the opioid receptors carry a very high risk of
25 addiction, and kratom is no exception.

26 31. Addiction occurs when an opioid is ingested on a regular basis. Over
27 time, the user develops a tolerance to the drug, requiring increased dosages to get the
28 same effects as a lower dose used to have. As the dosages go up, the body becomes

1 dependent on some amount of the drug to feel normal. When the drug is suddenly
2 taken away, the user feels much worse than before they started taking the drug: this
3 is what is known as withdrawal.

4 32. Opioids are addictive not just because of the pleasurable effects that
5 they produce, but because sudden cessation of opioid use causes severe withdrawal
6 symptoms which users feel compelled to avoid by taking more of the drug. The
7 tragedy of addiction is that users want to stop, but they cannot.

8 33. The symptoms of kratom withdrawal are very similar to those of
9 traditional opiate withdrawal. Such symptoms include: irritability, anxiety, difficulty
10 concentrating, depression, sleep disturbance including restless legs, tearing up, runny
11 nose, muscle and bone pain, muscle spasms, diarrhea, decreased appetite, chills,
12 inability to control temperature, and extreme dysphoria and malaise.

13 34. Users typically start substances like kratom because of how good it
14 makes them feel, but, once addicted, they use them to avoid the pain of withdrawal.
15 It no longer is about getting high, but about not feeling “sick.”

16 35. With kratom in particular, users note that the addiction sneaks up on
17 them, and that it feels as though, over time, the color has been sapped from their
18 lives. Long term users of kratom have reported experiencing depression, anxiety,
19 anhedonia, and reduced sex drive.

20 **Kratom Use and Addiction in the United States**

21 36. Kratom use in the United States has exploded in popularity over the past
22 decade. As of 2021, the American Kratom Association estimates that kratom is a
23 \$1.3 billion a year industry, with 11 million to 15 million annual users in the United
24 States.

25 37. Other studies have found that about 1 million people use kratom in the
26 United States every month. Two-thirds of those users use kratom daily.

27 38. Kratom’s popularity can be attributed to a number of factors: first, it is
28 often marketed as a safe substitute for painkillers and appeals to those who falsely

1 equate “natural” with “safe;” second, it has received attention from the media as a
2 “nootropic” or “smart” drug because it is stimulating at low doses; third, its
3 popularity has grown simply because it is so widely available, it produces a
4 pleasurable high, and it is unregulated; and finally, users are unaware that it is
5 similar to an opioid with opioid addiction potential.

6 39. On the whole, however, kratom is a relatively unknown drug to the
7 average consumer. Most people in the United States have never heard of it.

8 40. The advertisements and commentary about kratom say that it is like a
9 substitute for coffee, a pain reliever, a treatment for opioid withdrawal, an
10 antidepressant, an anti-anxiety supplement, and that it improves focus and gives
11 users a boost of energy to get through the day. These advertisements universally
12 espouse the purported benefits that kratom use can provide, without disclosing that
13 the drug is similar to an opioid with the addictive potential of one.

14 41. What’s more, because kratom does not produce a debilitating “high”
15 like cocaine or heroin, it is very easy for users to take the drug every day without
16 feeling as though they are developing a drug addiction or harming themselves. This
17 makes kratom a particularly insidious drug because addiction can sneak up on
18 unsuspecting users and can hold them in its grip despite their best efforts to stop
19 using. The advertisements and word-of-mouth disclosures do not make this clear to
20 consumers.

21 42. Because the manufacturers and advertisers do not disclose the addictive
22 potential of this drug, many users have found themselves blindsided when they wake
23 up one morning in the throes of withdrawal after having stopped using what they
24 thought was an innocuous supplement. They then discover just how painfully
25 dependent they have become on kratom. Because kratom is relatively unknown in
26 the United States, many did not know where to turn for resources and aid. Some
27 users come together on the Internet to share their experiences and support each other
28 as they attempt to get off the drug. There are even well-populated and very active

1 Internet forums serving as support groups for those struggling with and recovering
2 from kratom addiction.

3 43. The reports from users who have fallen into addiction, or succeeded in
4 escaping the drug's grasp, are heart-wrenching. Consistent amongst these reports is
5 the initial shock that users felt when they realized they had become unwittingly
6 addicted, and just how difficult it was for them to stop. Below are just a few
7 accounts from the "Quitting Kratom" forum on www.reddit.com, which has 41,000
8 members as of February 2024:

9 About one year ago, one user wrote: "I've been on a 50gpd [grams per
10 day] habit for about 4 years. Like most people here, **I was in denial that
11 the Kratom was causing my multitude of issues. How could it be the
12 Kratom when everyone keeps telling me how great it is?** I made
13 myself believe that I had underlying issues that the Kratom was helping.
14 Spoiler: It wasn't. **I slowly became a shell of the person I used to be.
TRUE clinical depression symptoms with zero joy in my life.** I started
browsing this subreddit and reading everyone's stories and I related to
every single one. Everyone had the same exact experience I had and at
that moment I knew it was the Kratom causing my depression." (emphasis added).

15 About 2 years ago, a gas station employee wrote: "I work at a gas station
16 where we sell kratom such as powders, gold and silver pills and
17 especially shots etc (you know which one I'm talking about) **it's just
18 mind blowing to me how many people are practically addicted and
how many customers literally scavenge their money to pay for their
daily shot.** Why are people so addicted especially to those shots."

19 About 11 months ago, a user solicited "extract horror stories." One user
20 responded: "Took 2-3 shots a day for almost 2 years. How did it screw
21 me up? Let me count the ways. Financially it was draining me, 100%!
22 **I would estimate 60% of my hair fell out. My skin was grey. My
eyes were dark. I became a hermit.** No longer wanted to do anything,
including self care or hygiene. Just taking a shower was a chore I had to
talk myself into the last few months. I was disgusting and did not care at
all. All I cared about was that I had enough K for tomorrow."

23 Another user responded: "Amen. This [expletive] got hold of me as bad
24 as anything else I've ever done... spent WAY more money on these
25 [expletive] things than real honest to God hard drugs back in the day.
26 **Anywhere from 6-10 of these things daily for... years. Let's call it 7
at an average of \$18/pop = \$126/day x 30 = \$3780/month = about
27 \$45k/year.** How [expletive] embarrassing. I made \$140,000 last year
living in Georgia (pretty low cost of living) and pretty regularly get
busted "borrowing" money from my 10 year old son. [Expletive] this;
28 I'm not living like this anymore."

1 About 2 years ago, another user wrote: “I saw ‘A Leaf of Faith’ and got
2 the impression that kratom was a generally friendly substance to use
3 freely, never knowing how addictive it was, how much it was further
4 numbing me beyond how alcohol already was, how it was slowly wiping
5 out my sex drive, and likely contributing to my perpetual brain fog. ...
My second attempt [at quitting] was maybe another 7 or 8 months later.
Kratom was making me pretty miserable. I was reading posts in this
subreddit and I was finally aware of how addicted I was; feeling crappy,
sluggish, and sorta spacey pretty much all the time.”

6 About 2 years ago, another user wrote: “What a difficult journey it has
7 been. I was a ~75 GPD [grams per day] user. **Quitting kratom was one
8 of the hardest things I’ve had to do in my life.** I learned the hard way
9 that kratom causes withdrawals on a work trip 3 years ago. I should have
10 stopped then and there but I gave in because the RLS was so bad. ...
Kratom withdrawal is seriously no joke so don’t think you’re the only one
struggling so much. I’m only a week free but after this experience I know
for sure that I will never go back. Good luck everyone!” (emphasis
added).

11 About 2 years ago, another user wrote a post titled *Kratom Is An*
12 *Addictive Drug*. It said, in part: “It’s been 23 hours since my last dose. **I
13 just wanted to give my story hoping that it would help others see that
14 they’ve been lied to, deceived and manipulated into thinking this
15 plant is ‘harmless and safe’.** As a matter of fact, reading the horror
stories on this subreddit was the first step in my recovery... I started
taking it almost 3 years ago after hearing about it on... well, Reddit. They
touted it is a miracle plant that had all the benefits of an opioid with none
of the side effects.” (emphasis added).

16 About two years ago, another user wrote: “**I think the perfect word to
17 describe Kratom addiction is ‘insidious’.** Here is the definition
18 – *‘proceeding in a gradual, subtle way, but with harmful effects.’* I think
19 this is why it takes so long to realize what is going on. There was never
20 a rock bottom moment for me like there would be for other more
21 conventional abused drugs. No overdose, no bad behavior, no
abusiveness to my family, no DWI, etc.. - It was just a lazy, slow descent
into nothingness. I was living in a groundhogs day type of existence.
Wake up, go to work, leave work, buy an extract shot or 2, have dinner,
drink my shot, mindlessly look at my phone and/or watch TV. Wake up
and do it all over again.” (emphasis in original).

22 About 16 months ago, another user wrote: “I started using k[ratom] when
23 I had knee surgery Dec 2019 so 3 years. **I didn’t want to use pain killers
24 because I got sober from alcohol 3/6/2018 and i felt the pain killers
were going to make me relapse.** I didn’t know I would end up in a worst
place as I am now.” (emphasis added).

25 About 2 years ago, another user wrote: “Was in bed all day yesterday
26 fighting withdrawals. I used to even be an athlete - strong lean and fit,
27 until I got on [kratom] shots and extracts. Didn’t even get high any more
- just wanted to not feel bad.”

28 About 4 years ago, another user wrote: “I researched kratom before using
it and almost every site promoted that its harmless with healthy benefits,

1 and that its withdrawals are like coffee for 3 days max. Information
2 wasn't clear that kratom could become a negative addiction that takes
3 months to recover" ... "I took something I thought was helping me for
4 1.5-2 years, not even knowing the downsides bc that information was so
misleading. It [expletive] up my digestion, energy, mood, brain fog,
anxiety, etc. [Expletive] kratom, and [expletive] those who peddle it as a
harmless cure-all."

5 About 4 years ago, another user wrote: "I got out of treatment for a heroin
6 relapse 6 months ago after a year and a half clean. **A couple months
7 after I got out, I was at the gas station and saw the MIT 45 shots and
8 caved. I had heard kratom wasn't addictive and had no idea what
9 these shots were or how strong they are. Taking one mad me feel like
10 I had taken a 30 mg oxy and used them for three days.** After only 3
11 days I had minor withdrawals due to my past opiate addiction (if I use
12 opioids for 2-3 days in an row I get withdrawals bc of my past abuse). I
went a week without using and relapsed again. Since then I have gotten
to where I take 3 MIT 45 in the morning, and at this point I don't even
feel anything from them. ... I am in a bad situation because I am actively
in AA, working the steps (on my amends step 9) but I haven't been able
to tell my sponsor or be honest with everyone because I am so scared that
**I will lose my fiancé if she knows I relapsed again, and my family will
be devastated.**

13 About one year ago, another user wrote: "For any newcomers: this stuff
14 is absolutely no joke. It's not harmless and the wd [withdrawal]
15 is *definitely* **not** like caffeine. I've cold turkey'd caffeine before and I had
16 a slight headache for a couple hours. I definitely have never woken up in
17 a pool of my own sweat from not having my caffeine. ... **This stuff is a
18 drug. A serious drug. And it's super freakin addictive.** Extracts,
19 powder, or in my case, capsules...it doesn't matter. Yes some forms are
20 more addictive than others but the WD is hellacious no matter how you're
21 taking it." (emphasis original).

22 About one year ago, another user wrote: "This stuff is a drug, and
23 dangerous! **I started taking it because of all the good things I heard
24 and read about it.** I've never been addicted to or dependent on anything
25 before, but this stuff has totally taken control of my life." (emphasis
26 added).

27 About one year ago, another user wrote: "I finally realized a few weeks
28 ago how much of a negative impact kratom was having on my life. I
noticed myself planning my whole day around my doses and making sure
when I left the house I'd bring an extra dose with me in a shaker bottle.
It was heavily affecting my mood overall, but especially in public
settings. I did not want to leave my house most days even if I did dose."

44. This Internet forum is filled with similar accounts. The stories are
consistent – well-meaning people who were looking to feel better, in mind body and
spirit, by taking an “herbal supplement,” only to end up with an opioid-like
addiction.

1 45. What is particularly insidious about kratom is that, at the early stages,
2 many users are unaware of its negative side effects and its addictive potential, so
3 when they begin to experience the malaise of addiction they do not attribute it to the
4 kratom. Rather, they take more of the substance thinking that it is helping them with
5 their malaise.

6 46. As these accounts make clear, the addictive potential of kratom is a
7 material fact to reasonable consumers which would help inform their purchase and
8 consumption decisions. Defendant's products have no information, whatsoever, that
9 kratom is similar to an opioid, is habit-forming, and that regular use will result in
10 opioid-like dependency, with withdrawal symptoms similar to those of traditional
11 opioids.

12 47. Consumers who knew the truth about kratom may not have purchased
13 Defendant's Products or would have paid less than they did for them.

14 **Defendant Knew or Should Have Known it was Selling a Highly Addictive Drug**
15 **to Unsuspecting Consumers**

16 48. Despite its traditional medical uses, kratom dependence has been known
17 and observed for a long time and is well-documented in Southeast Asia, where the
18 plaintiff originates and has a longer period of historic use.

19 49. Addiction to kratom among users in Thailand and Malaysia has been
20 documented by scientists and researchers in the United States since at least 1988.

21 50. Upon information and belief, Defendant has interacted with growers and
22 distributors in Southeast Asia who have disclosed the addictive nature of kratom to
23 it.

24 51. Even without such interactions, Defendant has received numerous user
25 reports about the addictive potential of kratom in the United States.

26 52. Defendant therefore knew or should have known that the Products it
27 was selling were highly addictive.
28

1 53. Despite this knowledge, Defendant has failed to disclose the addictive
2 potential of kratom on its website or on its Products' packaging.

3 54. The furthest that Defendant goes in "disclosing" the addictive nature of
4 kratom is a single sentence buried in the "Learn More" page for its kratom powder
5 product on its website. It states that "scientists are still conducting comprehensive
6 studies to determine whether abusing Kratom causes addiction, death, and
7 withdrawal symptoms." This is deliberately false and misleading. The addictiveness
8 of kratom has been well-documented for decades and is an established fact in
9 medical literature. The pharmacological effects of MG and 7-MG have been
10 thoroughly studied, and it is well-established that MG and 7-MG act on the same
11 mu-opioid receptors in the brain as traditional opioids. Further, there are widespread
12 user reports and case studies of addiction and dependency issues.

13 55. To reiterate, this is not an instance where the science is still up for
14 debate. It has been known for decades in the English-speaking world that kratom is
15 highly addictive and has the potential to cause physical and psychological
16 dependence in regular users. It has been known for over a century in Southeast Asia
17 that kratom is addictive.

18 56. For example, kratom is the most commonly used drug in Thailand. A
19 2007 study found that 2.3% of people in Thailand have used kratom. Many of those
20 users have developed a dependence on kratom to avoid withdrawal.

21 57. On information and belief, Defendant imports some of its kratom
22 Products from Thailand.

23 58. Defendant therefore knows or should have known that kratom users can
24 develop an addiction. Yet, Defendant fails to disclose this material fact on its
25 website or its Products' packaging.
26
27
28

1 59. Defendant's Products' packaging, in particular, is woefully sparse. A
2 representative image of Defendant's Products is depicted below:



18 60. On the back of each Product's packaging is a bog-standard disclaimer
19 stating that the Products are not regulated or evaluated by the FDA.

20 61. There is no warning to consumers that the product interacts with opioid
21 receptors, nor is there any warning that the product is highly addictive and that it
22 should not be taken on a daily basis. To the contrary, the packaging proudly states
23 "All Natural." Further, the company logo includes a pleasant-looking green leaf, and
24 on the back of the packaging there is a banner of a leaf pattern colored with a
25 rainbow. Nothing about this packaging would lead reasonable consumers to believe
26 they were purchasing compounds similar to opioids, that function on the same mu-
27 opioid receptors in the brain. It looks as innocuous as a vitamin supplement.
28

1 62. Reasonable consumers looking at the Products’ packaging would not
2 presume that kratom is highly addictive. The risk of addiction and opioid-like
3 withdrawal symptoms is a material fact to consumers.

4 63. As a kratom product manufacturer and distributor, Defendant occupied
5 a position of superior knowledge to the average reasonable consumer, who likely
6 knows next to nothing about kratom.

7 64. Defendant, through its misleading advertising and its failure to disclose
8 kratom’s addictive properties on its Products’ labels, relied upon the average
9 consumer’s incomplete knowledge of kratom to sell its Products and get users
10 addicted to kratom.

11 65. Defendant fails to disclose kratom’s addictive potential because
12 Defendant knows that it is a material fact to reasonable consumers which would
13 influence their purchasing and consumption decisions, likely to Defendant’s
14 detriment.

15 66. By any metric, Defendant’s conduct is immoral, unethical, and contrary
16 to California public policy.

17 67. The United States is going through an opiate crisis that is shaking the
18 foundations of our society. Amid this crisis, Defendant is creating more addicts for
19 no reason other than to line its pockets, without adequate disclosures of its products’
20 risks and through the use of false and misleading packaging. That cannot – and
21 should not – be allowed, at least when their conduct entails breaches of warranty and
22 violation of state consumer protection statutes (as it does here).

23 **Plaintiffs’ Experiences**

24 68. Plaintiff J.J. first heard about kratom through the internet and saw
25 nothing about its addictive potential, but was assured it was useful for helping with
26 addiction and anxiety without being addictive in and of itself. J.J. also suffers from
27 severe anxiety and depression and read that kratom could help with his problems.
28 Because he saw no warnings about kratom’s addictive potential, J.J. did not know

1 that kratom was addictive and had no reason to know. He began purchasing Krave
2 branded kratom capsules in September 2018. When J.J. made his first purchase, he
3 reviewed the Krave packaging and labels, but there were no disclosures on the bottle
4 that would have corrected his misimpression. Because there were no disclosures, J.J.
5 thought that Krave kratom could be consumed every day without the risk of physical
6 dependence. Without knowing that he was building an addiction, J.J. began
7 consuming more and more kratom as his tolerance grew. For two and a half years,
8 J.J. took 75-100 grams (150-200 capsules) of Krave Botanicals kratom capsules
9 every day. When J.J. attempted to cease using kratom he was wracked by intense
10 physical and psychological withdrawal symptoms that were substantially similar to
11 traditional opiates. J.J. realized he was addicted to kratom in July 2022 and felt that
12 he was being held captive by the specter of withdrawal. Though J.J. wanted to stop,
13 he could not. At its worst, J.J.'s addiction to Krave kratom was costing thousands of
14 dollars a year. In total, J.J. estimates he has spent \$35,000 on Krave Botanicals
15 kratom capsules. In an effort to quit, he has attempted to detox but has twice
16 relapsed, each time experiencing intense months of physical and psychological
17 withdrawals, with symptoms including: lethargy, nausea, extreme anxiety, extreme
18 depression, sweating, body aches, restless legs, extreme cravings, extreme
19 restlessness, and minor psychosis. Had J.J. known that kratom was so addictive, and
20 that cessation would be so difficult, he would never have purchased Defendant's
21 Products. J.J. made his purchases in and around San Marcos, California.

22 69. Plaintiff C.D. first heard about kratom from a friend who espoused the
23 benefits of the drug without talking about its addictiveness or the terrible withdrawal
24 symptoms. As such, C.D. did not know that kratom was addictive and had no reason
25 to know. He began purchasing Krave branded kratom capsules in 2020. When C.D.
26 made his first purchase, he reviewed the Krave bottle's packaging and labels, but
27 there were no disclosures on the bottle that would have corrected his misimpression.
28 Because there were no disclosures, C.D. thought that Krave kratom could be

1 consumed every day without the risk of physical dependence. Without knowing that
2 he was building an addiction, C.D. began consuming more and more kratom as his
3 tolerance grew. For about five years years, C.D. has taken between 22.5 and 30
4 grams of Krave Botanicals kratom capsules every day. When C.D. attempted to
5 cease using kratom he was wracked by intense physical and psychological
6 withdrawal symptoms that were substantially similar to traditional opiates. In total,
7 C.D. estimates he has spent about \$12,500 on Krave Botanicals kratom. C.D.
8 realized he was addicted to kratom in late February 2021 and felt that he was being
9 held captive by kratom. Though C.D. wanted to stop, he could not. C.D. has been
10 unable to quit using Krave kratom. Had C.D. known that kratom was so addictive,
11 and that cessation would be so difficult, he would never have purchased Defendant's
12 Product. C.D. made his purchases in and around South Lake Tahoe, California.

13 CLASS ALLEGATIONS

14 70. ***Class Definitions.*** Plaintiffs bring this action as a class action pursuant
15 to Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3) on behalf of classes
16 of similarly situated individuals, defined as follows:

17 All persons nationwide who, within the applicable statute
18 of limitations period, up to and including the date of final
19 judgement in this action, purchased Krave Botanicals
20 kratom products (the "Class");

21 All persons nationwide who, within the applicable statute
22 of limitations period, up to and including the date of final
23 judgment in this action, purchased Krave Botanicals
24 kratom products from "www.kravekratom.com" (the
25 "Online Class");

26 All Class members in California who, within the applicable
27 statute of limitations period, up to and including the date of
28 final judgment in this action, purchased Krave Botanicals
kratom products (the "California Class").

71. Specifically excluded from the Class are Defendant and any entities in
which Defendant have a controlling interest, Defendant's agents and employees, the
judge to whom this action is assigned, members of the judge's staff, and the judge's
immediate family.

1 72. Plaintiffs reserve the right to amend the definitions of the Classes if
2 discovery or further investigation reveals that the Class should be expanded or
3 otherwise modified.

4 73. **Numerosity.** Members of the Class are so numerous that their
5 individual joinder herein is impracticable. On information and belief, the Class
6 comprises at least thousands of consumers throughout California and the United
7 States. The precise number of Class members and their identities are unknown to
8 Plaintiffs at this time but may be determined through discovery. Class members may
9 be notified of the pendency of this action by mail and/or publication through the
10 distribution records of Defendant.

11 74. **Commonality and Predominance.** Common questions of law and fact
12 exist as to all Class members and predominate over questions affecting only
13 individual Class members. Common legal and factual questions include, but are not
14 limited to:

- 15 a. whether the labels on Defendant's Products have the capacity to
16 mislead reasonable consumers;
- 17 b. whether Defendant knew that kratom is a highly addictive substance;
- 18 c. whether Defendant's conduct alleged herein violated California's
19 False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§ 17500,
20 *et seq.*, California's Consumers Legal Remedies Act ("CLRA"), Cal.
21 Civ. Code §§ 1750, *et seq.*, and/or California's Unfair Competition
22 Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200, *et seq.*;
- 23 d. whether Defendant's conduct alleged herein constitutes unjust
24 enrichment;
- 25 e. whether Defendant's conduct constitutes negligent omission;
- 26 f. whether Plaintiffs and the Class are entitled to damages and/or
27 restitution;
- 28 g. whether Plaintiffs and the Class are entitled to attorneys' fees and
 costs under California Code of Civil Procedure § 1021.5.

1 75. **Typicality.** The claims of Plaintiffs are typical of the claims of the Class
2 in that Plaintiffs and the Class sustained damages as a result of Defendant's uniform

1 wrongful conduct, based upon Defendant’s failure to inform Plaintiffs and all others
2 similarly situated that its Products are highly addictive and akin to opioids.

3 76. *Adequacy*. Plaintiffs will fairly and adequately protect Class members’
4 interests. Plaintiffs have no interests antagonistic to Class members’ interests, and
5 Plaintiffs have retained counsel that have considerable experience and success in
6 prosecuting complex class-actions and consumer-protection cases.

7 77. *Superiority*. A class action is superior to all other available methods for
8 the fair and efficient adjudication of this controversy for, *inter alia*, the following
9 reasons: prosecutions of individual actions are economically impractical for
10 members of the Class; the Class is readily definable; prosecution as a class action
11 avoids repetitious litigation and duplicative litigation costs, conserves judicial
12 resources, and ensures uniformity of decisions; and prosecution as a class action
13 permits claims to be handled in an orderly and expeditious manner.

14 78. Without a class action, Defendant will continue a course of action that
15 will result in further damages to Plaintiffs and members of the Class and will likely
16 retain the benefits of its wrongdoing.

17 79. Based on the foregoing allegations, Plaintiffs’ claims for relief include
18 those set forth below.

19 **FIRST CAUSE OF ACTION**
20 **Violations of California’s Unfair Competition Law (“UCL”),**
21 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

22 80. Plaintiffs re-allege and incorporate by reference every allegation set
23 forth in the preceding paragraphs as though alleged in this Count.

24 81. Plaintiffs bring this claim individually and on behalf of the members of
25 the proposed Online and California Classes against Defendant.

26 82. The UCL prohibits unfair competition in the form of “any unlawful,
27 unfair, or fraudulent business act or practice and unfair, deceptive, untrue or
28 misleading advertising and any act.” Cal. Bus. & Prof. Code § 17200. A practice is

1 unfair if it (1) offends public policy; (2) is immoral, unethical, oppressive, or
2 unscrupulous; or (3) causes substantial injury to consumers. The UCL allows “a
3 person who has suffered injury in fact and has lost money or property” to prosecute a
4 civil action for violation of the UCL. Cal. Bus. & Prof. Code § 17204. Such a
5 person may bring such an action on behalf of himself or herself and others similarly
6 situated who are affected by the unlawful and/or unfair business practice or act.

7 83. As alleged below, Defendant has committed unlawful, fraudulent,
8 and/or unfair business practices under the UCL by: (a) representing that Defendant’s
9 Products have certain characteristics that they do not, in violation of Cal. Civil Code
10 § 1770(a)(5); (b) advertising goods and services with the intent not to sell them as
11 advertised, in violation of Cal. Civil Code § 1770(a)(9); (c) selling addictive
12 substances to unsuspecting consumers and profiting from their addiction; and (d)
13 failing to disclose that its Products pose a serious risk of addiction;

14 84. Defendant’s conduct has the capacity to mislead a significant portion of
15 the general consuming public or of targeted consumers, acting reasonably in the
16 circumstances.

17 85. Defendant’s conduct has injured Plaintiffs and the members of the
18 Online Class and California Class they seek to represent in that they paid money for
19 a product that they would not have purchased or paid more than they would have but
20 for Defendant’s failure to disclose the addictive nature of its Products. Such injury is
21 not outweighed by any countervailing benefits to consumers or competition. Indeed,
22 no benefit to consumers or competition results from Defendant’s conduct. Since
23 consumers reasonably rely on Defendant’s labels, and thus also its omissions,
24 consumers could not have reasonably avoided such injury. *Davis v. Ford Motor*
25 *Credit Co.*, 179 Cal. App. 4th 581, 597-98 (2009); *see also Drum v. San Fernando*
26 *Valley Bar Ass’n*, 182 Cal. App. 4th 247, 257 (2010) (outlining the third test based
27 on the definition of “unfair” in Section 5 of the FTC Act).

28

1 86. Pursuant to California Business and Professional Code § 17203,
2 Plaintiffs and the members of the Online and California Class seek an order from this
3 Court that includes, but is not limited to, an order requiring Defendant to (a) provide
4 restitution to Plaintiffs and the members of the Online and California Classes; (b)
5 disgorging all revenues obtained as a result of violations of the UCL; and (c) paying
6 Plaintiffs and the members of the Online and California Classes' attorneys' fees and
7 costs.

8 87. Here, equitable relief is appropriate because Plaintiffs may lack an
9 adequate remedy at law if, for instance, damages resulting from their purchase of the
10 Product is determined to be an amount less than the premium price of the Product.
11 Without compensation for the full premium price of the Product, Plaintiffs would be
12 left without the parity in purchasing power to which they are entitled.

13 88. Restitution may also be more certain, prompt, and efficient than other
14 legal remedies requested herein. The return of the full premium price will ensure
15 that Plaintiffs are in the same place they would have been in had Defendant's
16 wrongful conduct not occurred, *i.e.*, in the position to make an informed decision
17 about the purchase of the Products absent omissions with the full purchase price at
18 their disposal.

19 ///

20 ///

21 **SECOND CAUSE OF ACTION**
22 **Violation of California's Consumers Legal Remedies Act,**
 Cal. Civ. Code §§ 1750, *et seq.*
23 **(Injunctive Relief)**

24 89. Plaintiffs re-allege and incorporate by reference every allegation set
25 forth in the preceding paragraphs as though alleged in this Court.

26 90. Plaintiffs bring this claim individually and on behalf of the members of
27 the proposed Online and California Classes against Defendant.
28

1 91. Plaintiffs and the Online and California Class Members are consumers
2 within the meaning of Cal. Civ. Code § 1761(d).

3 92. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or
4 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
5 quantities which they do not have or that a person has a sponsorship, approval,
6 status, affiliation, or connection which she or she does not have.”

7 93. Cal. Civ. Code § 1770(a)(7) prohibits “[r]epresenting that goods or
8 services are of a particular standard, quality, or grade, or that goods are of a
9 particular style or model, if they are of another.”

10 94. Cal. Civ. Code § 1770(a)(9) prohibits “advertising goods or services
11 with intent not to sell them as advertised.”

12 95. Defendant violated Cal. Civ. Code §§ 1770(a)(5), (a)(7), and (a)(9) by
13 intentionally and misleadingly representing that its Products are “all natural” and by
14 failing to disclose that its Products are addictive, a fact which is material to
15 reasonable consumers.

16 96. Defendant’s misrepresentations and omissions deceive and have a
17 tendency and ability to deceive the general public.

18 97. Defendant has exclusive or superior knowledge of kratom’s addictive
19 nature, which was not known to Plaintiffs or the Online and California Class
20 Members.

21 98. Plaintiffs and the Online and California Class Members have suffered
22 harm as a result of these violations of the California Consumers Legal Remedies Act,
23 Cal. Civ. Code §§ 1750, *et seq.* (“CLRA”) because they have incurred charges and/or
24 paid monies for the Products that they otherwise would not have incurred or paid had
25 they known that kratom is addictive and causes withdrawals.

26 99. In compliance with the provisions of California Civil Code § 1782,
27 Plaintiffs sent written notice to Defendant on February 16, 2024, informing
28 Defendant of their intention to seek damages under California Civil Code § 1750.

1 The letter was sent via certified mail, return receipt requested, advising Defendant
2 that it was in violation of the CLRA and demanding that it cease and desist from
3 such violations and make full restitution by refunding the monies received therefrom.
4 The letter expressly stated that it was sent on behalf of Plaintiffs and “all other
5 persons similarly situated.” Accordingly, if Defendant fails to take corrective action
6 within 30 days of receipt of the demand letter, Plaintiffs will amend their complaint
7 to include a request for damages as permitted by Civil Code § 1782(d) for
8 Defendant’s violations of the CLRA.

9
10 **THIRD CAUSE OF ACTION**
Violation of California’s False Advertising Law,
Cal. Bus. & Prof. Code §§ 17500, *et seq.*

11 100. Plaintiffs re-allege and incorporate by reference every allegation set
12 forth in the preceding paragraphs as though alleged in this Court.

13 101. Plaintiffs bring this claim individually and on behalf of the members of
14 the proposed Online and California Classes against Defendant.

15 102. Defendant’s acts and practices, as described herein, have deceived
16 and/or are likely to continue to deceive California Class Members and the public. As
17 described above, and throughout this Complaint, Defendant misrepresented and
18 omitted that kratom is not addictive. Such representations were not true.

19 103. By its actions, Defendant disseminated uniform advertising regarding its
20 kratom Products to and across California. The advertising was, by its very nature,
21 unfair, deceptive, untrue, and misleading within the meaning of California’s False
22 Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.* (the “FAL”). Such
23 advertisements were intended to and likely did deceive the consuming public for the
24 reasons detailed herein.

25 104. The above-described false, misleading, and deceptive advertising
26 Defendant disseminated continues to have a likelihood to deceive in that Defendant
27 continues to misrepresent, without qualification, that kratom is not addictive.
28

1 cause opioid-like withdrawal symptoms because it did not provide a of disclosure on
2 the Products' packaging stating otherwise.

3 113. Defendant breached its warranty implied in the contract for the sale of
4 its kratom Products because the Products could not pass without objection in the
5 trade under the contract description: the kratom Products were not adequately
6 contained, packaged, and labeled as per Defendant's contract with Plaintiffs and
7 members of the Class, and the Products do not conform to the implied affirmations
8 of fact made on the marketing and packaging for the Products that the Products are
9 not addictive and do not cause withdrawals. U.C.C. §§ 2-313(2)(a), (e), (f). As a
10 result, Plaintiffs and members of the Classes did not receive the goods as impliedly
11 warranted by Defendant to be merchantable.

12 114. Plaintiffs and members of the Class purchased the Products in reliance
13 upon Defendant's skill and judgment and the implied warranties of fitness for the
14 purpose.

15 115. The kratom Products were defective when they left the exclusive control
16 of Defendant.

17 116. Plaintiffs and members of the Class did not receive the goods as
18 warranted.

19 117. While Defendant sold much of its Products to intermediary vendors like
20 retailers or wholesalers, Plaintiffs and the members of the class were ultimately the
21 intended purchasers of the Products, and Defendant was the third-party beneficiary
22 to those transactions.

23 118. As a direct and proximate cause of Defendant's breach of the implied
24 warranty, Plaintiffs and members of the Class have been injured and harmed
25 because: (a) they would not have purchased Krave Kratom on the same terms if they
26 knew that the Product was addictive and could cause opioid-like withdrawal
27 symptoms; and (b) the Products do not have the characteristics, uses, or benefits as
28 promised by Defendant.

1 119. On February 16, 2024, prior to filing this action, Defendant was served
2 with a pre-suit notice letters on behalf of Plaintiffs that complied in all respects with
3 U.C.C. §§ 2-314 and 2-607. Plaintiffs' counsel sent Defendant a letter advising
4 Defendant that it breached an implied warranty and demanded that Defendant cease
5 and desist from such breaches and make full restitution by refunding the monies
6 received therefrom.

7
8 **FIFTH CAUSE OF ACTION**
 Unjust Enrichment

9 120. Plaintiffs incorporate by reference the foregoing paragraphs of this
10 Complaint as if fully stated herein.

11 121. Plaintiffs bring this claim individually and on behalf of the members of
12 the nationwide Class and California Class against Defendant under the laws of
13 California.

14 122. Plaintiffs and the Class members conferred a benefit on Defendant in
15 the form of the gross revenues Defendant derived from the money they paid to
16 Defendant.

17 123. Defendant had an appreciation or knowledge of the benefit conferred on
18 it by Plaintiffs and the Class members.

19 124. Defendant has been unjustly enriched in retaining the revenues derived
20 from Plaintiffs and the Class members' purchases of the Products, which retention of
21 such revenues under these circumstances is unjust and inequitable because
22 Defendant omitted that the Products were addictive and similar to opioids. This
23 caused injuries to Plaintiffs and members of the Classes because they would not have
24 purchased the Products or would have paid less for them if the true facts concerning
25 the Products had been known.

26 125. Defendant accepted and retained the benefit in the amount of the gross
27 revenues it derived from sales of the Products to Plaintiffs and the Class members.
28

1 126. Defendant has thereby profited by retaining the benefit under
2 circumstances which would make it unjust for Defendant to retain the benefit.

3 127. Plaintiffs and the Class members are, therefore, entitled to restitution in
4 the form of the revenues derived from Defendant's sale of the Products.

5 128. As a direct and proximate result of Defendant's actions, Plaintiffs and
6 the members of the Class have suffered in an amount to be proven at trial.

7 129. Here, equitable relief is appropriate because Plaintiffs may lack an
8 adequate remedy at law if, for instance, damages resulting from their purchase of the
9 Product is determined to be an amount less than the premium price of the Product.
10 Without compensation for the full premium price of the Product, Plaintiffs would be
11 left without the parity in purchasing power to which they are entitled.

12 130. Restitution may also be more certain, prompt, and efficient than other
13 legal remedies requested herein. The return of the full premium price will ensure
14 that Plaintiffs are in the same place they would have been in had Defendant's
15 wrongful conduct not occurred, i.e., in the position to make an informed decision
16 about the purchase of the Products absent omissions with the full purchase price at
17 their disposal.

18 **SIXTH CAUSE OF ACTION**
19 **Fraud by Omission**

20 131. Plaintiffs reallege and reincorporate by reference all paragraphs alleged
21 above.

22 132. Plaintiffs bring this claim individually and on behalf of the Class and
23 California Class against Defendant, under the laws of California.

24 133. Defendant Ashlynn Marketing, Inc. is located in Santee, California.

25 134. Defendant distributed its Products throughout the State of California
26 and the Nation.

27
28

1 135. Defendant misrepresented that its kratom Products have attributes or
2 qualities that they do not have by failing to disclose that kratom is addictive and can
3 cause opioid-like withdrawal.

4 136. Defendant knows that kratom is addictive because it interacts with
5 kratom vendors and has been made aware of user reports.

6 137. Defendant knows that knowledge of kratom's addictive nature is a
7 material fact that would influence the purchasing decision of reasonable consumers.

8 138. The average reasonable consumer in the kratom purchasing context
9 does not know that kratom is addictive and cannot reasonably access that
10 information.

11 139. Defendant therefore had a duty to Plaintiffs and the Class members to
12 disclose that kratom is addictive and can cause withdrawals on the Products'
13 packaging.

14 140. Consumers reasonably and justifiably relied on Defendant's omission
15 because it is reasonable to assume that a product which is addictive like an opioid
16 would bear a warning.

17 141. As a result of Defendant's omission, Plaintiffs and the Class members
18 paid for kratom Products they may not have purchased, or paid more for those
19 Products than they would have had they known the truth about kratom.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs J.J. and C.D., individually and on behalf of all
22 others similarly situated, seek judgment against Defendant, as follows:

23 A. For an order certifying the Class and naming Plaintiffs as the
24 representatives of the Class, naming Plaintiffs as representatives of the Classes, and
25 naming Plaintiffs' attorneys as Class Counsel to represent the Class, Online Class,
26 and California Class;
27
28

1 B. For an order declaring Defendant’s conduct violates the statutes
2 referenced herein;

3 C. For an order finding in favor of Plaintiffs and the Classes on all counts
4 asserted herein;

5 D. For actual, compensatory, statutory, and/or punitive damages in
6 amounts to be determined by the Court and/or jury;

7 E. For prejudgment interest on all amounts awarded;

8 F. For an order of restitution and all other forms of equitable monetary
9 relief;

10 G. For injunctive relief as the Court may deem proper; and

11 H. For an order awarding Plaintiffs and the Classes their reasonable
12 attorneys’ fees, expenses, and costs of suit.

13 **JURY TRIAL DEMANDED**

14 Plaintiffs demand a trial by jury on all claims so triable.

15
16 Dated: February 16, 2024

Respectfully submitted,

17 **OLIVIER & SCHREIBER LLP**

18 By: s/ Christian Schreiber

19 Christian Schreiber

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Attorneys for Plaintiffs

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Christian Schreiber, declare as follows:

1. I am counsel for Plaintiffs, and I am a partner at Olivier & Schreiber LLP. I make this declaration to the best of my knowledge, information, and belief of the facts stated herein.

2. The complaint filed in this action is filed in the proper place for trial because many of the acts and transactions giving rise to this action occurred in San Diego County, and because Plaintiff resides in this San Diego County, which is in this District.

3. Plaintiff J.J. alleges that they are a citizen of California and resident of San Diego, California.

4. Defendant Ashlynn Marketing Group, Inc. is a California corporation with its principal place of business in Santee, California.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct, executed on February 16, 2024 at Oakland, California.



Christian Schreiber