



Thermolife Prevails In Ninth Circuit Appeal Against Gaspari Nutrition

Reversal of District Court's Decision on Competitive Injuries Under Lanham Act Means ThermoLife's Claims Will Be Tried by Jury

PHOENIX, ARIZONA, USA, April 19, 2016 /EINPresswire.com/ -- ThermoLife International, LLC, a leading manufacturer in the sports nutrition and supplement industry, obtained a reversal of the Arizona federal district court's order erroneously granting summary judgment in favor of Gaspari Nutrition, Inc. Once remanded to the district court, ThermoLife's claims against Gaspari Nutrition will proceed to a jury. D.C. No. 2:11-cv-01056-NVW

From 2005-2010, Gaspari Nutrition advertised its testosterone-boosting products Novedex XT, Halodrol Liquigels and Halodrol MT products as "safe," "natural" and "legal." But in a 2010 press release, the FDA announced that "products containing aromatase inhibitors [like Gaspari Nutrition's Novedex XT] have a reasonable probability of resulting in permanent impairment of a body structure or function in at risk consumers."

Relying on the FDA's position and on the opinions of experts in the industry who testified that Gaspari Nutrition's products were not safe or, at the very least, lacked sufficient evidence of safety, on May 26, 2011, ThermoLife sued Gaspari Nutrition in the U.S. District Court for the District of Arizona. ThermoLife's claims asserted that Gaspari Nutrition's false advertising resulted in competitive injuries to ThermoLife, one of the few companies selling safe, legal and natural testosterone-boosters.

But on January 10, 2014, the district court granted Gaspari Nutrition summary judgment, finding that ThermoLife's claims invaded the exclusive province of the FDA. Following the district court's ruling, ThermoLife commented: "[It] was deeply troubling for the dietary supplement market. Under the Court's reasoning, dietary supplement companies are free to make unsupported claims about their products unless and until the FDA conclusively determines that the products violate DSHEA. When the FDA fails to act, or is unaware of the particular violations, the public has no recourse."

Today, the Ninth Circuit confirmed that dietary supplement companies are not immune from civil suit when they knowingly make false claims about their products. As the Ninth Circuit explained, "Neither the FDCA nor the Lanham Act expressly bars ThermoLife's claims.... Lanham Act claims like ThermoLife's protect commercial interests by relying on the market expertise of competitors."

In its ruling, the Ninth Circuit also recounted the substantial body of evidence that showed Gaspari Nutrition had willingly deceived the public. Discussing ThermoLife's claim that Gaspari Nutrition falsely advertised its products as DSHEA-compliant, the country's largest appellate court stated, "ThermoLife points to numerous emails indicating Gaspari Nutrition was aware its products were not DSHEA-compliant." Later in the decision, the court went a step further, noting that, "Gaspari Nutrition does not dispute it directly competed with ThermoLife in the market for testosterone booster products; and Gaspari Nutrition's literally false statements necessarily misled consumers."

ThermoLife's founder, Ron Kramer, offered the following statement regarding today's ruling: "It has been a long time coming, but I have always remained confident that the legal system would hold

Gaspari Nutrition responsible for its lies to the public about products that Gaspari Nutrition knew were not natural, legal or safe. Today's ruling is a wake-up call for all companies that seek to intentionally mislead consumers, motivated solely by financial gain. This decision is proof that dishonest companies can be held responsible for their deception in a court of law."

ThermoLife is represented in the matter by Raymond A. Cardozo and Michael H. Sampson of Reed Smith LLP and Geoffrey S. Kercksmar and Gregory B. Collins of Kercksmar & Feltus PLLC.

About ThermoLife International

Founded in 1998, ThermoLife is dedicated to developing real products and methods that work. ThermoLife is a leading manufacturer in the sports nutrition and supplement industry and is committed to developing only the purest, most effective, and innovative products and ingredients.

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