

<p>DISTRICT COURT, SAGUACHE COUNTY, COLORADO Saguache Combined Court, 501 4<sup>th</sup> Street, Saguache, Colorado 81149</p>	
<p><b>Plaintiffs:</b></p> <p>MAMMOTH MANAGEMENT, LLC, a Colorado limited liability company; MAMMOTH FARMS, LLC, a Colorado limited liability company; and MAMMOTH MANUFACTURING, LLC, a Colorado limited liability company.</p> <p>v.</p> <p><b>Defendants:</b></p> <p>C2CC, LLC, d/b/a BONANZA CANNABIS COMPANY, a Colorado limited liability company; WARE HAUSE LLC, a Colorado limited liability company; SOUTH PLATTE DISTRIBUTORS LLC; a Colorado limited liability company; HAUSE LLC, a Colorado limited liability company; DUTCH BOTANICALS LLC, a Colorado limited liability company; and WALSENBURG CANNABIS LLC, a Colorado limited liability company.</p>	<p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p>Michael P. Robertson, #41344, <a href="mailto:mrobertson@fennemorelaw.com">mrobertson@fennemorelaw.com</a> Amy L. Jones, # 55329, <a href="mailto:ajones@fennemorelaw.com">ajones@fennemorelaw.com</a> Mallory P. Nordberg, # 58535, <a href="mailto:mnordberg@fennemorelaw.com">mnordberg@fennemorelaw.com</a> <b>Fennemore Craig, P.C.</b> 1700 Lincoln Street, Suite 2400 Denver, CO 80203 Phone: (303) 291-3200; Fax: (303) 291-3201 <i>Attorneys for Plaintiffs</i></p>	<p>Case Number:  Division/Courtroom:</p>
<p style="text-align: center;"><b>FIRST AMENDED COMPLAINT AND JURY DEMAND</b></p>	

Plaintiffs Mammoth Management, LLC, Mammoth Farms, LLC, and Mammoth Manufacturing, LLC (collectively, “Mammoth”), through undersigned counsel, hereby submit their First Amended Complaint and Jury Demand, and state and allege as follows:

1. This action arises out of Defendants' unlawful scheme to circumvent the rules and regulations governing the retail marijuana industry in Colorado.

2. Mammoth and Defendants are competitors in the marijuana industry in Colorado. More specifically, Mammoth and Defendants all manufacture and/or sell edible gummy products and vape cartridges that are marketed to consumers as containing Tetrahydrocannabinol ("THC") derived from marijuana.

3. Independent laboratory testing recently confirmed, however, that Defendants' products do not contain natural THC derived from marijuana as advertised.

4. Instead, Defendants' edible gummies and vape cartridges were confirmed to contain a synthetic THC that was artificially created through a chemical conversion process through which hazardous and toxic chemicals were incorporated into hemp. This chemical conversion process is unlawful in Colorado.

5. As alleged throughout this Complaint, Defendants' unlawful actions and deceptive trade practices are intentionally deceiving consumers and creating significant public health and safety risks. Defendants have usurped consumer market share from Mammoth as a result of their unlawful activities, including pricing their products—which are falsely marketed as marijuana-derived THC rather than synthetic THC derived from hemp—at prices far below what it could cost to legitimately produce a regulated marijuana product.

6. Mammoth brings this action to hold Defendants accountable for the significant harm caused by their unlawful actions.

## **PARTIES**

7. Plaintiff Mammoth Management, LLC is a Colorado limited liability company with its principal place of business in Denver, Colorado.

8. Plaintiff Mammoth Farms, LLC is a Colorado limited liability company with its principal place of business in Saguache, Colorado.

9. Plaintiff Mammoth Manufacturing, LLC is a Colorado limited liability company with its principal place of business in Saguache, Colorado.

10. Defendant C2CC, LLC, d/b/a Bonanza Cannabis Company (“Bonanza”), is a Colorado limited liability company with its principal place of business in Centennial, Colorado.

11. Defendant Ware Hause LLC (“Ware Hause”) is a Colorado limited liability company with its principal place of business in Denver, Colorado.

12. Defendant South Platte Distributors LLC (“South Platte”) is a Colorado limited liability company with its principal place of business in Moffat, Colorado.

13. Defendant Hause LLC, d/b/a Hau Processing (“Hau Processing”), is a Colorado limited liability company with its principal place of business in Denver, Colorado.

14. Defendant Dutch Botanicals LLC, d/b/a Colorado Vape (“Colorado Vape”), is a Colorado limited liability company with its principal place of business in Aurora, Colorado.

15. Defendant Walsenburg Cannabis LLC (“Walsenburg”) is a Colorado limited liability company with its principal place of business in Ordway, Colorado.

## **JURISDICTION AND VENUE**

16. This Court has jurisdiction over this matter because Defendants are domiciled in Colorado, all parties regularly transact business in Colorado, and this matter concerns the commission of tortious acts within Colorado.

17. Venue is proper pursuant to C.R.C.P. 98 because this matter concerns torts committed in this county and goods sold in this county.

## **GENERAL ALLEGATIONS**

### **Overview of the Marijuana Seed-to-Sale Process**

18. The retail marijuana industry generally follows a three-tier process: (1) cultivation (i.e. growth) of the cannabis plant; (2) manufacturing of the cannabis plant and plant matter to extract cannabinoids, oils, and other concentrates from the plant; and (3) sale of marijuana and marijuana products to consumers through retail establishments or wholesale to other licensed marijuana companies. In Colorado, parties operating in the retail marijuana industry may engage in one, two, or all three of these areas if they possess the requisite licenses.

19. The term marijuana typically refers to the dried leaves, stems, flowers, and seeds of the cannabis plant. THC is a naturally-occurring chemical compound (a “cannabinoid”) that is found naturally in the cannabis plant. THC is the principal psychoactive (i.e. mind-altering) substance in the cannabis plant. Because of its psychoactive characteristics, THC is considered a Schedule I controlled substance by the U.S. Drug Enforcement Agency.

20. After marijuana is cultivated in the first step of the three-tier process, it is then manufactured into a form suitable for consumer use. During the manufacturing process, marijuana can be packaged as buds or dry leaves for smoking by consumers. Separately, during

manufacturing, marijuana can also undergo an extraction process under which THC-rich resins are extracted from the marijuana. The byproduct of extraction is an oil or “distillate,” which takes the appearance of a honey-like substance that can then be used to make edibles (such as gummies) or can be placed into vape cartridges.

### **Factors Distinguishing Hemp from Marijuana**

21. Hemp and marijuana are both from the same species of the cannabis plant. Hemp plants naturally produce high levels of cannabidiol, or “CBD.” CBD is not a psychoactive substance. Hemp-derived CBD is commonly used for medicinal purposes, and it is used in the manufacture of many consumer goods and products.

22. Hemp plants naturally produce low levels (0.3% or less) of THC. Marijuana plants, by contrast, produce high levels of THC naturally. Because hemp plants naturally produce such low levels of THC, they are only lightly regulated on the national and state levels compared to marijuana.

### **Marijuana Licensing and Regulation in Colorado**

23. The Constitution of the State of Colorado provides that the marijuana industry in the State shall be regulated to ensure that only “[l]egitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana.” Colo. Const. Art. XVIII, § 16(1)(b)(IV).

24. To this end, the General Assembly enacted the Colorado Retail Marijuana Code (the “Marijuana Code”). The Marijuana Code “declares that it is unlawful under state law to cultivate, manufacture, distribute, or sell retail marijuana and retail marijuana products, except in compliance with the terms, conditions, limitations, and restrictions” in the Marijuana Code and Colorado Constitution. C.R.S. § 44-10-102(3) (2020).

25. The Marijuana Enforcement Division of the Colorado Department of Revenue (“MED”) is responsible for licensing and regulating the retail marijuana industry in Colorado.

26. At its core, the Marijuana Code prohibits the use of “advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors.” C.R.S. § 44-10-701(3)(c). It is further unlawful under the Marijuana Code for any party operating within the retail marijuana industry in Colorado to “engage in any act or omission with the intent to evade disclosure, reporting, record keeping, or suitability requirements ....” *Id.* § 44-10-701(8)(a).

27. Pursuant to Colorado law, the MED regulates companies engaged in the cultivation, manufacturing, distribution, or sale of retail marijuana in the State through an electronic “seed-to-sale tracking system that tracks regulated marijuana from either the seed or immature plant stage until the regulated marijuana or regulated marijuana product is sold ... to a customer at a retail marijuana store ....” C.R.S. § 44-10-202(1)(a) (2022). The MED requires all companies engaged in the cultivation, manufacturing, distribution, or sale of marijuana in Colorado to report all seed-to-sale data and information accurately in an electronic tracking system and database known as “METRC.”

28. METRC’s mission statement is described and published as:

## End-to-end transparency

When states legalize any form of cannabis use, regulators face a host of challenges. First among them is protecting public health, which requires comprehensive cannabis testing, a way to track inventory and sales, and a strategy to secure the regulated marketplace against illicit product. Metrc is a powerful ally in advancing all of these interests.

Metrc closely monitors the cannabis supply chain to secure markets against theft and infiltration. Innovative solutions and advanced technology ensure that every cannabis plant and every cannabis product is accounted for by licensed businesses in Metrc's system.

With detailed histories on every plant and cannabis-based product in the state, agencies can ensure that no illicit cannabis is entering the regulated supply chain and no regulated cannabis is being diverted for unlawful sale outside of it. Metrc monitors, records, tracks, and reports to help regulators manage the market.

[Metrc.com/about/](https://metrc.com/about/)

29. The Marijuana Code, along with the marijuana rules promulgated by the MED, require any party operating in the retail marijuana industry in Colorado to have a separate license for growth operations, manufacturing operations, and retail operations.

30. Each growth, manufacturing, and retail license issued by the MED has a distinct license number. Licensees are required to enter their license numbers alongside all information entered into METRC, which enables the MED to track the nature and source of all marijuana and marijuana products cultivated, manufactured, and sold in Colorado.

31. In general, the burdensome regulations on the retail marijuana industry in Colorado, coupled with the significant regulatory fees, licensing fees, and taxes necessarily incurred by all licensees operating in the marijuana industry, make it extremely expensive and difficult to sustain a successful and profitable marijuana business.

32. In addition, growers of marijuana plants in Colorado must first apply for and receive a growing license. Colorado restricts the number of growing licenses it issues each year, which ensures that the market does not become saturated with excess product. Further, Colorado restricts the number of marijuana plants that may be cultivated per growing license. This has the practical effect of making it challenging to scale a sustainable and profitable operation.

#### **Colorado's Less-Stringent Hemp Regulatory Program**

33. While hemp and marijuana are both derived from the cannabis plant, they are regulated differently in Colorado and nationally.

34. In 2018, Congress enacted the federal Agricultural Improvement Act, or “Farm Act,” which removed hemp from Schedule I of the federal Controlled Substances Act. Colorado then followed suit and updated the Colorado Hemp Regulatory Program (the “Hemp Program”). The Hemp Program is regulated by the Colorado Department of Agriculture rather than the MED.

35. The Hemp Program defines hemp as any part(s) of the cannabis plant “with a delta-9 tetrahydrocannabinol concentration of no more than three-tenths of one percent on a dry-weight basis.” C.R.S. § 35-61-101(7) (2022). It is unlawful under the Hemp Program for any party to “make false, misleading, deceptive, or fraudulent representations,” relating to hemp cultivated in Colorado. *Id.* § 35-61-111(1)(e) (2020).



36. Hemp is significantly cheaper to cultivate than marijuana, as there are fewer licensing fees, regulatory fees, and taxes. Moreover, in contrast to marijuana, there are no restrictions on the number of hemp plants that can be grown with a single license.

37. In light of the lax regulations governing the hemp industry, including the absence of any restrictions on the quantity of hemp that can be grown by hemp licensees, there is vastly more hemp product grown and readily available in Colorado.

### **Colorado's Ban on Intoxicating Hemp Products**

38. In recent years, certain companies operating in Colorado's retail marijuana industry began devising and implementing an unlawful scheme to circumvent the MED, the burdensome regulations governing the marijuana industry, and the debilitating costs and taxes incurred by companies growing, manufacturing, and selling marijuana products in the State.

39. Hemp plants are widely available and relatively cheap to acquire. However, these hemp plants contain only nominal levels of THC. Certain companies in Colorado began acquiring hemp plants and, through a newly-concocted manufacturing process, putting the hemp through a chemical conversion process to artificially create a synthetic THC product. The chemicals involved in this process are often hazardous and include known toxins to humans. The artificial THC from hemp products could be created at a tiny fraction of the cost compared to the cost to extract natural THC from marijuana.

40. In early 2023, the State of Colorado began actively addressing widespread public health issues associated with intoxicating hemp products being sold in the State. These efforts culminated in a bill (SB 23-271) that Governor Polis signed in June 2023, referred to as the "Intoxicating Hemp Bill." The Intoxicating Hemp Bill, incorporated into the Marijuana Code at

C.R.S. § 44-10-209, authorized the MED to promulgate rules prohibiting the chemical modification or conversion of hemp products to synthetically create THC.

41. In June 2023, the Intoxicating Hemp Bill was also incorporated into the Colorado Consumer Protection Act (the “CCPA”). Under the CCPA, it is now unlawful for any individual or entity to “distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any synthetic cannabinoid.” C.R.S. § 6-1-725(1). The manufacture, distribution, or sale of synthetic cannabinoids in Colorado automatically qualifies as a deceptive trade practice under the CCPA. C.R.S. § 6-1-725(2)(a).

42. On April 12, 2024, the MED issued a written bulletin to all parties licensed to operate in the retail -marijuana industry in Colorado (the “April 2024 Notice”). *See* Ex. A. The April 2024 Notice was titled “Use of Chemically Derived THC in the Manufacture of Regulated Marijuana Prohibited.” *Id.*

43. The April 2024 Notice was issued by the MED “to set clear expectations for the use of hemp-derived products in the manufacture of Regulated Marijuana Products.” The MED made clear that the conversion of hemp extract into THC products through chemical conversion “is a license violation affecting public safety.” Ex. A.

44. The April 2024 Notice further explained that any company “using chemically converted THC in the manufacture of Regulated Marijuana Products exposes consumers to heightened safety risks” and “[t]he chemicals used in the conversion process can be hazardous [and] can create byproducts that are potentially harmful when consumed . . .” Ex. A.

45. The April 2024 Notice also provided that “Regulated Marijuana Businesses that intentionally invert THC that is chemically converted from CBD or Hemp could also face

significant civil claims from customers, consumer protection claims, or even criminal claims.”

Ex. A.

### **Overview of Mammoth and Defendants**

46. Mammoth is a vertically-integrated company that operates in all three sectors of the Colorado retail marijuana industry: (1) cultivation; (2) manufacturing; and (3) sales. Mammoth is among the largest growers of marijuana in Colorado, with its primary growing, manufacturing, and retail operations based out of Saguache County.

47. Through its manufacturing operations, Mammoth produces its own line of edible gummy products. Mammoth also extracts distillate from the marijuana it grows and uses the distillate in its own brands of vape cartridges. Mammoth’s products are sold directly to consumers in its Colorado retail locations. Mammoth’s products are also distributed and wholesaled to third-party retailers throughout Colorado.

48. Defendant Hau Processing is not licensed to cultivate, manufacture, or sell any marijuana or marijuana product in Colorado. Instead, Hau Processing is licensed to manufacture and process hemp products such as CBD oils that are used in common consumer goods.

49. Defendant South Platte is licensed to cultivate and manufacture marijuana and marijuana products in Colorado. South Platte operates a manufacturing facility in Saguache County.

50. Defendant Ware Huse is licensed to manufacture and sell marijuana and marijuana products in Colorado. Ware Huse produces vape cartridge products under its own Ware Huse brand and labeling. Ware Huse distributes and wholesales its vape cartridge products to retailers across Colorado, including Saguache County.

51. Defendant Colorado Vape is licensed to cultivate and manufacture marijuana and marijuana products in Colorado. Colorado Vape manufactures and produces vape cartridge products under its own Colorado Vape brand and labeling. Colorado Vape distributes and wholesales its vape cartridge products to retailers across Colorado.

52. Defendant Walsenburg is licensed to manufacture marijuana products in Colorado. Walsenburg manufactures distillate in or around Ordway, Colorado. Walsenburg distributes and wholesales its distillate product to other companies licensed to manufacture and sell marijuana products throughout Colorado.

53. Defendant Bonanza is licensed to manufacture marijuana products in Colorado. Bonanza manufactures and produces edible gummy and vape cartridge products under its own Bonanza brand labeling. Bonanza distributes and wholesales its gummy and vape cartridge products to retailers across Colorado, including retailers in Saguache County.

#### **The COCCA Defendants' Unlawful Scheme Involving Intoxicating Hemp**

54. During periods before and after the Intoxicating Hemp Bill and the April 2024 Notice, Defendants Hau Processing, South Platte, and Ware Hause (collectively, the "COCCA Defendants") have carried out an unlawful scheme under which: (1) hemp products have been chemically-converted to create synthetic THC, (2) the COCCA Defendants failed to put accurate or complete information into METRC regarding the nature or source of the distillate used in their products, and (3) false statements have been and continue to be made to Colorado consumers through labelling used on the COCCA Defendants' vape cartridge products, which fail to disclose that the distillate used in the products contain THC that was synthetically produced through

chemical conversion of hemp products rather than through extraction of natural THC in marijuana.

55. All three of the COCCA Defendants are operated and controlled by the same family. The Hau family, including Au Hau, Duong Hau, and Thanh Hau, controls and oversees the operations of each of the COCCA Defendants.

56. The COCCA Defendants' illegal scheme begins through the chemical conversion of hemp by Hau Processing. Hau Processing imports large volumes of hemp and hemp material from hemp growers throughout Colorado and other states. Hau Processing then uses its hemp manufacturing and processing facilities to put this hemp through a chemical conversion process designed and intended to create a synthetic THC product. This chemical conversion process is conducted using hazardous and toxic chemicals. The process has been confirmed by the MED and others to present significant public health and safety risks to consumers.

57. Hau Processing then takes the final product—a distillate comprised of hemp-derived synthetic THC—and transports it to South Platte.

58. South Platte, which holds a marijuana manufacturing license, then represents to the MED through METRC that it is manufacturing legitimate marijuana-derived distillate. However, much or all of the distillate purportedly manufactured by South Platte is, in reality, the illicit distillate containing hemp-derived synthetic THC that it simply received from Hau Processing.

59. In carrying out this scheme, the COCCA Defendants, through South Platte and/or Ware Hause, have routinely and repeatedly entered false, misleading, and materially incomplete information into METRC.

60. As holders of manufacturing licenses, Defendants South Platte and Ware Hause are required to identify and disclose the source of the marijuana used in the manufacturing process. Had these Defendants complied with their obligations, they would have necessarily had to disclose the use of hemp products in the manufacturing process.

61. To create a false trail and mislead the MED, upon information and belief, the COCCA Defendants have directly or indirectly engaged in the practice of buying waste marijuana plant matter from third parties that has no meaningful value in the manufacturing process because only nominal amounts of THC could be extracted from this waste material. Upon information and belief, South Platte then records in METRC that it purchased this marijuana plant material, and falsely claims in METRC that the THC extracted in its manufacturing process was derived from this waste marijuana plant material rather than its true source—hemp.

62. South Platte acts as the “middle man” to intentionally create a false trail that the distillate in its possession was created through legal means using marijuana and to conceal the distillate’s true source—Hau Processing. South Platte then incorporates the illicit distillate into vape cartridges, and transfers the products to Ware Hause.

63. The COCCA Defendants, through Ware Hause, then label the vape cartridges with Ware Hause’s branding. The labeling on the vape cartridges intentionally misrepresents the product as including natural marijuana-derived THC. The labeling on the vape cartridges intentionally omits that the product contains chemically-converted synthetic THC that was derived from hemp.

64. The COCCA Defendants, through Ware Hause, then distribute their vape cartridge products to retailers for sale throughout Colorado.

65. Through this unlawful scheme, the COCCA Defendants are able to manufacture distillate at a small fraction of what it costs to create lawful marijuana-derived distillate.

66. On May 8, 2024, Plaintiffs purchased vape cartridges that were produced and distributed by the COCCA Defendants and sold under Ware Hause's labeling. Plaintiffs purchased these products, which were available for sale to the general public, at a retail location at 3615 Platte Avenue, Frontage Road, Colorado Springs, CO 80909. An independent laboratory tested the Ware Hause product, and issued a COA confirming that the THC contained in the product was synthetic and derived from hemp through chemical conversion.

***The COCCA Defendants' Enterprise***

67. Defendants Hau Processing, South Platte, and Ware Hause have acted and continue to act as an ongoing organization that functions as a coordinated and continuing unit.

68. The COCCA Defendants are all operated and controlled through a single decision-making framework—the Hau family.

69. The COCCA Defendants have acted and continue to act in furtherance of a unified purpose. The purpose of Defendants' enterprise is to intentionally circumvent Colorado's marijuana laws, rules, and regulations through the practice of creating illicit and synthetic THC through the chemical conversion of hemp, and then marketing and selling this synthetic hemp-derived THC through deceptive trade practices under which false labeling is used to mislead consumers into believing Defendants' products contain legitimate marijuana-derived THC. The enterprise also exists to undermine fair competition within the regulated marijuana industry in

Colorado through the illegal practices alleged throughout this First Amended Complaint and to usurp consumer market share through unlawful means.

***The COCCA Defendants' Pattern of Racketeering Activity***

70. In furtherance of the conduct of their enterprise, the COCCA Defendants have engaged in multiple acts of racketeering activity.

71. Racketeering activity under the COCCA statute includes offenses relating to controlled substances. C.R.S. § 18-17-103(5)(b)(XIV). Marijuana concentrate, THC, and synthetic cannabinoids are all controlled substances in Colorado.

72. The COCCA Defendants, in furtherance of their enterprise, have committed and continue to commit numerous offenses relating to controlled substances that constitute predicate acts under the COCCA statute. For example, the COCCA Defendants have unlawfully possessed synthetic cannabinoids in violation of C.R.S. § 18-18-406.1. The COCCA Defendants have also knowingly and unlawfully distributed, manufactured, dispensed, and sold synthetic cannabinoids in violation of C.R.S. § 18-18-406.2.

73. The COCCA Defendants have knowingly used proceeds derived from this pattern of racketeering activity for the continued operation of their enterprise.

74. The COCCA Defendants' scheme is creating significant health and safety risks for Colorado consumers. For example, on June 6, 2024, the MED issued a public health and safety advisory against Ware Hause and South Platte due to the chemicals and pesticides found in vape cartridges sold under Ware Hause labeling. The MED confirmed that distillate contained in the COCCA Defendants' vape cartridge products between April 2023 and May 2024 was "found to contain methylene chloride (a solvent not approved for use in the production of marijuana



concentrate) and pesticides not approved for use on marijuana.” Methylene chloride is a known toxin to humans, and it was used unlawfully by the COCCA Defendants in the chemical conversion process performed by Hau Processing.

### **Walsenburg Manufactures and Distributes Synthetic THC**

75. Walsenburg, as part of its ordinary business practice, is a manufacturer and distributor of distillate. Upon information and belief, Walsenburg routinely sells the distillate it manufactures to other companies that are licensed to manufacture and sell marijuana products in Colorado. Those companies incorporate Walsenburg’s distillate into their marijuana products, including edible gummies and vape cartridges, which are then sold to consumers throughout Colorado.

76. During periods in and before 2022, Walsenburg cultivated marijuana and then, through its manufacturing process, extracted distillate from the marijuana plant material it cultivated. More recently, Walsenburg has been acquiring marijuana plant material from third parties for use in Walsenburg’s manufacturing process. Walsenburg’s manufacturing process produces a marijuana-based distillate.

77. Walsenburg, however, also acquires raw distillate from other parties. Upon information and belief, Walsenburg blends this raw distillate with the other distillate it produces to increase yields. As part of this practice, Walsenburg has knowingly and/or recklessly acquired converted distillate that is comprised of chemically converted synthetic THC. Walsenburg has then distributed this illicit distillate in Colorado under false labeling which materially omits that Walsenburg’s product is comprised of hemp-derived synthetic THC.

78. Through these actions and material omissions, Walsenburg knowingly and/or recklessly engaged in deceptive trade practices.

79. On May 20, 2024, Plaintiffs purchased vape cartridges containing distillate that was distributed by Walsenburg. Plaintiffs purchased these products, which were available for sale to the general public, at 2:51 p.m. MST at a retail location at 1406 West 38<sup>th</sup> Ave., Denver, CO 80211. An independent laboratory tested the Walsenburg product, and issued a Certificate of Analysis (COA) confirming that the THC contained in Walsenburg's distillate was synthetic and derived from hemp through chemical conversion.

**Colorado Vape Manufactures and Sells Synthetic THC Products Under False Labeling**

80. Defendant Colorado Vape manufactures and distributes vape cartridges for sale to consumers throughout Colorado.

81. The labeling used by Colorado Vape on many of its products represents to consumers that Colorado Vape cultivates the marijuana that is the source of the THC contained in its vape cartridges. Colorado Vape's labeling also represents to consumers that it is the party that extracts the distillate from the marijuana that is used in the vape cartridges.

82. Upon information and belief, Colorado Vape also purchases distillate from third parties, which Colorado Vape then incorporates into its vape cartridge products.

83. Colorado Vape's labeling on its vape cartridge products represents to consumers that the products contain natural marijuana-derived THC. These labels are false, misleading, and contain material misrepresentations. Colorado Vape's labeling on its vape cartridge products fails to disclose to consumers that the THC contained in the products is a synthetic hemp-derived THC that was created using harmful chemicals.

84. Colorado Vape knowingly and/or recklessly engaged in deceptive trade practices by possessing, manufacturing, distributing, and selling illicit hemp-derived synthetic THC in its vape cartridge products and then failing to disclose this material information on its products' labeling.

85. On June 12, 2024, Plaintiffs purchased vape cartridges that were produced and distributed by Colorado Vape and sold under Colorado Vape's labeling. Plaintiffs purchased these products, which were available for sale to the general public, at 11:26 p.m. MST at a retail location at 4690 Brighton Blvd., Denver, CO 80223. An independent laboratory tested the Colorado Vape product, and issued a COA confirming that the THC contained in the product was synthetic and derived from hemp through chemical conversion.

**Bonanza Sells Synthetic THC Products Under False Labeling**

86. Defendant Bonanza produces, distributes, and sells edible gummy and vape cartridge products throughout Colorado under Bonanza-brand labeling. Bonanza sells its products directly to Colorado consumers at one or more marijuana retail locations it owns and operates. Some or all of the marijuana products sold by Bonanza under its own labeling was manufactured using distillate Bonanza purchased from other parties.

87. Marijuana regulations in Colorado require that license numbers for all parties involved in the cultivation, manufacturing, and retail of marijuana products sold in the State be disclosed on the labeling of such marijuana products. The labeling used by Bonanza on some of its marijuana products discloses Bonanza as the sole manufacturer of the goods.

88. On June 2, 2024, Plaintiffs purchased vape cartridges that were produced by Bonanza and sold under Bonanza's labeling. Plaintiffs purchased these products, which were

available for sale to the general public, at 2:51 p.m. MST at a retail location owned and operated by Bonanza with a street address of 1406 West 38<sup>th</sup> Ave., Denver, CO 80211. An independent laboratory tested the Bonanza product, and issued a COA confirming that the THC contained in the product was synthetic and derived from hemp through chemical conversion.

89. On June 2, 2024, Plaintiffs purchased edible gummies that were produced by Bonanza and sold under Bonanza's labeling. Plaintiffs purchased these products, which were available for sale to the general public, at 2:51 p.m. MST at a retail location owned and operated by Bonanza with a street address of 1406 West 38<sup>th</sup> Ave., Denver, CO 80211. An independent laboratory tested the Bonanza product, and issued a COA confirming that the THC contained in the product was synthetic and derived from hemp through chemical conversion.

90. The labeling contained on illicit gummy and vape cartridge products produced and sold by Bonanza identified Bonanza as the lone manufacturer involved in the products.

91. Bonanza's labeling on its gummy and vape cartridge products represents to consumers that the products contain natural marijuana-derived THC. These labels are false, misleading, and contain material misrepresentations. Bonanza's labeling on its products fails to disclose to consumers that the THC contained in the products is a synthetic hemp-derived THC that was created using harmful chemicals.

92. Bonanza knowingly and/or recklessly engaged in deceptive trade practices by possessing, distributing, and selling illicit hemp-derived synthetic THC in its vape cartridge products and then failing to disclose this material information on its products' labeling.

### **Defendants' Actions Endanger Colorado Consumers and Have Injured Plaintiffs**

93. As alleged throughout this First Amended Complaint, Defendants incorporate synthetic hemp-derived THC into edible gummy and vape cartridge products they each manufacture, produce, distribute, and/or sell.

94. The labels contained on Defendants' products fail to disclose to consumers that the THC contained in the products is a synthetic hemp-derived THC created using harmful chemicals. Instead, Defendants misrepresent to consumers that the THC used in their products is a natural marijuana-derived THC.

95. Defendants, through false and misleading representations and omissions to consumers, are endangering all consumers of its products. Defendants, through their actions, are also undermining the credibility and consumer confidence in the retail marijuana industry as a whole.

96. Mammoth lawfully manufactures edible gummies and vape cartridge products using natural THC derived from marijuana. Because Mammoth complies with all marijuana regulations and pays all applicable fees and taxes, Mammoth's products cost significantly more to produce than Defendants' illicit products.

97. Defendants' illicit products are falsely marketed to Colorado consumers as being compliant with all marijuana regulations and as being derived from marijuana comparable to that used by Mammoth.

98. Defendants have usurped consumer market share from Mammoth as a result of their unlawful activities and deceptive trade practices, including pricing their products—which

are falsely marketed as marijuana-derived THC rather than synthetic THC derived from hemp— at prices far below what it could cost to legitimately produce a regulated marijuana product.

## **CLAIMS FOR RELIEF<sup>1</sup>**

### **FIRST CLAIM FOR RELIEF**

#### **Colorado Consumer Protection Act (C.R.S. § 6-1-101 *et seq.*) (Against Ware Hause, Walsenburg, Colorado Vape, and Bonanza)**

99. Plaintiff incorporates all prior allegations as if fully alleged herein.

100. Defendants engaged in unfair and deceptive trade practices by, *inter alia*, possessing, manufacturing, and/or selling products containing synthetic cannabinoids as alleged herein. Defendants further engaged in deceptive trade practices by intentionally and/or recklessly distributing and selling regulated marijuana products under false labeling that concealed the fact Defendants' products were actually hemp-derived products that contained chemically-converted THC. Defendants' actions were unlawful, and their products presented and continue to present significant public health and safety concerns.

101. Defendants' deceptive trade practices occurred in the course of their business as manufacturers and/or sellers of regulated marijuana products in Colorado.

102. Defendants' deceptive trade practices significantly impact the public as actual or potential consumers of Defendants' goods because the chemically-converted THC used in the manufacturing of Defendants' products are hazardous and present safety risks to Colorado consumers.

103. Plaintiff has suffered injury in the course of its business as a result of Defendants' deceptive trade practices. For example, Defendants have unlawfully marketed their products to

<sup>1</sup> All claims for relief asserted herein are brought on behalf of all Plaintiffs.

consumers as marijuana products, when in reality the products were comprised of chemically-converted THC derived from hemp. Because Defendants' products were derived from hemp rather than marijuana, Defendants were able to produce their products at a fraction of the price Plaintiff is able to produce its lawfully-produced marijuana products.

104. Defendants' deceptive trade practices have caused Plaintiff damages in an amount to be proved at trial.

**SECOND CLAIM FOR RELIEF**  
**Unjust Enrichment**  
**(Against all Defendants)**

105. Plaintiff incorporates all prior allegations as if fully alleged herein.

106. As alleged throughout this Complaint, Defendants received a benefit at Plaintiffs' expense through their unlawful actions and deceptive trade practices.

107. Given the circumstances present, it would be unjust for Defendants to retain the benefits derived from their unlawful scheme without compensating Plaintiffs.

108. Defendants should be ordered to pay restitution to Plaintiffs in the amount of the enrichment to be proven at trial.

**THIRD CLAIM FOR RELIEF**  
**Injunction**  
**(Against all Defendants)**

109. Plaintiff incorporates all prior allegations as if fully alleged herein.

110. Plaintiffs seek both preliminary and permanent injunctive relief enjoining Defendants from continuing the deceptive trade practices as alleged herein, including the unlawful practice of selling chemically-converted THC derived from hemp.

111. Plaintiffs will be irreparably harmed unless the injunction is issued, and the requested injunctive relief promotes the public interest.

**FOURTH CLAIM FOR RELIEF**  
**Violation of Colorado Organized Crime Control Act (COCCA)**  
**(Against Defendants Hau Processing, South Platte, and Ware Hause)**

112. Plaintiffs incorporate all prior allegations as if fully alleged herein.

113. Plaintiffs are all injured and aggrieved persons under C.R.S. §§ 18-17-103(4) and -106(6) & (7).

114. The COCCA Defendants are all persons as defined under C.R.S. §§ 18-17-103(4) and -104(3).

115. The COCCA Defendants constitute an Enterprise as defined under C.R.S. § 18-17-103(2).

116. Through the commission of two or more predicate acts as alleged throughout this First Amended Complaint, which constitute a pattern of racketeering activity, the COCCA Defendants knowingly conducted and/or participated in an Enterprise. For example, the COCCA Defendants have unlawfully possessed synthetic cannabinoids in violation of C.R.S. § 18-18-406.1. The COCCA Defendants also knowingly and unlawfully distributed, manufactured, dispensed, and sold synthetic cannabinoids in violation of C.R.S. § 18-18-406.2.

117. As a direct and proximate result of the COCCA Defendants' violations of C.R.S. §§ 18-17-104(1)(a) & -104(3), Plaintiffs have been injured in their business or property in an amount to be proven at trial.

118. As a result of their violations of COCCA, the COCCA Defendants are jointly and severally liable to Plaintiffs for their damages in an amount to be proven at trial.



119. In addition, pursuant to C.R.S. § 18-17-106(7), Plaintiffs are entitled to recover from the COCCA Defendants three times their damages, plus attorneys' fees and costs.

**FIFTH CLAIM FOR RELIEF**  
**Conspiracy to Violate COCCA**  
**(Against Defendants Hau Processing, South Platte, and Ware Hause)**

120. Plaintiffs incorporate all prior allegations as if fully alleged herein.

121. Each of the COCCA Defendants conspired or otherwise endeavored to violate C.R.S. § 18-17-104(1)(a) & -104(3) by agreeing to conduct and participate, directly or indirectly, in the conduct of the affairs of the Enterprise through a pattern of racketeering activity. This agreement was in violation of C.R.S. § 18-17-104(4).

122. The COCCA Defendants committed and caused to be committed a series of overt predicate acts of racketeering in furtherance of the conspiracy, including but not limited to the acts alleged throughout this First Amended Complaint.

123. As a direct and proximate result of the overt predicate acts of racketeering and of the COCCA Defendants' violations of C.R.S. § 18-17-104(4), Plaintiffs have been injured in their business or property within the meaning of C.R.S. § 18-17-106(7), as described above, in an amount to be proven at trial.

124. As a result of their violations of COCCA, the COCCA Defendants are jointly and severally liable to Plaintiffs for their damages, in an amount to be determined at trial.

125. In addition, pursuant to C.R.S. § 18-17-106(7), Plaintiffs are entitled to recover from the COCCA Defendants three times their damages, plus attorneys' fees and costs.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request the following relief:

- A. Judgment in their favor and against Defendants on all claims;
- B. Economic, non-economic, and special damages in an amount to be determined at trial, including attorneys' fees as special damages;
- C. Treble damages;
- D. All relief available to Plaintiffs against the COCCA Defendants under C.R.S. § 18-17-106, including but not limited to dissolution and revocation of licenses;
- E. Statutory and moratory interest;
- F. Disgorgement of profits;
- G. Injunctive relief as asserted herein;
- H. Reasonable attorneys' fees and costs; and
- I. Any additional legal or equitable relief that the Court deems just and proper.

Dated this 2<sup>nd</sup> day of August, 2024.

*s/ Michael P. Robertson*

Michael P. Robertson

Amy L. Jones

Mallory P. Nordberg

**Fennemore Craig, P.C.**

1700 Lincoln Street, Suite 2400

Denver, CO 80203

*Attorneys for Plaintiffs*

Plaintiff's Address:

50562 County Rd. U  
Saguache, CO 81149