

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

**CHRISTOPHER ALTOMARE, individually
and on behalf of all others similarly situated,**

Plaintiff,

-against-

**BRIAN JOHNSON a/k/a “LIVER KING,”
ANCESTRAL SUPPLEMENTS, LLC, and
THE FITTEST EVER LLC,**

Defendants.

INDEX No.:

**PLAINTIFF DESIGNATES:
NEW YORK COUNTY
AS THE PLACE OF TRIAL.
VENUE IS PROPER PURSUANT TO
CPLR §§ 503 AND 509**

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer this Class Action Complaint in this action and to serve a copy of your answer on Plaintiff’s attorneys within twenty (20) days after the service of this Summons, exclusive of the day of service, or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York; and, in the event you fail to appear or answer the within Class Action Complaint, judgment will be taken against you by default for the relief demanded therein.

Dated: Manhasset, New York
December 23, 2022

Respectfully Submitted,
COTTER LAW GROUP
*Attorneys for Plaintiff Christopher Altomare
and Class Members*
272 Plandome Road
Manhasset, New York 11030
(516) 303-0487

By: 
Jesse C. Cotter, Esq.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

**CHRISTOPHER ALTOMARE, individually
and on behalf of all others similarly situated,**

Plaintiff,

-against-

**BRIAN JOHNSON a/k/a “LIVER KING,”
ANCESTRAL SUPPLEMENTS, LLC, and
THE FITTEST EVER LLC,**

Defendants.

INDEX No.:

**CLASS ACTION COMPLAINT
AND
DEMAND FOR JURY TRIAL**

Plaintiff, CHRISTOPHER ALTOMARE (“Altomare”), by his attorneys, COTTER LAW GROUP, brings this Class Action Complaint against defendants, BRIAN JOHNSON a/k/a “LIVER KING” (“Liver King” or “Johnson”), ANCESTRAL SUPPLEMENTS, LLC (“Ancestral Supplements”), and THE FITTEST EVER LLC (“The Fittest”) (collectively “Defendants”), respectfully alleging the following upon information and belief, except for those allegations pertaining to Plaintiff, which are based on personal knowledge:

SUMMARY OF ACTION

1. This action arises from an elaborate, well-orchestrated marketing and advertising scheme designed by Defendants—and deployed by Defendant Liver King—to deceive and mislead, among others, vulnerable and health-conscious consumers.

2. As part of Defendants’ scheme, Defendant Liver King fashioned a cult-like, extreme and implausible regimented lifestyle referred to as the Nine Ancestral Tenets (“Ancestral Tenets”) which he then convinced consumers, whom he eventually referred to as “Primals,” to adopt and maintain, most notably, the second Ancestral Tenant (i.e., Eat) (“Eat Tenant”) which persuaded consumers to follow an ancestral diet by eating, among other things, “ground organs

including liver, spleen, pancreas, heart, and kidney” and “raw bull testicles, raw sweet bread, or raw heart.”¹

3. In furtherance of Defendants’ marketing and advertising scheme, Defendant Liver King was made to seem independent of his supplement companies, including Defendants Ancestral Supplements and The Fittest.

4. At first glance, Defendant Liver King, who consistently presented himself shirtless in an effort to showcase his muscular physique, portrayed himself as the epitome of health, and someone who simply encouraged consumers to adopt his proclaimed “Ancestral Tenets,” *however, in reality this was all part of Defendants’ marketing and advertising scheme.*

5. Defendants—knowing full well that consumer adherence to the Ancestral Tenets was unsustainable, specifically the Eat Tenet, which entails a dangerous and life-threatening diet, requiring the consumption of raw meat—cleverly designed a *two-part scheme* to initially generate traffic to Defendant Liver King’s website (<https://www.liverking.com>), and thereafter, once consumers realized they were unable to sustain the Eat Tenet, to then direct consumers, via hyperlink, to the websites (<https://ancestralsupplements.com>) (<https://www.thefittest.com>) of their supplement companies, including Defendants Ancestral Supplements and The Fittest, to purchase various Products (hereinafter defined).

6. As part of Defendants’ marketing and advertising scheme, Defendant Liver King promoted the Ancestral Tenets, primarily the Eat Tenet, through his website (<https://www.liverking.com>), numerous social media accounts ([@liverking](#) on Instagram, [@liverking](#) on TikTok), live rallies across the country, television appearances, and other media

¹ (<https://www.liverking.com/ancestral-tenets/eat>)

outlets including podcasts (e.g., Impulsive with Logan Paul, Full Send Podcast, Bertcast, Pardon My Take, and The Fighter and The Kid) and video streaming platforms such as YouTube.

7. On or around November 28, 2022, Derek, a fitness journalist, and the face of “More Plates More Dates,” a YouTube channel, published a documentary video that revealed, among other things, email correspondence, dating back to June 2021, between Defendant Liver King and his former short-term coach, bodybuilder and fitness guru “Vigorous Steve” a/k/a “Coach Steve,” wherein Liver King identified himself as the face of several supplement brands, including Defendant Ancestral Supplements, and described in detail his soon-to-be-launched marketing and advertising scheme.²

8. Within said email correspondence, Defendant Liver King mentioned his goal of gaining “1MM followers by March 2022,” to generate more revenue for Defendants’ numerous supplement companies.

9. The email correspondence revealed that Defendant Liver King had been experimenting with various steroids in furtherance of Defendants’ marketing and advertising scheme, and was requesting a consultation with Vigorous Steve to discuss steroid or other performance-enhancing drugs (PEDs) dosages in an effort to *maximize* his physical appearance prior to launching Defendants’ social media campaign.

10. Recently, now that his steroid use has been revealed, demonstrating his deception and non-conformity with the Ancestral Tenets, Defendant Liver King, in an attempt to divert consumers’ attention away from Defendants’ deceptive marketing and advertising scheme, deftly rationalizes their wrongdoing as a *so-called* “experiment to spread the message [and] to bring awareness to the 4,000 people a day who kill themselves the 80,000 people a day that try to kill

² (<https://www.youtube.com/watch?v=BKpmAGZQetc>)

themselves . . . [further stating that] our people are hurting at record rates with depression, autoimmune anxiety, infertility, low ambition in life, our young men are hurting . . . feeling lost, weak, and submissive.” [Liver King’s Apology Video](#).

11. Defendant Liver King claims that, “[he made it his] job to model, teach, and preach a simple elegant solution called ancestral living [by promoting] the nine ancestral tenets so our people no longer have to suffer . . .” [Liver King’s Apology Video](#).

12. Accordingly, this action is brought pursuant to Article 9 of the New York Civil Practice Law and Rules (CPLR), on behalf of Plaintiff Altomare, and all others similarly situated (i.e., New York State residents, as well as non-resident consumers who purchased the Products (hereinafter defined) at any store within New York or ordered the same for delivery into New York, within the statute of limitations) (“Class Members”), to hold Defendants Liver King, Ancestral Supplements and The Fittest, liable for their fraudulent and misleading business practices, including their deceptive marketing, advertising, branding, distribution, and sale of Defendants’ Products (hereinafter defined) in New York State.

PARTIES

CHRISTOPHER ALTOMARE

13. Plaintiff Altomare is a natural person residing in the State of New York, County of New York.

BRIAN JOHNSON A/K/A LIVER KING

14. Upon information and belief, Defendant Liver King, is a natural person residing in the State of Texas, with a primary residence in the County of Montgomery at 13876 Longwood Drive, Willis, Texas 77318.

15. Upon information and belief, Defendant Liver King, is and was at all times relevant hereto, the principal and managing member of Defendants Ancestral Supplements and The Fittest.

ANCESTRAL SUPPLEMENTS, LLC

16. Upon information and belief, Defendant Ancestral Supplements, is and was at all times relevant hereto, a domestic limited liability company duly organized and existing under the laws of the State of Texas, with a principal place of business at 6138 Merry Pint Court, Spring, Texas 77379-2428.

THE FITTEST EVER LLC

17. Upon information and belief, Defendant The Fittest Ever LLC, is and was at all times relevant hereto, a domestic limited liability company duly organized and existing under the laws of the State of Texas, with a principal place of business at 502 Montgomery Street, Suite 639, Willis, Texas 77378-8827.

18. Defendants Ancestral Supplements and The Fittest are sometimes hereinafter referred to collectively as the “Corporate Defendants.”

OTHER RELEVANT NON-PARTY

19. Upon information and belief, *non-party* Heart & Soil Supplements LLC (“Heart & Soil”), is and was at all times relevant hereto, a domestic limited liability company duly organized and existing under the laws of the State of Texas, with a principal place of business 1355 West Gray Street, Houston, Texas 77019-4019.

20. Upon information and belief, Defendant Liver King, is and was at all times relevant hereto, the principal and managing member of *non-party* Heart & Soil.

JURISDICTION AND VENUE

21. This Court has jurisdiction over each Defendant named herein pursuant to, *inter alia*, New York Civil Practice Laws and Rules (CPLR) §§ 301-02.

22. Defendants are subject to suit in New York because they engage in continuous and systematic business in state.

23. Defendants regularly conduct business in the State of New York. Defendants have sufficient minimum contacts with New York so as to render the exercise of jurisdiction by the New York courts permissible under traditional notions of fair play and substantial justice.

24. Defendants, through their interactive websites, have purposefully transacted business in the State of New York through the selling of their products to customers therein, and such transactions form the basis of the claims asserted herein.

25. Venue is proper in this Court pursuant to CPLR §§ 503 and 509 because a substantial portion of the transactions, events and wrongs complained of herein occurred in New York County, and by reason of the fact that Defendants have generated substantial revenue and received substantial compensation by doing business in the State of New York and by engaging in activities that had an effect in New York County.

FACTS

26. Upon information and belief, Defendant Liver King has owned and operated companies within the global dietary supplements market for approximately twenty (20) years.

27. Upon information and belief, Defendant Liver King is the principal of numerous supplement companies, including Defendants Ancestral Supplements and The Fittest.

28. Upon information and belief, Defendant Living King is the managing member of numerous supplement companies, including Defendants Ancestral Supplements and The Fittest.

29. Upon information and belief, Defendant Liver King has carved a niche in the global dietary supplements market by effectively freeze-drying and encapsulating beef liver, and other raw meat and organs, which ingredients Liver King alleges are sourced from New Zealand and Australia, for convenient consumer consumption.

30. In fact, Liver King has stated that Defendants, “take the raw gland glandulars, we freeze dry them, we put them in capsules, and we make it so easy [consumers] cant’s say no, we lower the barrier of entry . . . we’ve lowered it so low that it’s accessible to [all consumers].”³

31. Upon information and belief, Defendant Liver King exercises full and complete control over this segment of the global dietary supplements market by having acquired Defendants’ competitors including *non-party* Heart & Soil.

32. Upon information and belief, Defendant Liver King controls all logistical aspects of the manufacturing, distribution, and sale of Defendants’ Products (hereinafter defined), including both the upstream and downstream procurement process.

33. Defendants, through Defendant Ancestral Supplements, offer the following products (hereinafter collectively “Ancestral Products”):

- Ancestral Supplements Grass Fed Beef Liver;
- Ancestral Supplements Grass Fed Beef Organs;
- Ancestral Supplements Grass Fed Beef Bone Marrow;
- Ancestral Supplements Grass Fed Beef Thyroid;
- Ancestral Supplements Grass Fed Beef Living Collagen;
- Ancestral Supplements MOFO: Male Optimization Formula with Grass Fed Beef Organs;
- Ancestral Supplements FEM: Femail Enhancement Mixture;
- Ancestral Supplements Grass Fed Beef Adrenal;
- Ancestral Supplements Wild Caught Fish Eggs;
- Ancestral Supplements Grass Fed Beef Brain;

³ (<https://www.youtube.com/watch?v=BKpmAGZQetc>)

- Ancestral Supplements Ancestral Minerals;
- Ancestral Supplements Grass Fed Beef Tallow;
- Ancestral Supplements Grass Fed Beef Colostrum;
- Ancestral Supplements Grass Fed Beef Kidney;
- Ancestral Supplements Blood Vitality;
- Ancestral Supplements Grass Fed Ovine (Sheep) Thymus;
- Ancestral Supplements Grass Fed Bovine Tracheal Cartilage;
- Ancestral Supplements Grass Fed Beef Heart;
- Ancestral Supplements Grass Fed Beef Intestines;
- Ancestral Supplements Grass Fed Beef Pancreas;
- Ancestral Supplements Grass Fed Beef Lung;
- Ancestral Supplements Grass Fed Beef Spleen;
- Ancestral Supplements Grass Fed Beef Living Bone;
- Ancestral Supplements Grass Fed Beef Gallbladder;
- Ancestral Supplements Grass Fed Beef Prostate; and
- Ancestral Supplements Grass Fed Beef Placenta.

34. Defendants, through Defendant The Fittest, offer the following products (hereinafter collectively “The Fittest Products” and together with Ancestral Products, “Products”):

- The Fittest Whole Feast;
- The Fittest Liver King Bar;
- The Fittest King;
- The Fittest Queen;
- The Fittest Honor;

- The Fittest Ignite;
- The Fittest Charge;
- The Fittest Armor;
- The Fittest Fuel; and
- The Fittest Rest.

THE MARKETING AND ADVERTISING SCHEME

35. Upon information and belief, in early 2021, after Defendants established their stronghold, in an effort to bring awareness to their various brands and generate revenue for the Corporate Defendants, Defendant Liver King, on behalf of, and with support and cooperation from, the Corporate Defendants, began formulating a deceptive advertising and marketing scheme.

36. Upon information and belief, the Defendants began by creating the “Liver King,” a character played by Defendant Johnson, that claims to live solely on an ancestral diet consisting of raw meat, most notably, *liver*, and strictly adheres to a Neanderthal-like lifestyle.

37. Upon information and belief, instead of having “Liver King” market their Products directly to consumers, Defendants deployed a well-orchestrated *front* by having Defendant Johnson, as “Liver King,” appear independent of the Corporate Defendants, on his own website, and for him to focus his efforts on persuading consumers to adhere to, or abide by, the Ancestral Tenets, primarily the Eat Tenet.

38. Upon information and belief, Defendants knew that by persuading consumers to *first* follow the Ancestral Tenets, they could eventually induce consumers into purchasing the Products from the Corporate Defendants in order to abide by the Eat Tenet which required

consumers to eat, among other things, “ground organs including liver, spleen, pancreas, heart, and kidney” and “raw bull testicles, raw sweet bread, or raw heart.”⁴

39. Upon information and belief, Defendants had “Liver King” direct consumers to their numerous supplement companies, including Defendants Ancestral Supplements and The Fittest, to purchase the Products by including hyperlinks to Corporate Defendants’ websites on the “Liver King” website (<https://www.liverking.com>).

40. Upon information and belief, Defendants knew that it was impossible for consumers to comply with the Eat Tenet and that once consumers were under Defendant Liver King’s spell, they would have no choice but to purchase Products, which Defendants advertised as the equivalent and/or alternative to eating raw meat, allowing consumers to maintain conformity with the Ancestral Tenets, specifically the Eat Tenet.

41. Upon information and belief, in order for Defendant Johnson, a middle-aged man, to pull off the “Liver King” role, which would involve him making shirtless appearances to flaunt his body and attract attention to the Ancestral Tenets, he would need to be in near perfect physical condition.

42. Upon information and belief, in early 2021, ahead of Defendants’ official launch of their advertising and marketing scheme, Defendant Liver King began experimenting with steroids to build his physique and to increase his appeal to consumers.

43. Upon information and belief, in or about June 2021, Defendant Liver King reached out to Vigorous Steve, bodybuilder and fitness guru, for advice on how to maximize his steroid usage to achieve optimal results.

⁴ (<https://www.liverking.com/ancestral-tenets/eat>)

44. As revealed in recently disclosed email correspondence between Defendant Liver King and Vigorous Steve, Liver King held himself out as the face of several supplement brands, including Defendant Ancestral Supplements, and described Defendants' then-soon-to-be-launched marketing and advertising scheme which necessitated his desperate need for stronger steroids to expedite his transformation from "Brian Johnson" to the "Liver King."

45. Upon information and belief, Defendant Liver King used steroids up until the official launch of Defendants' marketing and advertising scheme, and thereafter, continued to do so until his routine usage was exposed in late November 2022.

THE LAUNCH OF DEFENDANTS' MARKETING AND ADVERTISING SCHEME

46. From August 2021 to late November 2022 ("Class Period"), Defendant Liver King achieved world-wide fame and amassed millions of followers on social media for his *alleged* raw-organ diet, *jacked* physique, and Neanderthal-like workouts.

47. Defendant Liver King fashioned a cult-like, extreme and implausible regimented lifestyle, referred to as the Ancestral Tenets which he then convinced consumers to adopt and maintain, most notably, the Eat Tenet which persuaded consumers to follow an ancestral diet by eating, among other things, "ground organs including liver, spleen, pancreas, heart, and kidney" and "raw bull testicles, raw sweet bread, or raw heart."⁵

48. At first glance, Defendant Liver King, who consistently presented himself shirtless in an effort to showcase his muscular physique, portrayed himself as the epitome of health, and someone who was simply encouraging consumers to adopt his proclaimed Ancestral Tenets, *however, in reality this was all part of Defendants' marketing and advertising scheme.*

⁵ (<https://www.liverking.com/ancestral-tenets/eat>)

49. Defendants—knowing full well that consumer adherence to the Ancestral Tenets was unsustainable, specifically the Eat Tenet, which entails a dangerous and life-threatening diet, requiring the consumption of raw meat—cleverly designed a *two-part scheme* to initially generate traffic to Defendants’ “Liver King” website (<https://www.liverking.com>), and thereafter, once consumers realized they were unable to sustain the Eat Tenet, to then direct consumers, via hyperlink, to the websites (<https://ancestralsupplements.com>) (<https://www.thefittest.com>) of their supplement companies, Defendants Ancestral Supplements and The Fittest, to purchase various Products.

50. In furtherance of Defendants’ marketing and advertising scheme, Defendant Liver King promoted the Ancestral Tenets through his website (<https://www.liverking.com>), numerous social media accounts ([@liverking](#) on Instagram, [@liverking](#) on TikTok), live rallies across the country, television appearances, and other media outlets including podcasts (e.g., Impulsive with Logan Paul, Full Send Podcast, Bertcast, Pardon My Take, and The Fighter and The Kid) and video streaming platforms such as YouTube.

51. Upon information and belief, during the Class Period, Defendant Liver King persuaded millions of consumers to follow his self-proclaimed Ancestral Tenets, specifically emphasizing the importance of the Eat Tenet which required consumers to incorporate raw meat into their diet.

52. Upon information and belief, during the Class Period, Defendant Liver King persuaded millions of consumers to adhere to, or abide by, the Eat Tenet by repeatedly making representations to consumers that his near-perfect physique, and optimal health, were solely attributable to his adoption of the Ancestral Tenets, predominantly the Eat Tenet.

53. In furtherance of Defendants' scheme, including their promotion of the Eat Tenet, Defendant Liver King regularly uploaded videos, photographs, and other posts, promoting the Ancestral Tenets, nearly all of which depicted Liver King consuming large portions of raw meat demonstrating his conformity with the Eat Tenet.

54. Upon information and belief, during the Class Period, millions of consumers relied on Defendant Liver King's representations and adopted the Eat Tenet by incorporating raw meat and other organs into their daily diet.

55. Upon information and belief, a large portion of consumers who relied on Defendant Liver King's *misrepresentations*, and consumed raw meat and other organs, suffered severe and other food borne illnesses.

56. Upon information and belief, many, if not all, consumers who relied on Defendant Liver King's *misrepresentations*, and consumed raw meat and other organs, were unable to adhere to the Eat Tenet, and thereafter, found themselves searching for an equivalent and/or alternative to eating raw meat in order to maintain their compliance with the Ancestral Tenets for the sole purpose of achieving Defendant Liver King's promised physique, optimal health, and other life-changing benefits.

57. Upon information and belief, these consumers were then directed to Defendants' supplement companies including Defendants Ancestral Tenets and The Fittest to purchase the Products.

58. Defendants' deceptive representations and omissions were material insofar as reasonable people, in this case, among others, vulnerable and health-conscious consumers, attached importance to their representations, including, without exception, Defendant Liver King's representations concerning the alleged benefits of adhering to the Ancestral Tenets, specifically

the Eat Tenet, and thereby induced consumers to act upon such misrepresentations when purchasing the Products.

59. Upon information and belief, as set forth herein, during the Class Period, Defendants exercised full and complete control over this segment of the global dietary supplements market; therefore consumers were forced to purchase the Products from the Defendants as well as other companies Defendants failed to disclose their interest in, and/or ownership of, such as Defendants' alleged competitor *non-party* Heart & Soil.

DEFENDANT LIVER KING'S ONGOING DENIAL

60. Upon information and belief, during the Class Period, Plaintiff Altomare and Class Members purchased the Products from Defendants in reliance on Defendants' misrepresentations, including, without exception, Defendant Liver King's representations concerning the *alleged* benefits of adhering to the Ancestral Tenets, specifically the Eat Tenet, and would have continued to repurchase the Products had not Defendant Liver King's steroid use been revealed.

61. Upon information and belief, during the Class Period, Plaintiff Altomare and Class Members, purchased more of, and/or paid more for, the Products, than they would have had Defendant Liver King's steroid use been revealed, demonstrating the ineffectiveness of the Ancestral Tenets, namely the Eat Tenet.

62. During the Class Period, when Defendant Liver King was repeatedly questioned as to whether his near-perfect physique and optimal health was achieved by adhering to the Ancestral Tenets, and *not* due to his use of any steroid or performance enhancing drug (PED), he vehemently denied using these substances and insisted that his physique and health were solely attributable to his strict adherence to the Ancestral Tenets.

63. Defendant Liver King's ongoing denial of using any steroid or other performance enhancing drug (PED), and misrepresentations concerning his alleged adherence to the Ancestral

Tenets, further induced consumers to trust and rely on the efficacy of the Ancestral Tenets and purchase the Products.

64. Consequently, Plaintiff Altomare and Class Members reasonably relied to their detriment on Defendants' false, deceptive, and misleading representations and omissions when purchasing the Products.

65. In making the false, deceptive, and misleading representations and omissions described herein, Defendants knew and intended for consumers to not only purchase the Products, but also pay a premium for the same.

66. As an immediate, direct, and proximate result of Defendants' false, deceptive, and misleading representations and omissions, Plaintiff Altomare and the Class Members suffered damages in that they: (i) purchased the Products, and paid a premium for the same based on Defendant Liver King's representations concerning the efficacy of the Ancestral Tenets, namely the Eat Tenet; (ii) were deprived of the benefit of the bargain because the Products they purchased were unable to provide the benefits Defendants represented and warranted; (iii) were deprived of the benefit of the bargain because the Products they purchased had less value than what Defendants represented and warranted; (iv) ingested substances (i.e., the Products) based on Defendant Liver King's representations that he was ingesting the same, and experiencing certain results which Defendants knew were unattainable absent the use of any steroid or performance enhancing drug (PED); and (v) were induced into purchasing the Products based on Defendant Liver King's representations concerning the alleged benefits of adhering to the Ancestral Tenets, specifically the Eat Tenet, as well as his denial of using any steroid or performance-enhancing drug (PED).

67. Upon information and belief, during the Class Period, Defendants generated revenue in excess of One Hundred Million Dollars (\$100,000,000.00).

68. Upon information and belief, a substantial portion of Defendants' revenue was generated from New York State residents, as well as non-resident consumers who purchased the Products at stores within New York or ordered the same for delivery into the State.

69. Defendants' false, misleading, and deceptive representations and omissions are likely to continue to deceive and mislead reasonable consumers and the general public, as they have already deceived and misled Plaintiff Altomare and Class members.

CLASS ALLEGATIONS

70. This action is properly maintainable as a class action pursuant to Article 9 of the New York Civil Practice Law and Rules.

71. The class will consist of all New York State consumer residents, as well as non-resident consumers who purchased the Products at stores within New York or ordered the same for delivery into the State

72. Notice is feasible because, upon information and belief, Defendants possess knowledge, as well as detailed transaction records, concerning the consumers that purchased the Products.

73. Common questions of law or fact predominate and include whether Defendants' representations and omissions were false, deceptive, and misleading and if Plaintiff Altomare and Class Members are entitled to damages.

74. Plaintiff Altomare's claims and basis for relief are typical to other Class Members because all were subjected to the same false, deceptive, and misleading representations and omissions.

75. Plaintiff Altomare is an adequate representative because his interests do not conflict with any other Class Member.

76. No individual inquiry is necessary since the focus is only on Defendants' practices and the class is definable and ascertainable.

77. Individual actions would risk inconsistent results, be repetitive and are impractical to justify, as the claims are modest relative to the scope of the harm.

78. Plaintiff Altomare's counsel is competent and experienced in complex commercial litigation and intends to protect Class Members' interests adequately and fairly.⁶

FIRST CAUSE OF ACTION

(On Behalf of Plaintiff and All Class Members for the Violation of New York's Deceptive Practices Act (DPA) (N.Y. Gen. Bus. Law § 349) Against Defendants Brian Johnson, Ancestral Supplements, LLC, and The Fittest Ever LLC)

79. Plaintiff repeats and realleges the allegations set forth in Paragraphs "1" through "78" as if fully set forth herein.

80. New York's Deceptive Practices Act ("DPA") (N.Y. Gen. Bus. Law § 349) declares unlawful "[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in [New York State] . . ."

81. To deceptively advertise and market the Products to consumers, and generate revenue for Corporate Defendants, Defendants deployed their marketing and advertising scheme.

⁶ Anderson v. Pinn, 126 N.Y.S.3d 759, 760 (App. Div. 2nd Dept. 2020);

Elizabeth Votsis & Crave L&D, LLC v. ADP, LLC, 132 N.Y.S.3d 190, 192 (App. Div. 4th Dept. 2020);

Meglio I Corp. v. RENU Contracting & Restoration, Inc., et al., Index No. 616435/2019 (Sup. Ct. Suffolk County 2019);

Asset Based Managers LLC v. Anthony Altieri, et al., Index No. 605842/2019 (Sup. Ct. Suffolk County 2019);

At Your Service Party Rental, LLC, et al. v. Steven Winick, et al., Index No. 612643/2022 (Sup. Ct. Suffolk County 2022);

Cassone Leasing, Inc. v. Bruce Goodstein, et al., Index No. 612392/2019 (Sup. Ct. Suffolk County);

Greenberg Farrow Architecture, Inc. v. LI City Hospitality, LLC, et al., Index No. 708939/2021 (Sup. Ct. Queens County); and

Eros International PLC v. Mangrove Partners, et al., Index No. 653096/2017 (Sup. Ct. New York County 2017)

82. Defendants' improper consumer-oriented conduct, including, without exception, Defendant Liver King's misrepresentations and omissions, were misleading in a material way in that they, *inter alia*, induced Plaintiff Altomare, and Class Members, to purchase the Products, and pay a premium for the same when they otherwise would not have.

83. Plaintiff Altomare, and Class Members, were not only induced into purchasing the Products, but also paid a premium for the same based on Defendants' false, deceptive, and misleading representations and omissions.

84. Defendants' deceptive and misleading practices constitute deceptive acts and practice in the conduct of business in violation of DPA (N.Y. Gen. Bus. Law § 349).

85. As a result of Defendants' unlawful deceptive acts and practices, Plaintiff Altomare and Class Members have suffered substantial damages.

86. Accordingly, Plaintiff Altomare and Class Members are entitled to monetary, statutory, compensatory, treble and punitive damages, restitution, and disgorgement of all monies obtained by means of Defendants' unlawful conduct, interest, costs and disbursements, including reasonable attorneys' fees and costs, in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00.

SECOND CAUSE OF ACTION

(On Behalf of Plaintiff and All Class Members for the Violation N.Y. Gen Bus. Law § 350 Against Defendants Brian Johnson, Ancestral Supplements, LLC, and The Fittest Ever LLC)

87. Plaintiff repeats and realleges the allegations set forth in Paragraphs "1" through "86" as if fully set forth herein.

88. N.Y. Gen. Bus. Law § 350 provides, in part, "[f]alse advertising in the conduct of any business, trade, or commerce or in the furnishing of any service in this state is hereby declared unlawful."

89. N.Y. Gen. Bus. Law § 350 a (1) provides,

The term ‘false advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual . . .

90. Plaintiff Altomare, and Class Members, purchased Defendants’ Products for personal use after being induced by Defendants’ deceptive consumer-oriented conduct, including, without exception, Defendant Liver King’s misrepresentations and omissions.

91. Defendants deployed a deceptive marketing and advertising scheme that targeted consumers and contained false, and materially misleading representations and omissions concerning the Products.

92. Defendants’ conduct was willful, wanton, and carried out with reckless disregard for the truth.

93. Plaintiff Altomare, and Class Members, were not only induced into purchasing the Products, but also paid a premium for same based on Defendants’ false, deceptive, and misleading representations and omissions.

94. Defendants’ deceptive and misleading practices constitute deceptive acts and practices in the conduct of business in violation of N.Y. Gen. Bus. Law § 350.

95. Defendants’ false, deceptive, and misleading misrepresentations were material and substantially uniform in content, presentation, and impacted consumers at large. Moreover, all consumers purchasing the Products during the Class Period were exposed to Defendants’ false, deceptive, and misleading misrepresentations.

96. As a result of Defendants' unlawful deceptive acts and practices, Plaintiff Altomare and Class Members have suffered substantial damages.

97. Accordingly, Plaintiff Altomare and Class Members are entitled to monetary, statutory, compensatory, treble and punitive damages, restitution, and disgorgement of all monies obtained by means of Defendants' unlawful conduct, interest, costs and disbursements, including reasonable attorneys' fees and costs, in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00.

THIRD CAUSE OF ACTION

(On Behalf of Plaintiff and All Class Members for the Breach of Express Warranty Against Defendants Brian Johnson, Ancestral Supplements, LLC, and The Fittest Ever LLC)

98. Plaintiff repeats and realleges the allegations set forth in Paragraphs "1" through "97" as if fully set forth herein.

99. Defendants Liver King provided Plaintiff Altomare and Class Members with an express warranty in the form of both written and verbal affirmations of fact promising and representing certain life-changing benefits to consumers, such as achieving a near-perfect physique, and optimal health, by adhering to the Ancestral Tenets, specifically the Eat Tenet, which inevitably required consumers to purchase the Products, all the while denying his use of any steroid or performance-enhancing drug (PED).

100. Plaintiff Altomare, and Class Members, were not only induced into purchasing the Products, but also paid a premium for same based on Defendants' express warranties, as well as their false, deceptive, and misleading representations and omissions.

101. Defendants had a duty to disclose that Defendant Liver King's near-perfect physique, and optimal health, were not attributable to his adoption of the Ancestral Tenets, predominantly the Eat Tenet, *but in fact were solely attributable to the use of steroids or performance-enhancing drugs (PEDs)*.

102. As set forth above, when Defendant Liver King was repeatedly questioned as to whether his near-perfect physique and optimal health was achieved by adhering to the Ancestral Tenets, and *not* due to his use of any steroid or performance-enhancing drug (PED), thus providing him an opportunity to cure his breach of Defendants' express warranties, he vehemently denied using these substances and instead, insisted that his physique and health were solely attributable to his strict adherence to the Ancestral Tenets.

103. Plaintiff Altomare, and Class Members, would not have purchased the Products, and/or paid a premium for the same, and would have continued to repurchase the Products, had Defendants disclosed the true facts concerning the efficacy of the Ancestral Tenants, as well as Defendant Liver King's use of steroids and performance enhancing drugs (PEDs).

104. As a result of Defendants' breach of express warranty, Plaintiff Altomare and Class Members have suffered substantial damages.

105. Accordingly, Plaintiff Altomare and Class Members are entitled to monetary, statutory, compensatory, treble and punitive damages, restitution, and disgorgement of all monies obtained by means of Defendants' unlawful conduct, interest, costs and disbursements, including reasonable attorneys' fees and costs, in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00.

FOURTH CAUSE OF ACTION

(On Behalf of Plaintiff and All Class Members for Fraud and Misrepresentation Against Defendants Brian Johnson, Ancestral Supplements, LLC, and The Fittest Ever LLC)

106. Plaintiff repeats and realleges the allegations set forth in Paragraphs "1" through "105" as if fully set forth herein.

107. Upon information and belief, Defendants designed a well-orchestrated marketing and advertising scheme that was deployed by Defendant Liver King to deceive and mislead, among others, vulnerable and health-conscious consumers, out of funds reasonably believed to exceed the

sum of \$100,000,000.00, a substantial portion of which was generated from New York State residents, as well as non-resident consumers who purchased the Products at stores within New York or ordered the same for delivery into the State.

108. Defendants induced Plaintiff Altomare and Class Members to purchase the Products by making false, deceptive, and misleading representations and omissions concerning the Products.

109. These representations were false when made and Defendants knew they were false.

110. Based on Defendants' false, deceptive, and misleading representations and omissions, Plaintiff Altomare and Class Members were not only induced into purchasing the Products, but also paid a premium for the same, and would have continued to do so had not Defendant Liver King's steroid use been revealed.

111. As a result of Defendants' fraud and misrepresentation, Plaintiff Altomare and Class Members have suffered substantial damages.

112. Accordingly, Plaintiff Altomare and Class Members are entitled to monetary, statutory, compensatory, treble and punitive damages, restitution, and disgorgement of all monies obtained by means of Defendants' unlawful conduct, interest, costs and disbursements, including reasonable attorneys' fees and costs, in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00.

WHEREFORE, Plaintiff CHRISTOPHER ALTOMARE, on behalf of himself and the Class Members demands judgment against Defendants, BRIAN JOHNSON a/k/a “LIVER KING,” ANCESTRAL SUPPLEMENTS, LLC, AND THE FITTEST EVER LLC, as follows:

- Declaring this a proper class action, certifying Plaintiff CHRISTOPHER ALTOMARE as representative and the undersigned as counsel for the Class Members;
- On the **FIRST CAUSE OF ACTION**, against Defendants, BRIAN JOHNSON a/k/a “LIVER KING,” ANCESTRAL SUPPLEMENTS, LLC, and THE FITTEST EVER LLC, jointly and severally, an award of damages in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00, plus interest thereon at the legal rate, together with costs and disbursements, including reasonable attorneys’ fees;
- On the **SECOND CAUSE OF ACTION**, against Defendants, BRIAN JOHNSON a/k/a “LIVER KING,” ANCESTRAL SUPPLEMENTS, LLC, and THE FITTEST EVER LLC, jointly and severally, an award of damages in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00, plus interest thereon at the legal rate, together with costs and disbursements, including reasonable attorneys’ fees;
- On the **THIRD CAUSE OF ACTION**, against Defendants, BRIAN JOHNSON a/k/a “LIVER KING,” ANCESTRAL SUPPLEMENTS, LLC, and THE FITTEST EVER LLC, jointly and severally, an award of damages in an amount to be determined at trial, but reasonably believed to exceed the sum of \$25,000,000.00, plus interest thereon at the legal rate, together with costs and disbursements, including reasonable attorneys’ fees;
- On the **FOURTH CAUSE OF ACTION**, against Defendants, BRIAN JOHNSON a/k/a “LIVER KING,” ANCESTRAL SUPPLEMENTS, LLC, and THE FITTEST EVER LLC, an award of damages in an amount to be determined at trial, but reasonably believed to exceed the

sum of \$25,000,000.00, plus interest thereon at the legal rate, together with costs and disbursements, including reasonable attorneys' fees; and

- Together with such other, further, and different relief as this Court may deem just and proper.

Dated: Manhasset, New York
December 23, 2022

Respectfully Submitted,
COTTER LAW GROUP
*Attorneys for Plaintiff Christopher Altomare
and Class Members*
272 Plandome Road
Manhasset, New York 11030
(516) 303-0487

By: 

Jesse C. Cotter, Esq.