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**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

METRON NUTRACEUTICALS, LLC  
Plaintiff

CLAYTON THOMAS, ET AL.  
Defendant

Case No: CV-16-859345

Judge: MICHAEL J RUSSO

**JOURNAL ENTRY**

01/08/2021: D1 CLAYTON THOMAS'S REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, FILED 11/10/2020 BY MATTHEW L ALDEN 0065178, IS DENIED.

PI METRON NUTRACEUTICALS, LLC'S MOTION TO SHOW CAUSE WHY CLAYTON THOMAS SHOULD NOT BE HELD IN ADDITIONAL CIVIL AND CRIMINAL CONTEMPT OF COURT AND REQUEST FOR HEARING, FILED 07/03/2020, IS GRANTED.

A HEARING ON THIS MOTION WAS HELD ON 10/13/2020. THIS CASE HAS A LENGTHY AND DETAILED HISTORY WITH THIS COURT, AND THE COURT WILL NOT REPEAT AGAIN ALL THE FACTS THAT LED TO THE DISPUTE BETWEEN THESE PARTIES. THE COURT INSTEAD WILL FOCUS BELOW ONLY ON THE FACTS USED TO DETERMINE METRON'S MOTION, WHICH IS ESSENTIALLY A MOTION TO ENFORCE A SETTLEMENT AGREEMENT (SEE THE 06/16/2017 AGREED ENTRY THAT WAS JOINTLY PROPOSED BY THE PARTIES AND ENTERED BY THE COURT, THEREBY DISSOLVING ANY INJUNCTIONS THAT WERE IN PLACE).

**UNLAWFULLY RETAINED PRODUCT**

ON MAY 9, 2016, THIS COURT ORDERED CLAYTON THOMAS AND HIS COMPANY PERSONALIZED HEALTH CARE SOLUTION, LLC ("PHS") TO "IMMEDIATELY RETURN THE REMAINING 2,616 BOTTLES OF CYTODETOX" IN A PRELIMINARY INJUNCTION. THIS COURT REITERATED THIS MANDATE ON JUNE 6, 2016. IN THE COURT'S FINAL JUDGMENT ENTRY DATED 06/16/2017 (THE "AGREEMENT"), THIS COURT-FOR THE THIRD TIME-ORDERED MR. THOMAS AND PHS TO "IMMEDIATELY RETURN ALL REMAINING BOTTLES OF CYTODETOX IN HIS POSSESSION AND UNDER HIS CONTROL." .

THE COURT FINDS FROM THE ARGUMENT IN THE BRIEF AND EVIDENCE PRESENTED AT THE HEARING, BY CLEAR AND CONVINCING EVIDENCE, THAT NONE (ZERO) OF THE 2,616 BOTTLES WERE RETURNED TO METRON. THE COURT AGREES THAT METRON SHOULD BE COMPENSATED FOR THE FAIR MARKET VALUE OF THE 2,616 BOTTLES. THE GENERAL RULE IN OHIO IS TO USE THE FAIR MARKET VALUE TO MEASURE PROPERTY LOSS DAMAGES. FOR EXAMPLE, THE METHOD FOR VALUING STOLEN PROPERTY "IS THE FAIR MARKET VALUE OF THE STOLEN PROPERTY." STATE V. SHERFEY, 2014-OHIO-1717, ¶56 (5TH DIST.). IN TORT CLAIMS (SUCH AS CONVERSION), THE GENERAL RULE FOR THE MEASURE OF DAMAGES IS "THE MARKET VALUE OF THE PROPERTY AT THE TIME OF THE CONVERSION." CENT. OHIO MED. TEXTILES V. PSC METALS, INC., 2020-OHIO-591, ¶33 (10TH DIST.). "MARKET VALUE" OR "FAIR VALUE" IS GENERALLY DEFINED AS "THE PRICE THAT [A] SELLER IS WILLING TO ACCEPT AND [A] BUYER IS WILLING TO PAY ON THE OPEN MARKET AND IN AN ARM'S LENGTH TRANSACTION." ID. (CITING BLACK'S LAW DICTIONARY, 1597 (8TH ED. 2004).

DR. TSIRIKOS-KARAPANOS TESTIFIED THAT, ON THE OPEN MARKET, CYTODETOX WAS \$85.00 PER BOTTLE AT THE TIME OF THIS LITIGATION. (TRAN. 97:5-11). THIS TESTIMONY WAS UNREFUTED; THEREFORE, THE FAIR MARKET VALUE OF THE 2,616 BOTTLES OF CYTODETOX (AT \$85.00 A BOTTLE) IS \$222,360. BECAUSE MR. THOMAS FAILED TO RETURN ANY THE CYTODETOX BOTTLES, IN VIOLATION OF THE COURT'S ORDERS AND HIS OWN

12/18/2020

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AGREEMENT, THIS COURT AWARDS METRON DAMAGES FOR THE VIOLATION, WHICH UNDER OHIO LAW IS MEASURED BY THE FAIR MARKET VALUE OF THE 2,616 CYTODETOX BOTTLES. THE COURT SANCTIONS MR. THOMAS IN THE AMOUNT OF \$222,360, FOR VIOLATION OF THE SETTLEMENT AGREEMENT, WHICH REPRESENTS THE FAIR MARKET VALUE OF THE UNRETURNED CYTODETOX BOTTLES.

ENDORSEMENT OF VITALITY DETOX DROPS

THE AGREEMENT STATED THAT THOMAS "SHALL NOT ADVERTISE FOR ANY SPECIFIC ZEOLITE BASED PRODUCTS UNTIL JUNE 17, 2019. DEFENDANT SHALL NOT . . . EXPRESS UNTIL JUNE 17, 2019 THE BENEFIT OR PREFERENCE OR MAKE ANY COMPARISON OF ANY TYPE OF ANY ZEOLITE PRODUCT OVER OTHERS THAT ARE RELATED TO METRON'S OR TO DR. TSIRIKOS-KARAPANOS' INTELLECTUAL PROPERTY WHICH INCLUDE, BUT ARE NOT LIMITED TO . . . WATER SOLUBLE CLINOPTILOLITE FRAGMENTS."

ON SEPTEMBER 25, 2017-THREE MONTHS INTO THE INJUNCTION PERIOD-MR. THOMAS APPEARED ON A PODCAST WITH NICK ZYROWSKI. (TRAN. 56:24-57:1). MR. THOMAS ADMITTED THAT, DURING THAT PODCAST, HE STATED HIS PREFERENCE FOR VITALITY DETOX DROPS OVER OTHER PRODUCTS. THE COURT FINDS THAT THIS BEHAVIOR VIOLATES THE SETTLEMENT AGREEMENT, RELATING TO HIS ENDORSEMENT OF VITALITY DETOX DROPS, BUT PLAINTIFF HAS NOT SHOWN ANY DAMAGES FROM THIS VIOLATION.

BOOTHEEL LABS

THE AGREEMENT STATED: "CLAYTON THOMAS . . . SHALL NOT CONSULT FOR ANY COMPANY INVOLVED IN ANY ZEOLITE BASED PRODUCTION, MANUFACTURING, DISTRIBUTION, MARKETING OR SALE UNTIL JUNE 17, 2019." THE INJUNCTION FURTHER ENJOINED PHS, BY AND THROUGH ITS OWNERS, EMPLOYEES, OR AGENTS (WHICH INCLUDED CLAYTON THOMAS) FROM: "SUPPORTING, ADVISING, OR PARTICIPATING WITH OR IN ANY FUTURE OF ONGOING BUSINESS THAT IS ADVERSE AND/OR COMPETITIVE WITH METRON, SPECIFICALLY AS TO ZEOLITES, INCLUDING BUT NOT LIMITED TO ENJOINING THOMAS FROM ANY COOPERATING WITH OR INVOLVEMENT IN A COMPANY THAT IS MANUFACTURING, PRODUCING, SELLING, OR DISTRIBUTING ZEOLITES."

ON NOVEMBER 13, 2018-STILL WITHIN THE PROHIBITED PERIOD-MR. THOMAS REGISTERED AN ASSUMED BUSINESS NAME FOR PHS CALLED "BOOTHEEL LABS." (EX. 32, P. 4). HE SIGNED THE APPLICATION AS "PRESIDENT" OF PERSONALIZED HEALTHCARE SOLUTION, LLC. (TRAN. 63:12-14). MR. THOMAS AGREED THAT BOOTHEEL LABS WAS AN ASSUMED BUSINESS NAME FOR PHS, WHICH WAS CREATED DURING THE INJUNCTION PERIOD. (TRAN. 63:8-11). MR. THOMAS ADMITTED HIS WIFE CAME UP WITH THE NAME "BOOTHEEL LABS." (TRAN. 103:14-23). MR. THOMAS ADMITTED HE CREATED THE ASSUMED BUSINESS NAME OF "BOOTHEEL LABS" FOR HIS WIFE (WHO WAS ACTIVELY INVOLVED WITH VITALITY DETOX DROPS) AS A "PLACEHOLDER." (TRAN. 106:6-8). MR. THOMAS TESTIFIED, "THE APPLICATION WAS MADE TO HOLD THE NAME, YES." (TRAN. 106:8). "BECAUSE ON THE APPLICATION, AT THE TIME, THEY WANTED TO HOLD THE NAME." (TRAN. 107:5-8). MR. THOMAS ADMITTED THE NAME "BOOTHEEL LABS" APPEARS AT THE BOTTOM OF WWW.VITALITYHAPPENS.COM WEBSITE. (TRAN. 62-63). MR. THOMAS TESTIFIED THAT HIS WIFE LATER CREATED A SEPARATE ENTITY CALLED "BOOTHEEL LABS." (TRAN. 106:22-107:1). BUT BEFORE THAT COMPANY WAS CREATED, MR. THOMAS USED HIS COMPANY, PHS, TO CREATE THE NAME "BOOTHEEL LABS." MR. THOMAS TESTIFIED THAT, "[HIS STAFF] PUT IT UNDER MY COMPANY'S NAME TO HOLD THE NAME AS THEY WORKED ON THE REST OF IT." (TRAN. 107:7-17).

MR. THOMAS'S 2018 CREATION OF "BOOTHEEL LABS" AS A PLACE HOLDER FOR VITALITY DETOX DROPS IS A DIRECT VIOLATION OF THE SETTLEMENT AGREEMENT. THE COURT FINDS THAT THIS BEHAVIOR VIOLATES THE SETTLEMENT AGREEMENT, RELATING TO HIS ENDORSEMENT OF VITALITY DETOX DROPS, BUT PLAINTIFF HAS NOT SHOWN ANY DAMAGES FROM THIS VIOLATION.

ATTORNEY FEES

DUE TO MR. THOMAS'S VIOLATION OF THE SETTLEMENT AGREEMENT IN PROSECUTION OF THIS ACTION, COUNSEL FOR METRON HAS BILLED 105.4 HOURS RESULTING IN METRON INCURRING \$31,609 IN ATTORNEYS' FEES. (AFFIDAVIT OF RYAN RUBIN, ATTACHED AS EXHIBIT 2). METRON ALSO INCURRED \$1,570 FOR LITIGATION

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SUPPORT STAFF UTILIZED DURING THE OCTOBER 13, 2020 CONTEMPT HEARING. (ID.). THE COURT FINDS THESE AMOUNTS TO BE REASONABLE BASED ON THE EXPERIENCE OF COUNSEL AND ON THE RATE CHARGED WITHIN THIS AREA OF LAW IN CLEVELAND, OHIO. THE COURT AWARDS A TOTAL AMOUNT OF \$33,179 FOR THE COSTS OF PROSECUTING MR. THOMAS' VIOLATION OF THE SETTLEMENT AGREEMENT.

CONCLUSION

JUDGMENT IS ENTERED IN FAVOR OF METRON NEUTRACEUTICALS AND AGAINST CLAYTON THOMAS AND PERSONALIZED HEALTHCARE SOLUTIONS, LLC IN THE AMOUNT OF \$255,539.00.

PURSUANT TO CIV.R. 58(B), THE CLERK OF COURTS IS DIRECTED TO SERVE THIS JUDGMENT IN A MANNER PRESCRIBED BY CIV.R. 5(B). THE CLERK MUST INDICATE ON THE DOCKET THE NAMES AND ADDRESSES OF ALL PARTIES, THE METHOD OF SERVICE, AND THE COSTS ASSOCIATED WITH THIS SERVICE.

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Judge Signature

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