UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROCA LABS, INC.,

Plaintiff,

v.

CONSUMER OPINION CORP. and OPINION CORP.,

Defendants.
_____/

Case No: 8:14-cv-02096-VMC-EAJ

DISPOSITIVE MOTION

MOTION FOR SUMMARY JUDGMENT

1.0 Introduction

Defendant Opinion Corp. ("Opinion Corp.") moves for summary judgment on all claims against it in this action by Roca Labs, Inc. ("Roca").

2.0 Summary Judgment Standards

In a case where, as here, discovery has (for all practical purposes) closed and the record indicates the existence of no genuine issue of material fact, all questions are now simply matters of law and ripe for summary judgment. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). Summary judgment is not a disfavored procedural shortcut, but is integral to the efficient resolution of disputes. *See Bush v. Barnett Bank*, 916 F. Supp. 1244, 1251 (M.D. Fla. 1996). In particular, dispensing with defamation claims at this stage of the case is consistent with a long tradition in Florida law, 11th Circuit decisions, and U.S. Supreme Court precedent. "In defamation cases pretrial dispositions are 'especially appropriate' because of the chilling effect these cases have on freedom of speech." *Karp v. Miami Herald Pub. Co.*, 359 So. 2d 580, 581 (Fla. 3d DCA 1978); *see Trapp v. Southeastern Newspapers Corp.*, 1984 U.S. Dist. LEXIS 24906, (S.D. Ga.

June 7, 1984) ("in the First Amendment area, summary procedures are not only applicable, but even more essential than in other areas of civil litigation"); *Gilles v. Alley*, 591 F. Supp. 181, 189 (M.D. Ala. 1984) ("summary judgment is proper and indeed essential where a trial is likely to stifle the defendant's speech"); *Stewart v. Sun Sentinel Co.*, 695 So. 2d 360, 363 (Fla. 4th DCA 1997). This Court should follow that worthy tradition.

As argued by Defendants in their first Motion for Summary Judgment[1] [Doc. # 50], and confirmed by Roca's subsequent litigation tactics and irrationally broad discovery demands, Roca has filed nothing so much as a SLAPP designed to burden the defense with litigation costs and to force it to submit to Roca's will to avoid penury. This Court should not indulge Plaintiff's cynical strategy. As a matter of law, all Roca's claims are ripe for judgment.

3.0 Summary Judgment Is Appropriate On All of Roca's Claims.

3.1 Summary judgment is *necessary* on Roca's defamation claims.

While, as discussed above, summary judgment is the judiciary's tool of choice in defamation claims, it is particularly well suited as a way to dispose of claims involving consumer reviews about health care choices. "There may be no more serious or critical issue extant today than the health of human beings. Given the frailty of human existence, any controversy on the subject must be afforded wide open discussion and criticism so that individuals may make well educated health care choices." *Spelson v. CBS, Inc.*, 581 F. Supp. 1195 (N.D. Ill. 1984). Considering that the criticism Roca seeks to stifle is largely complaints about Roca's weight-loss product by disgruntled customers, the principle favoring protection of health-related speech applies here. Dismissal of defamation claims against online service providers is also mandated by 47 U.S.C. § 230 where, as here, (1) the defendant is a provider of an interactive computer service; (2) the cause of action treats the defendant as a publisher or speaker of information; and

[1] The previous Motion for Summary Judgment was rendered moot by the filing of Plaintiff's First Amended Complaint, which was due to be filed on January 30, 2015, and then on February 24, 2015 [*See* Order granting leave to amend, Doc. # 96; *see also* Order denying Motion for Leave to File Second Amended Complaint, Doc. # 108], but was not actually filed until March 20, 2015. [Doc. # 114].

(3) the subject information is in fact provided by another information content provider. *Whitney Info. Network, Inc. v. Xcentric Ventures, LLC*, 2008 U.S. Dist. LEXIS 11632, *26 (M.D. Fla. Feb. 15, 2008). Moreover, summary judgment is appropriate because none of the statements alleged to be defamatory can be defamatory as a matter of law.

3.2 Opinion Corp. enjoys 47 U.S.C. § 230 immunity, making summary judgment appropriate on Roca's other claims.

Internet service providers such as Opinion Corp., which operates a website called Pissed Consumer found at the URL www.pissedconsumer.com (the "Website"), are immunized by the Communications Decency Act ("CDA"), 47 U.S.C. § 230 from liability based on content on the Website created by third party authors who, as here, are the source of the allegedly defamatory content at issue here. "The purpose of the CDA is to establish 'federal immunity to any cause of action that would make service providers liable for information originating with a third-party user of the service.'" *Alvi Armani Med., Inc. v. Hennessey*, 629 F. Supp. 2d 1302, 1306 (S.D. Fla. 2008), *quoting Almeida v. Amazon.com, Inc.*, 456 F.3d 1316, 1321-22 (11th Cir. 2006). This dispositive statutory defense is of particular significance, because "Section 230 immunity, like other forms of immunity, is generally accorded effect at the first logical point in the litigation process." *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 254-55 (4th Cir. 2009). For this reason, dismissal of a complaint on § 230 grounds "is appropriate unless the complaint pleads non-conclusory facts that plausibly indicate that 'any alleged drafting or revision by [the defendant] was something more than a website operator performs as part of its traditional editorial function,' thereby rendering it an information content provider." *Westlake Legal Group v. Yelp, Inc.,* 43 Media L. Rep. 1417 (4th Cir. 2015).

Here, where discovery is essentially closed and there is no evidence of *Westlake*'s "something more," the Court should have no difficulty determining that Pissedconsumer.com is an interactive computer service as contemplated by 47 U.S.C. § 230, which is "defined as 'any

information service, system, or access software provider that provides or enables computer access by multiple users to a computer server.'" *Batzel v. Smith*, 333 F. 3d 1018, 1030 (9th Cir. 2003). Nothing in the record provides a basis to dispute the testimony submitted herewith to the effect that all reviews and related commentary on the Website are generated by third-party users who access the Website. (*See* Doc. # 148-2, Declaration of Michael Podolsky, at ¶8.) Thus the Website and its operator, i.e., Opinion Corp., fall squarely within the definition of "interactive computer service." Indeed, so ruled the Eastern District of New York in *Ascentive, LLC v. Opinion Corp.*, 842 F. Supp. 2d 450, 474 (E.D.N.Y. 2011) – another meritless action brought against Opinion Corp. by a plaintiff that, like Roca, asked the judicial system to act as a censor of its critics. That request was denied by the court in *Ascentive*, and should be here as well.

3.2.1 Roca seeks to treat Opinion Corp. as the speaker or publisher of information provided by third parties.

Roca seeks to hold Opinion liable as the "publisher" of the Tweets that are generated from reviews posted on the Website, but there is no genuine dispute based on the record but that the Twitter "tweets" for which Roca seeks to hold Opinion Corp. liable for defamation (the "Tweets") are third-party statements that broadcasted automatically which are not written by Opinion Corp. (Doc. # 148-2 at ¶¶11-14.) Where, as here, such information, and any resulting alleged "customer losses," are generated by third party input, 47 U.S.C. § 230 immunity applies and dismissal of claims based on such publication is appropriate. *Levitt v. Yelp! Inc.*, 2011 U.S. Dist. LEXIS 124082 (N.D. Cal. Oct. 26, 2011).

3.2.2 Opinion Corp. did not author any of the reviews.

First, and fundamentally, there is no bona fide dispute as to whether Opinion Corp. authors the reviews featured on the Website – it does not. (*See* Doc. # 148-2 at ¶10.) Opinion Corp. has provided Roca, in discovery, with identifying information concerning every party that posted the complained-of statements. Roca, ever the bullying censor, wasted no time in taking

the information Opinion Corp. provided to sue the actual authors for speaking out about their experiences as Roca customers. (*See* Doc. # 148-1, Request for Judicial Notice, at 10-35; *see also* Doc. #s 052-1, 052-2.)[2] Thus, Roca can hardly take issue with the assertion that it did not author the statements; indeed, Roca is estopped from taking such a position in light of its filing of lawsuits against the authors of these statements. It is of no moment that Roca has sought to circumvent this bedrock rule of law by characterizing Opinion Corp. as a "co-author," and indeed Roca cannot point to any evidence in the record to substantiate its "co-authorship" claim.

Indeed, there is no genuine factual dispute concerning the fact that the Website provides a form for users to fill out describing their experiences with a particular company, product, or service. (*See* Doc. # 148-2 at ¶9.) The review is then automatically posted – without review, fact-checking or emendation – without the involvement of any Website personnel. (*Id.* at ¶10.) Randomly selected reviews are posted to a related Twitter account, the heading of the review serving as the body of the Tweet. (*Id.* at ¶11; *compare* Doc. # 114 at ¶72(a) (statement made on Twitter) and ¶147(g) (statement made on the Website) ("Don't buy anything from Roca Lab they just sell a regular shake they are stealing your m[oney]") (the Tweet omitted the last four letters of "money" due to character count constraints imposed by Twitter)). The Tweet links back to that review on the website. (*See* Doc. # 148-2 at ¶13.) The Website's operators do not substantively alter or write the contents of the Tweets. (*Id.* at ¶14.)

"A 'provider' of an interactive computer service includes websites that host third-party generated content." *Regions Bank v. Kaplan*, 2013 U.S. Dist. LEXIS 40805, *47 (M.D. Fla. Mar. 22, 2013); citing *Doe v. Friendfinder Network, Inc.*, 540 F. Supp. 2d 288, 293 (D.N.H. 2008). Contrary to Roca's suggestion, under § 230 Tweets and other forms of electronic dissemination of third-party content are immune from claims against interactive computer services every bit as much as content published on static Web pages. Section 230 immunity extends to any service or method

[2] Doc. # 148-1 at 12-13, ¶14 shows that Roca sued multiple John Doe defendants for the *exact same statements* posted on the Website that it is suing Opinion for in this action. It filed this suit before filing its Amended Complaint.

used by an exempt entity to disseminate third-party content – any mechanism "relating to the monitoring, screening, and deletion of content from its network – actions quintessentially related to a publisher's role." *Green v. Am. Online*, 318 F.3d 465, 470-71 (3d Cir. N.J. 2003).

Thus, as the Fourth Circuit explained in *Westlake*, Yelp's use of automated systems to filter reviews constituted traditional editorial functions for publication of third-party content, and did not render Yelp an information content provider, mandates summary judgment here. Similarly, Pissedconsumer.com's automated functionality for publication of third-party commentary serves just such purposes. Adding a Twitter handle of a review's subject to a Tweet merely acts as an index or identifier of the subject matter (and puts that person or company on notice so it can respond, which it may do on the Website at no cost). (*See* Doc. # 13-4 at ¶5.) None of these activities vitiates the full immunities of § 230.

Roca's attempted workaround of this legal bar to its claims – its characterization of Defendants as "co-authors" of the posts – adds nothing to this discussion besides mere nomenclature, for the record is clear and undisputed that users of the Website post their comments using a set, automated form. This common argument used by plaintiffs attempting to leapfrog 47 U.S.C. § 230 never works, as demonstrated by a recent Sixth Circuit ruling that is exactly on point:

> The website's content submission form simply instructs users to '[t]ell us what's happening. Remember to tell us who, what, when, where, why.' The form additionally provides labels by which to categorize the submission. These tools, neutral (both in orientation and design) as to what third parties submit, do not constitute a material contribution to any defamatory speech that is uploaded.

Jones v. Dirty World Entm't Recordings, et al., 755 F.3d 398, 416 (6th Cir. 2014). Here, too, there is no material disputed fact but that the Website's submission form is also clearly neutral, not remotely approaching the sort of "material contribution" that could vitiate Section 230. *See Xcentric Ventures, LLC*, 2008 U.S. Dist. LEXIS 11632 (M.D. Fla. Feb. 15, 2008) (merely

"provid[ing] categories from which a poster must make a selection in order to submit a report on the ROR website is not sufficient to treat Defendants as information content providers").

Neither is there any merit to Roca's argument that Opinion's use of search engine optimization techniques (one of which would be the use of Tweets containing relevant content and links to the Website) to increase traffic to the Website somehow removes the protection afforded by Congress to the website on which the content is found. (*See* Doc. # 114 at ¶35.) This theory was most recently disposed of in *Obado v. Magedson,* 2015 U.S. App. LEXIS 7721, *6 (3d Cir. N.J. May 11, 2015), which explicitly held that "manipulat[ing] search engines to maximize search results relating to the alleged defamatory content does not affect . . . immunity from suit."

3.2.3 Drop down menus do not dissolve 47 U.S.C. § 230 immunity.

Roca also claims that because the form used by third parties to post content to the Website is interactive, Defendants are rendered co-authors and stripped of § 230 immunity. The illogic of this argument was demonstrated by the ruling in *Ascentive* that Opinion does not develop or create the reviews it publishes regardless of how its methodology of facilitating user posts is characterized. Merely "[a]sserting or implying the mere possibility that PissedConsumer did so is insufficient to overcome the immunity granted by the CDA." *Id.*; *see also*, e.g., *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 259 (4th Cir. 2009) (upholding CDA immunity where "nothing but [plaintiff's] speculation" offered as proof of consumer review website being involved in authorship). *See also*, *Levitt v. Yelp! Inc.*, 2011 U.S. Dist. LEXIS 124082, at *9 (N.D. Cal. Oct. 26, 2011) (claims against consumer review site dismissed where claim that site "created negative reviews" was not supported and claim that site "manipulated third party reviews to pressure businesses to advertise" was barred by 47 U.S.C. § 230).

Because § 230 bars Roca's claims against Opinion Corp. for statements by third parties distributed by and through the website, its claims under counts II, IV, VI, VIII, and X are, as a

matter of law, dissolved.[3] But, as set out below, even in the absence of the immunity provided by § 230, Roca's claims cannot stand as a matter of law.

3.3 Roca cannot meet the standard for a defamation claim.

Roca cannot make out a claim of defamation on this record against any Defendant based on the record or as a matter of law on the face of the pleadings. To prove defamation, a plaintiff must show (1) the defendant's publication of the allegedly defamatory statement; (2) its falsity; (3) that the defendant acted with knowledge or reckless disregard as to the falsity on a matter concerning a public figure or at least negligently on a matter of solely private concern; and (4) actual damages. *Internet Solutions Corp. v. Marshall*, 39 So. 3d 1201, 1214 n.8 (Fla. 2010), citing *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1106 (Fla. 2008). Public figures seeking to prove defamation are held to a higher burden than private individuals under both federal and state law. *See New York Times v. Sullivan*, 376 U.S. 254, 280-82 (1964); *Silvester v. Am. Broad. Cos.*, 650 F. Supp. 766, 770 (S.D. Fla. 1986). A public figure must prove that a statement was made with "actual malice," i.e., with knowledge of its falsity or with reckless *disregard* for the truth. *New York Times v. Sullivan*, 376 U.S. 280. "Public figures must prove by clear and convincing evidence that allegedly defamatory statements were made with actual malice." *Tobinick v. Novella*, 2015 U.S. Dist. LEXIS 72467, *20 (S.D. Fla. Jun 4, 2015). This is "a requirement that presents a heavy burden, far in excess of the preponderance sufficient for most civil litigation." *Id.*

The facts of record readily demonstrate that Roca is a public figure, and so it must prove that Opinion Corp. itself authored the allegedly defamatory statements; that the statements are materially false statements of purported fact about Roca; that Opinion Corp. made the statements with at least a reckless disregard for the truth of the statements; and that Roca has suffered cognizable damages as a result. Opinion Corp. did not author any of the statements at issue. Nor can Roca possibly prove any of the remaining elements.

[3] Counts I, III, V, VII, and IX apply only to Defendant Consumer Opinion Corp. The FAC contains a numbering error and there is no Count XI.

3.3.1 Roca is a public figure.

Whether a plaintiff is a public figure is a question of law for the court that can be decided on summary judgment. *See Klayman v. Judicial Watch, Inc.*, 22 F. Supp. 3d 1240, 1251 (S.D. Fla. 2014), citing *Mile Marker, Inc. v. Petersen Publ'g, L.L.C.*, 811 So. 2d 841, 845 (Fla. 4th DCA 2002. According to Roca's own statements, it is a world-renowned in the diet product market for gastric bypass alternatives; indeed, it describes itself as "the inventor of [the] Gastric Bypass Alternative®," (Doc. # 114 at ¶15) which it describes as "the world's strongest, most effective weight loss regimen" (*see* <rocalabs.com/gastric-bypass-no-surgery>) which has been "used by tens of thousands of people." (Doc. # 114 at ¶17.) Roca "relies upon its reputation in the community which includes the Internet, and the weight loss success of its customers to generate new business and attract new customers." (*Id.* at ¶23.)

Thus according Roca, Roca is a public figure, and has chosen to be; though it would be "no answer to the assertion that one is a public figure to say, truthfully, that one doesn't choose to be. It is sufficient, . . . that [the defendant] voluntarily engaged in a course that was bound to invite attention and comment.'" *Silvester v. Am. Broad. Cos.*, 839 F.2d 1491, 1496 (11th Cir. 1988), citing *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351 (1974). Moreover, the controversy over Roca's weight-loss snake oil itself renders it a public figure, for "a public controversy is one that touches upon serious issues relating to … public safety." Roca has, in fact, been the subject of at least seventy-three complaints to the Better Business Bureau and 118 complaints to the Federal Trade Commission. (*See* Doc. # 148-3 at 4-10; *see also* Doc. #s 131-1, 131-2; *and see* Doc. # 148-5.) Public discussion of Roca's wares is a matter of public safety – one that cannot be compromised by Roca's campaign of censorship by litigation.

Again, as a public-figure plaintiff, Roca must prove that the statements were made with knowing falsity or reckless disregard for the truth. *Sullivan*, 376 U.S. 281. This requires evidence that the defendant had a "high degree of awareness of . . . probable falsity" of its statement.

Garrison v. Louisiana, 379 U.S. 64, 74 (1964). "There must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication." *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). "[The plaintiff] must prove actual malice with clear and convincing evidence." *Dockery v. Fla. Democratic Party*, 799 So. 2d 291, 294 (Fla. 2d DCA 2001). To defeat summary judgment on a defamation claim, a public figure such as Roca must "present record evidence sufficient to satisfy the court that a genuine issue of material fact exists which would allow a jury to find by clear and convincing evidence the existence of actual malice on the part of the defendant." *Petersen*, 811 So. 2d at 846-47; *see Anderson v. Liberty Lobby* 477 U.S. 242, 257 (1986).

Roca must prove that Opinion did have such a view; that Opinion's view was that the statements are false; and that Opinion acted to publish them. Roca, however, cannot possibly raise a bona fide issue of material fact as to whether Opinion had any view at all regarding the truth of the statements because it has taken no discovery at all that could even lead to admissible evidence going to this issue. Thus, its "failure to focus on whether or not the statements at issue were published with actual malic proves fatal to [its] claims." *Klayman v. City Pages*, 2015 U.S. Dist. LEXIS 49134, *44-45 (M.D. Fla. Apr. 3, 2015).

3.3.2 The defamation claims fail as a matter of law.

Roca must also demonstrate that the statements at issue are false statements of fact – a legal determination, not a factual one. *Town of Sewall's Point v. Rhodes*, 852 So. 2d 949, 951 (Fla. DCA 4th 2003). No additional discovery is necessary to make this determination, which is why defamation claims against public figures such as Roca are appropriately disposed of on summary judgment. *See Liberty Lobby*, 477 U.S. at 257; *see also Dockery v. Florida Democratic Party*, 799 So.2d 291 (Fla. 2d DCA 2001). Courts make this decision at summary judgment because under the First Amendment, there "is no such thing as a false idea." *Gertz*, 418 U.S. at 339. There is no bona fide dispute that individual reviews posted on the Website are the personal opinions of

individuals with experience with Roca's product or with its customer service department. They are protected statements of opinion, no matter who wrote them. *See Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 20 (1990) (statements of opinion are protected); *Gertz*, 418 U.S. at 339-40 (same).

Both the Supreme Court and the 11th Circuit have a long tradition of protecting opinion, even when delivered in a caustic tone. "This provides assurance that public debate will not suffer for lack of 'imaginative expression' or the 'rhetorical hyperbole' which has traditionally added much to the discourse of our Nation." *Milkovich*, 497 U.S. at 20; *see Horsley v. Rive*ra, 292 F.3d 695, 701 (11th Cir. 2002). "Although rhetorically hyperbolic statements may at first blush appear to be factual, they cannot reasonably be interpreted as stating actual facts about their target." *Fortson v. Colangelo*, 434 F. Supp.2d 1369, 1378-79 (S.D. Fla. 2006); *see Partington v. Bugliosi*, 56 F.3d 1147, 1154 (9th Cir. 1995) (noting that readers of a lawyer's book about his own accomplishments would expect to find "the highly subjective opinions of the author rather than assertions of verifiable, objective facts"); *see also Tobinick v. Novella*, 2015 U.S. Dist. LEXIS 72467, *25 (minor misstatements or rhetorical hyperbole protected); *and see Ford v. Rowland*, 562 So. 2d 731, 734 (Fla. 5th DCA 1990) (affirming summary judgment in hyperbole-as-defamation case).

In fact, regarding the Website at issue, New York's Appellate Division recently affirmed the dismissal of a defamation claim based on posts uploaded on the Website in *Matter of Woodbridge Structured Funding, LLC v. Pissed Consumer & PissedConsumer.com*, 125 A.D.3d 508, 509 (N.Y. App. Div. 1st Dep't 2015). The court there established definitively that this very Website is clearly a place where only opinions are expressed because of the obvious context of heated, subjective, and colorful opinion:

> [W]hen the statements complained of [on PissedConsumer.com] are viewed in context, they suggest to a reasonable reader that the writer was a dissatisfied customer who utilized respondent's consumers' grievance website to express an opinion. Although some of the statements are based on undisclosed, unfavorable facts known to the writer, the disgruntled tone, anonymous posting, and predominant use of statements that cannot be definitively proven true or false,

supports the finding that the challenged statements are only susceptible of a non-defamatory meaning, grounded in opinion.

This Court should adopt the New York court's reasoning and dismiss Roca's claims.[4]

3.3.2.1 *No reasonable person would see any of the consumer reviews as a statement of fact.*

The statements Roca complains about – "This product sucks." (Doc. # 114 at ¶187(a)) . . . "This business is a total fraud. BEWARE!" (*Id.* at ¶187(b)) . . . "Run don't walk away from this one! SCAM!" (*Id.* at ¶187(d)) . . . "You have a better chance of feeling full if you swallowed a glass of liquid cement and let it harden in your stomach." (*Id.* at ¶187(k)) – are obviously expressions of opinion is obvious to anyone who can read. It is well established law that terms such as "rip off," "fraud" and "snake-oil" are hyperbolic, and are not read as objective descriptions of fact. *See,* e.g., *Phantom Touring v. Affiliated Publ'ns*, 953 F.2d 724, 728, 730–31 (1st Cir. 1992) (holding that description of theatre production as "a rip-off, a fraud, a scandal, a snake-oil job" was no more than "rhetorical hyperbole"); *Tobinick v. Novella*, 2015 U.S. Dist. LEXIS 72467, *25 (referring to doctor as a "quack" protected). Expressions of strong views "'may well include vehement, caustic, and sometimes unpleasantly sharp attacks' … such attacks are constitutionally protected and those who make them are exempt from liability for defamation if the attacks are simply 'rhetorical hyperbole.'" *Horsley v. Feldt*, 304 F.3d 1125, 1131 (11th Cir. 2002) (citing *Sullivan*, 376 U.S. at 270). These sorts of "vigorous epithets" made in the expression of the individual consumer's opinion do not give rise to defamation. *Greenbelt Coop. Pub. Ass'n v. Bresler*, 398 U.S. 6, 7 (1970). Indeed, the more dramatic the language used, the less likely the statements will be considered defamatory by readers – or the law. *Id.* at 14. Florida courts follow the *Greenbelt* doctrine of "rhetorical hyperbole." *See*, e.g., *Seropian v. Forman*, 652 So. 2d 490, 492 (Fla. 4th DCA 1995) (dismissing defamation claim based on statement that plaintiff

[4] The Ninth Circuit has also recognized that context is extremely important in determining whether a statement is a factual assertion or rhetorical hyperbole. The court in *Mt. Hood Polaris, Inc. v. Martino (In re Gardner)*, 563 F.3d 981, 989 (9th Cir. 2009) found that accusations that a person was "lying" and "'perseverating' regarding his professional credentials" were non-actionable rhetorical hyperbole in the context of a radio talk show.

was an "influence peddler" as "hyperbole:"). Roca cannot demonstrate that the statements are false statements of fact and would be so perceived in the context of their publication.

3.3.2.2 *"Sucks," "expensive," "horrible to drink," "doesn't do nothing."*

"This product sucks. It's expensive, horrible to drink & doesn't do nothing." (Doc. # 114 at ¶187(a).) This statement is obviously a statement of opinion indicating that the reviewer tried the product and didn't like it. No legal citations are necessary to posit that whether something "sucks" or "rocks" is a matter of opinion. "Expensive," too, is a matter of perspective. "Horrible to drink" suffers the same fate; it is entirely subjective. "Doesn't do nothing" is obviously meant as hyperbole, since even the author acknowledges that it costs too much and tastes awful. Even if these were factual assertions Roca cannot demonstrate that the statement was made with actual malice.

3.3.2.3 *"Total fraud. BEWARE!"*

"This business is a total fraud. BEWARE!" (Doc. # 114 at ¶187(b).) This is a hyperbolic opinion. Moreover, Roca cannot demonstrate, on the facts of record, that this comment was published with any doubt as to the truth of the statement – especially in light of the fact that the statement has proved to be true.

The record shows Roca advertised that each person who bought its product had their file reviewed by a **medical doctor**. (*See* Doc. # 148-3 at 16-19, Roca offering medical plans including phone support with the doctor and "around the clock" support from the "Medical Team.") Furthermore, for $35, a prospective customer could consult the doctor before purchasing, or consult a nurse for free. (*See id.* at 20-22.) Roca's website even featured a "Letter from the Doctor," by "Doctor" Ross Finesmith, meant to "illustrate" a letter that customers could present to their own physicians. (*See* Doc. # 9-6.) In fact, "Doctor" Ross Finesmith lost his medical license after being charged with possession of child pornography. (*See* Doc. # 148-1 at 36-46, NJ Medical Board Order of Revocation.) Since this litigation began, Roca has sought to

distance itself from "Dr." Finesmith, removing the "Letter from the Doctor" and deleting the online videos that featured his medical "expertise," but the fraud was very real.

There is more as well, such as testimony by former Roca employee Jodie Barnes, which establishes that Roca officers insisted that she wear a fat suit and pose for "before" photos so that she could later offer a false testimonial that she had lost weight. (*See* Doc. # 148-4, Deposition of Jodie Barnes, at pp. 27:20-25, 28:1-9, 34:22-25, 35:1-18, 36:1-23, 37:8-25, 38:1-20, 39:10-22, 41:6-19; 42:14-25, 43:1-6; 51:2-20, and 181:19-25.) Beyond this, a former employee of Roca, Stephanie Taylor, learned during the course of her employment that Roca deliberately set up its customer support network to make it impossible for customers to successfully request refunds. (*See* Declaration of Stephanie Taylor ["Taylor Decl."], attached as **Exhibit 1**, at ¶¶1-8.) She was also required, as a "success coach," to lie to customers about the effectiveness of Roca's product. (*See id.* at ¶¶9-11.) Further, contrary to representations on Roca's website, customers using Roca's online chat functionality never spoke with an actual doctor. (*See id.* at ¶¶9-16.)

What's more, despite Roca's assertion that its product is made and assembled in an "FDA-compliant lab," the public record reveals that Roca's weight-loss product was, at least until Roca was caught, cooked up in an unsanitary garage in Don Juravin's home. (*See* Report from Sarasota County Code Enforcement, attached as Exhibit 2; *see also* Doc. # 148-4 at p. 61:2-3 (noting presence of cockroaches on the garage floor); p. 130:16-24 (observing Juravin's use of the same to house a dog, and that "cleaning up the dog poop and pee" took place during working hours); p. 238: 12-14; p. 239: 12-15 (stating that workers in the garage were not handling Roca's product with gloves and "there was nothing sanitary about any of it").

3.3.2.4 *"Got scammed and sick from this JUNK."*

"Roca Labs – Got scammed and sick from this JUNK." (Doc. # 114 at ¶187(c).) If "scam" were capable of a defamatory meaning, could a reasonable person not subjectively – even objectively – believe, and rightfully say, he or she was "scammed" by a company such as

Roca? This is one individual's personal opinion after their experience with the product, and this language is not capable of a defamatory meaning. *See Phantom Touring*, 953 F.2d at 728, 730–31. Furthermore, this statement is subject to a qualified privilege as a statement made in the public interest, as a matter of public health. "[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." *Royalty Network, Inc. v. Harris*, 756 F.3d 1351, 1356 (11th Cir. 2014).

3.3.2.5 *"Run don't walk away from this one! SCAM!," "Roca Labs is a SCAM," and "Roca Labs- Product and company are Pure Scam"*

"Roca Labs – Run don't walk away from this one! SCAM!!" (Doc. # 114 at ¶187(d)), "Roca Labs is a SCAM" (Doc. # 114 at ¶187(I)), and "Roca Labs- Product and company are Pure Scam." (Doc. # 114 at ¶187(J).) The Court should be confident, based on the argument above, that "SCAM!!" is never, as a matter of law, an expression of purported objective fact. If it were, though, given the facts set out above about Roca's marketing practices, "SCAM!!" is at least arguably a valid term for a company that claims to be an FDA compliant lab, when in fact it assembles its product in a roach-infested garage. (*See* Doc. # 148-4 at p. 61, lines 2-3.) SCAM seems valid when Roca lies to its customers that they are consulting with a doctor, when in fact, that Doctor is a de-frocked pederast. As a matter of law, this statement is incapable of providing the basis for a defamation claim. However, given the fake doctor, the fat suit "before" pictures, and the "FDA compliant" lie, "scam" seems like a fair characterization of this company.

3.3.2.6 *"Full of lies and deceit."*

"The Company is full of lies and deceit." (Doc. # 114 at ¶187(e).) This, too, is opinion; but, the record suggests, if taken as fact would surely be accurate. For example, "Dr. Ross" was not a doctor during the time Roca held him out to the public as one to induce prospective customers to buy its merchandise. Consistent with that fraudulent approach, Roca's Don Juravin signed an affidavit dating September 25, 2014 in which he swore that celebrity Alfonso Ribeiro

endorsed Roca's product – testimony swiftly shown to be perjury. (*See* Doc. #s 20, 26.) Jodie Barnes' testimony that she was required to dress in a fat suit in order to provide fraudulent testimonials offers additional support. (*See* Doc # 148-4, at pp. 27:20-25, 28:1-9, 34:22-25, 35:1-18, 36:1-23, 37:8-25, 38:1-20, 39:10-22, 41:6-19; 42:14-25, 43:1-6; 51:2-20, and 181:19-25), as does Stephanie Taylor's testimony as to Roca's lies concerning their support functionality and the availability of refunds. (*See* Taylor Decl. ¶¶1-16.) Whether read as an opinion or taken as a factual assertion, describing Roca's methods as "lies" and "deceit" cannot possibly be actionable.

3.3.2.7 *"DO NOT TRUST THESE PEOPLE. They are CROOKS."*

"DO NOT TRUST THESE PEOPLE. They are CROOKS." (Doc. # 114 at ¶187(f).) Even if the over use of ALL CAPS did not signal hyperbole, the words themselves would. A "crook" is defined as a "dishonest person." It is certainly a fair comment to call Roca "CROOKS." While it is merely hyperbole, would any reasonable juror "TRUST THESE PEOPLE?" "THESE PEOPLE" require users to agree to the "gag clause,"[5] and who use fake doctors, fat suits, and do everything they can to attack customers who complain to the FTC and the BBB? These are people who tout the safety of their product while packaging it in a cockroach-laden garage. No trial is necessary to answer whether anyone should trust Roca.

3.3.2.8 *"[T]hey just sell a regular shake they are stealing your money."*

"Roca Labs – Don't buy anything from Roca Lab they just sell a regular shake they are stealing your money" (Doc. # 114 at ¶187(G)) and "@RocaLabs Don't buy anything from Roca Labs they just sell a regular shake." (Doc. # 114 at ¶194)(A).) These are statements of opinion and hyperbole. In the context of a consumer review website, there is no way the average reader would interpret the statement that a company selling a product that doesn't work as advertised as asserting an actual allegation of criminal theft. *See Mt. Hood Polaris,* 563 F.3d at 989; *see also*

[5] While its specific wording has changed multiple times throughout this litigation, the "gag clause" refers to Roca's unenforceable contractual provision forbidding any customer from saying anything negative about it, ever.

Woodbridge Structured Funding, 125 A.D.3d at 509. Further, whether a given shake is "regular" or "awesome" is solely a matter of opinion. There is nothing defamatory about these statements.

3.3.2.9 *"I have a friend working in the warehouse."*

"I have a friend working in the warehouse of this product, he told me that is [*sic*] unsanitary they don't use gloves and hair nets to assemble the packages which comes with containers and spoons, and the product is a fraud doesn't work!" (Doc. # 114 at ¶187(H).) Aside from this statement obviously indicating that it was not made by Opinion Corp., the statement that Roca's product "is a fraud doesn't work!" is opinion and hyperbole, as already explained. The assertions in the statement regarding the lack of gloves and hair nets is borne out by the deposition testimony of Jodie Barnes, who worked with Roca and experienced similar conditions. (*See* Doc. # 148-4 at p. 61, lines 2-3; p. 130, lines 16-24; p. 238, lines 12-14; p. 239, lines 12-15.) Even if these statements are false and Opinion actually made them, there is simply no possible way Roca could ever hope to prove that Opinion made them with actual malice.

3.3.2.10 *"Liquid cement."*

"You have a better chance of feeling full if you swallowed a glass of liquid cement and let it harden in your stomach. Do not waste your time, energy or money on [this]." (Doc. # 114 at ¶187(k).) This statement is obviously rhetorical hyperbole. A reasonable reader would not reasonably view the assertion that a person swallowing cement will have a better experience than one consuming Roca's product as factual, and it cannot support a claim for defamation.

3.3.2.11 *"Doesn't Work!!!"*

"Doesn't Work!!! I can't believe I really thought this would work! Save your money." (Doc. # 114 at ¶194(B).) It hardly bears repeating that this is a statement of opinion. Whether a product works or does not, particularly in the context of a statement on a consumer review website, is not an assertion of fact that is capable of being defamatory. Nor can defamatory meaning be attached to what a commenter "really thought" would happen.

3.3.2.12 *"WILL NOT PROCESS PROMISED REFUND."*

"WILL NOT PROCESS PROMISED REFUND, LIED TO BY CUSTOMER SERVICE AGENTS REGARDING PROMISED REFUND." (Doc. # 114 at ¶194(C).) Particularly in the context of a consumer review website, this statement is obviously opinion and hyperbole. If the use of ALL CAPS weren't enough of a tipoff, loose allegations of someone having "LIED" in this context does not signal a factual assertion to the average reader. *See Mt. Hood Polaris,* 563 F.3d at 989; *see also Woodbridge Structured Funding*, 125 A.D.3d at 509. Even if there were a factual assertion here, however, it appears to be true. There are numerous complaints about Roca's lack of refunds. (*See* Doc. # 13-3, Schaive Declaration, at ¶¶6-7; *see also* Doc. # 13-5, Walsh Declaration, at ¶¶8-10; Doc. # 13-6, Anderson Declaration, at ¶¶6-7; *and see* Doc. # 148-5, FTC Complaints, *passim.*) And there is also evidence indicating that Roca's employees are instructed to lie to customers about refunds and make it effectively impossible to receive them. (Taylor Decl. at ¶¶1-8.) Again, there is nothing defamatory here.

3.3.3 None of the statements actually made by Opinion Corp. are defamatory.

Roca also identifies a handful of statements made by Opinion Corp. that it asserts are false and defamatory, but these too fail to meet the legal standards. Roca first complains that "OPINION further states that ROCA's customers have lost $110K in claimed losses and that ROCA's average customer has lost $2.1K," and that these statistics "are false in their entirety are defamatory and libelous on their face." (Doc. # 114 at ¶¶295-96.) This data, however, is merely a collation by Opinion Corp. of information received from users of the Website. Roca's recourse is to sue the people claiming these losses, as it has already done. (*See* oc. #s 052-1, 052-2.)

Roca also alleges that "Defendants [made a] false [*sic*] claim that ROCA has filed a SLAPP suit against them, despite the fact that they are aware there is no SLAPP law in the State of Florida that would afford them any protection." (Doc. # 114 at ¶128.) Opinion is at a loss as to how this statement could be defamatory. Florida, of course, does have an Anti-SLAPP law,

and recently strengthened it to cover claims such as the ones Roca has brought here. *See* Fla. Stat. 768.295 (2015).[6] But aside from this, the present action is obviously a SLAPP suit based on the widely-accepted definition of that term, regardless of whether a given state provides relief for a specific type of SLAPP. Even if such an expression of a legal opinion were defamatory, furthermore, Roca cannot prove that Opinion Corp. made the statement with actual malice.

Roca then claims it was false – though how it is defamatory is anyone's guess, given Roca's phenomenal appetite for litigation – for Opinion Corp. to state that Roca initiated legal proceedings against it, noting that Defendants filed a declaratory relief action before Roca sued them. (*See* Doc. # 114 at ¶129.) Considering that Defendants only filed that suit in response to a Fla. Stat. § 770.01 pre-suit notice alleging defamation, Roca's allegation is a gross mischaracterization of events. Roca further asserts that "Defendants describe ROCA as a company that 'silence you [ROCA's customers] through fear and intimidation' without any factual basis." (Doc. # 114 at ¶129.) Given the myriad lawsuits Roca has threatened and actually filed against its customers and any person or attorney who speaks out against Roca and gets in the ways of its litigation warpath – including this very lawsuit – there is little question that, contrary to Roca's claim, Opinion Corp. has more than sufficient factual basis for this statement.

Roca also complains that Opinion Corp. stated that "ROCA was 'desperate to sell as many of its tubs of goo to the public as it can before regulatory agencies come knocking, does its best to bully its former customers into silence." (Doc. # 114 at ¶130.) Yes, Opinion did make this statement – in a court filing, specifically Defendants' Opposition to Roca's Motion for Entry of a Temporary Injunction (Doc. # 13 at 5.) Roca's insistence that a defamation claim can arise from court filings is so meritless it is sanctionable, though it is one Roca returns to repeatedly, as it has already tried to do to Opinion Corp.'s attorney. (*See* Doc. # 52-3, Complaint in *Roca Labs,*

[6] And given that the Florida Anti-SLAPP statute is now a *real* Anti-SLAPP law, the court should review that statute's public policy statement. Further, the Defendant specifically invokes the Florida Anti-SLAPP statute as a basis for an early dismissal and for Opinion's entitlement to attorneys' fees. Fla. Stat. § 768.295(4).

Inc. v. Marc Randazza, Case No. 2014-CA-011251.) In fact, it is black-letter law that Florida's absolute litigation privilege applies to any "act occurring during the course of a judicial proceeding . . . so long as the act has some relation to the proceeding." *Echevarria McCalla Raymer Barrett & Frappier v. Cole*, 950 So. 2d 380, 383 (Fla. 2007); *see Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. United States Fire Ins. Co.*, 639 So. 2d 606, 608 (Fla. 1994). While this Court allowed Roca to amendment its pleadings to include this statement as a basis of liability, this motion presents the opportunity to dispose of Roca's claim as mandated by the law.

3.4 Summary judgment is appropriate on Roca's FDUTPA Claims.

It comes as no surprise that Roca would bring a deceptive trade practices claim in an attempt to cut through the robust immunity granted by 47 U.S.C. § 230. This has been tried before, and roundly rejected. Most recently, such a claim arose when sex trafficking victims tried to hold an online forum responsible for sexual abuse they suffered. The court in *Doe v. Backpage.com, LLC*, 2015 U.S. Dist. LEXIS 63889 (D. Mass. May 15, 2015) denied a defamation claim against the forum website's operators, writing:

> Congress has made the determination that the balance between suppression of trafficking and freedom of expression should be struck in favor of the latter in so far as the Internet is concerned. Putting aside the moral judgment that one might pass on Backpage's business practices, this court has no choice but to adhere to the law that Congress has seen fit to enact.

Id. At *41. Courts have routinely and roundly rejected such "creative" attempts to get around § 230. S*ee Universal Commc'n Sys., Inc. v. Lycos, Inc.*, 478 F.3d 413 (1st Cir. 2007); *StubHub, Inc., Hill v. StubHub, Inc.*, 219 N.C. App. 227, 245 (N.C. Ct. App. 2012) (rejecting claim that a § 230 protected website could be responsible for scalpers' unfair or deceptive trade practices); *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 257 (4th Cir. 2009) (upholding immunity when design of website did not require users "to input illegal content as a necessary condition of use").

No amount of further discovery could change the fact that Roca's FDUTPA claim should be disposed of now. To prevail in a FDUTPA action, a plaintiff must demonstrate that the defendant committed a deceptive act or unfair practice and that that act or practice was the cause of actual and identifiable damages suffered by the plaintiff. *See Virgilio v. Ryland Group, Inc.*, 680 F. 3d 1329, 1338 n. 25 (11th Cir. 2012) (quoting *Rollins Inc. v. Butland*, 951 So. 2d 860, 869 (Fla. 2d DCA 2006)). The Complaint alleges that the Website advertises that it can help foster a resolution between companies and their customers and that it offers various services to help achieve such resolution. (Doc. # 114 at ¶¶176-78, 180, 182.) Roca itself does not believe that Opinion Corp. does in fact provide these services, however. (*Id.* at ¶¶179, 181, and 183.) The Complaint goes on to say that Opinion has violated FDUTPA by publishing false statements about Roca on the Website (*id.* at ¶¶186-93] and by forwarding those statements to Twitter. (*Id.* at ¶¶194-95.) Roca claims that Opinion Corp. misrepresents statements regarding its esteem and presents itself as a consumer advocacy site when it is actually a gripe site. (*Id.* at ¶¶196-210.)

These allegations are irrelevant to liability under FDUTPA, which prohibits "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." Fla. Stat. § 501.204(1). The statute previously provided that only a "consumer" had standing to pursue a FDUTPA claim, but was later amended to replace "consumer" with "person." *See* Fla. Stat. § 501.211(2). Florida courts clarified that despite this change in language, there still must be a consumer relationship between the parties to provide FDUTPA standing.

> [T]he legislative intent of the 2001 amendment was to clarify that 'remedies available to individuals are also available to businesses,' as opposed to creating a cause of action for non-consumers. Accordingly, the Court is not convinced that the 2001 amendment to FDUTPA creates a cause of action for [two parties], when there is no consumer relationship between them.

Dobbins v. Scriptfleet, Inc., 2012 U.S. Dist. LEXIS 23131 (M.D. Fla. Feb. 23, 2012), citing *Kertesz v. Net Transactions, Ltd.*, 635 F. Supp. 2d 1339, 1349 (S.D. Fla. 2009) (quoting Sen. Staff Analysis and Economic Impact Stmt., Florida Staff Anal., SB 208, March 22, 2001, at p. 7).

It is beyond dispute that Roca is not a consumer of Opinion Corp.'s services. (*See* Doc. # 148-2 at ¶3.) That is presumably the reason that after this litigation commenced, Roca attempted to create a business relationship between Roca and Opinion Corp.: Roca's Don Juravin tried to register for Opinion's premium business service and posted a paid review on the Website. (*Id.* at ¶4; *see also* Doc. # 20.[7]) Opinion saw through this ruse and refunded Juravin's money but let his expression stand. (*See* Doc. # 148-2 at ¶5.) It did this because the "review" was a fake celebrity endorsement by Alfonso Ribeiro. (*See* Doc. # 20.) Presumably, this was an attempt to draw legal fire from Ribeiro's lawyers, which it did. Opinion Corp. then received a legal threat from Ribeiro's attorney, who made it clear that Ribeiro did not endorse the product, and that the review was an unauthorized use of his name and likeness. (Doc. # 26-1.) Opinion Corp. then removed the contents of this review. (*See* Doc. # 148-2 at ¶¶6-7.)

Roca's thinking may not be clear, but Florida law is: There must be some relationship between the parties to trigger FDUTPA. Here, there is no relationship except the one they are currently engaged in – this litigation, as was recognized when Magistrate Judge Jenkins wrote, "Plaintiff does not allege a consumer relationship between Plaintiff and Defendants, or even an employment, business, or competitor relationship." (Doc. # 43 at 9, Magistrate's Report and Recommendations.) Magistrate Judge Jenkins also found that Roca "has failed to prove a sufficient causal nexus between the deceptive actions alleged and any harm it has suffered, as the loss of business and reputation suffered by Plaintiff stems from the content of the reviews rather than any deceptive actions alleged by Plaintiff." (*Id.* at 10.) Nothing in the FAC remedies this (and no additional discovery could change it).

[7] It is worth noting that Doc. # 20 contains undeniable perjury. *See* Doc. # 26.

Indeed, Roca could not sustain a FDUTPA claim even if it did have standing. Under the Act, an "unfair practice" is "one that 'offends established public policy' and one that is 'immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.'" *PNR, Inc. v. Beacon Prop. Mgmt.*, 842 So. 2d 773, 777 (Fla. 2003) (quoting *Samuels v. King Motor Co.*, 782 So.2d 489, 499 (Fla. 4th DCA 2001)). A "deceptive act" occurs when there is a "representation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment." *PNR, Inc.*, 842 So.2d at 777, *quoting Millennium Communs. & Fulfillment, Inc. v. Office of the AG, Dep't of Legal Affairs*, 761 So.2d 1256, 1263 (Fla. 3d DCA 2000) (emphasis added). In this case, the record reflects that all the Website's operator did was provide a platform for consumers to share their experiences – certainly nothing to consumers' detriment. To the contrary, the Website provides a valuable tool for consumers to share their experiences in order to protect them from unscrupulous businesses – such as a diet company whose employees pose for pictures in fat suits and has its customers consult with fake doctors.

Roca's FDUTPA claim also fails, and should be dismissed, because it has no proof of cognizable damages. Roca contends that it has incurred damages because the Website allows "false and defamatory" statements to be posted by third parties. (Doc. # 114 at ¶212.) The closest Roca has come to enunciating a theory of damages is by describing the supposed loss of prospective customers because of reviews on the Website. But these reviews are not "deceptive" or "unfair" behavior on the part of any defendant here – they are written by third parties. (Doc. # 43 at ¶9.) Plaintiff has no proof of, or even a coherent theory of, a causal relationship between Opinion's alleged acts and any harm it claims to have suffered.

3.5 The tortious interference claims are ripe for summary judgment.

To prevail on a claim of tortious interference, a plaintiff must demonstrate "(1) the existence of a business relationship ... (2) knowledge of the relationship on the part of the defendant; (3) an intentional and unjustified interference with the relationship by the defendant;

and (4) damage to the plaintiff as a result of the breach of the relationship." *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So. 2d 812, 814 (Fla. 1994). Roca claims, again, that posts on the Website caused it to lose unspecified business opportunities. (Doc. # 114 at ¶245.) Not one such opportunity has even been identified. "Plaintiff has failed to satisfy its burden of proof on the issue of causation and is not likely to succeed on the merits of its claims for tortious interference." (Doc. # 43 at 12.)

This is unsurprising, because there is no set of facts that could support Roca's claim that Opinion acted in a manner that a rational fact finder could determine to be intentional and unjustified interference with Roca's business. Simply providing a platform for consumers to review a company, product, or service is not an unjustified interference. Allowing consumer reviews on public health issues could never be deemed "unjustified." In fact, the only relevant extant "business relationship" implicated here is Roca's oppressive "contract" with its customers, which Roca claims bars them from commenting negatively about Roca or its products – even though the negative health consequences have been documented in this case. (*See* Doc. # 13-5].[8]

To the extent, however, that Roca claims Opinion Corp. tortiously interfered with these "contracts" by facilitating its customers' ability to post reviews (Doc. # 114 at ¶¶236-244), it is manifestly obvious that this "contract" is not only unable to govern the conduct of Opinion Corp.,[9] but that this pact with the dietary devil is unenforceable as to anyone. (*See* Doc. # 13 at 12-15.) One reason it is unenforceable is Fla. Stat. § 542.18, prohibiting such restrictive covenants ("every contract, combination, or conspiracy in restraint of trade or commerce in this state is unlawful"). Because under Fla. Stat. § 542.335(l)(g)(4) the enforceability of a restrictive

[8] Independent sources further back up the assertion that Roca's products is unsafe. For example, the second ingredient listed on Roca's product is guar gum. (*See* Doc. # 148-3 at 12-15.) Meanwhile, the Food and Drug Administration has strict limits upon the amount of guar gum that can be in a food product. *See* 21 C.F.R. § 184.1339. Further, prior specious weight loss products based on guar gum have attracted the disapproving eye of federal regulators. *See United States v. Undetermined Quantities of "Cal-Ban 3000* * *"*, 776 F. Supp. 249 (E.D.N.C.1991).

[9] "[A] contract does not bind one who is not a party to the contract, or who has not agreed to accept its terms.'" *Marlite, Inc. v. Eckenrod*, 2012 U.S. Dist. LEXIS 118140 (S.D. Fla. July 13, 2012), *citing Whetstone Candy Co. v. Kraft Foods, Inc.*, 351 F.3d 1067, 1074-75 (11th Cir. 2003).

covenant mandates that a court "consider the effect of enforcement upon the public health, safety, and welfare," Roca's attempt to use this "contract" to prohibit consumers from sharing their negative health experiences about its weight-loss product is legally void – for clearly its sole purpose is to deprive prospective purchasers of information that would allow them to make an informed decision about a product that makes health-related claims, is digested internally and, it is documented, makes people sick. (*See* Doc. # 13-5, Walsh Declaration; Doc. # 13-3, Schaive Declaration at ¶¶8, 18]. The contract is also void under this standard because Roca refuses to refund consumers' money if they are dissatisfied – or even if they get ill. (*See* Doc. # 13-3 at ¶¶6-7, 13, 16; Doc. # 13-5 at ¶¶9, 14.)

Ultimately, to prevail on a claim of tortious interference, Roca must demonstrate a causal relationship between Opinion Corp.'s alleged "intentional and unjustified interference with the relationship" and any harm it claims to have suffered. Roca has no proof of such a relationship.

4.0 Conclusion

"There may be no more serious or critical issue extant today than the health of human beings. Given the frailty of human existence, any controversy on the subject must be afforded wide open discussion and criticism so that individuals may make well educated health care choices." *Spelson v. CBS, Inc.*, 581 F. Supp. at 1206. The entire purpose of Roca's case is to silence criticism of a questionable (at best) substance marketed (deceptively) as a medical product. Roca wants to silence criticism through the use of SLAPP suits. This Court's indulgence of that strategy is a necessary component in ripping off customers, putting their health in danger, and laughing all the way to the bank.

Free speech cases such as this one cry out for resolution at the earliest possible time, lest protracted litigation chill the willingness and ability of Opinion Corp. – and others – to exercise their First Amendment rights in the interest of the public's health and welfare.

Respectfully Submitted,

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CASE NO.: 8:14-cv-02096-VMC-EAJ

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 7, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served upon counsel for Plaintiff, via transmission of Notices of Electronic Filing generated by CM/ECF.

An employee / agent of
RANDAZZA LEGAL GROUP

EXHIBIT 1

Declaration of Stephanie Taylor

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ROCA LABS, INC.,

Plaintiff,

v.

CONSUMER OPINION CORP. and OPINION CORP.,

Defendants.
/

Case No: 8:14-cv-02096-VMC-EAJ

DECLARATION OF STEPHANIE TAYLOR

I, Stephanie Taylor, declare under penalty of perjury that all of the following facts are true:

1. I previously worked for Roca Labs, Inc. ("Roca Labs") continuously beginning approximately September 2013 and ending on May 2, 2014.
2. During my term of employment, I worked in a number of customer service capacities for Roca Labs.
3. At the beginning of my term of employment, I took part in a three-day training given by Roca Labs through which they instructed me on how to respond to certain customer inquiries and requests.
4. During my training, I was instructed that Roca Labs' strict refund policy prohibits refunds if they are requested more than one hour after the purchase is made.
5. If a customer requested a refund, I was instructed to only respond via email by providing them a link to Roca Labs' support page, which, to the best of my knowledge, was never

active and would not actually facilitate refunds. Therefore, to my knowledge, there was no way a customer could successfully obtain a refund for their purchase.

6. One of the capacities in which I worked involved taking orders for Roca Labs products over the telephone and through the Internet.
7. When a customer would call Roca Labs' customer support telephone number, the caller would be instructed through an automated response to leave a voicemail message.
8. Per my training and through the consistent instruction of Don Juravin and other Roca Labs managers, a caller who leaves a voicemail message requesting a refund would be sent an email directing them to the non-functional customer support webpage.
9. Another capacity in which I worked at Roca Labs was posing as a "success coach," speaking over Skype with customers and potential customers who had questions about Roca Labs products and the how it could affect their health.
10. For a short period of time, I consumed Roca Labs' products. While using the product, I lost less than 15 pounds.
11. Despite my minimal weight loss, I was instructed by Don Juravin and other Roca Labs managers to lie to callers and significantly exaggerate the amount of weight that I lost while using Roca Labs' product. In fact, I was instructed by Roca Labs' management to tell callers that I had lost more than three times the weight that I had actually lost while using the product.
12. Shortly prior to my separation with Roca Labs, I was assigned the task of responding to customer inquiries using the online-chat functionality of Roca Labs' website. I was given

no instructions regarding how to respond to customers inquiries using this tool aside from my prior training.

13. During my time working with Roca Labs, I noticed that the online chat window on Roca Labs' website showed a picture of a doctor.
14. During the chat sessions there was no doctor chatting with the people who were asking questions using that tool; I was the only person chatting with the customers.
15. I am not a medical doctor, nor am I anything close to a medical doctor.
16. It is clear to me that we were misleading people to believe that they were speaking to a medical doctor about Roca Labs' product while they were actually only speaking to me, someone who received only three days of minimal training before being given the task of responding to customer questions.

I declare under penalty of perjury that the foregoing statements are true and correct under the laws of the United States.

Dated 6/12/2015.

DocuSigned by:
Stephanie Taylor
041431607AC8432

Stephanie Taylor

EXHIBIT 2

Sarasota County Code Enforcement Report

Sarasota County

INQUIRY REPORT

INQUIRY NUMBER
11 101552 11

INQUIRY DATE
Thursday January 13, 2011

NAME / ADDRESS
HERMES ERACLIDES
847 Siesta Key Circle ST SARASOTA Florida 34242

TELEPHONE NO.
(941) 586-5800

SOURCE OF INQUIRY
Gigi Bates

TYPE OF INQUIRY
Call Center Complaint

DIVISION / FOREMAN
Code Enforcement Gigi Bates

LOCATION DESCRIPTION
4136 Roberts Point CircleLOT 34 ALSO BEG AT SLY COR OF LOT 34 TH N 65 DEG 24 MIN W 174.8 FT TO SHORE OF BAYOU NETTIE TH N ALONG WATERS OF

CO-ORDINATE

DETAILS OF PROBLEM
Business running out of a residential area.

SOURCE OF INQUIRY		
ASSIGNED TO: J. Tancey	DATE: 5/29/15	AREA: Admin. staff
REPORT AND RECOMMENDATION		
	SCHEDULE DATE: 6/2/15	COMPLETION DATE: 6/2/15
ACTION TAKEN: Provide Activities for case# 11-101552-11 (Complaint) Email to Marc J. Pandazza with Pandazza Legal Group		

SERVICE		
Closed	N/A	
Open		

COMMENTS: See notes dated 1/19/2011

COMPLETION DATE (D D M M Y Y): 0 6 0 2 1 5

CALL BACK:

SCHEDULE DATE (D D M M Y Y):

6/2/15 11:46AM

ACTIVITIES FOR CASE # 11-1D1552-11

Process	Process Comment	Activities	Date	Done By	Hrs	Activity Comments
Route Complaint		Completed	01/13/2011	Gigi Bates	0.25	Business running out of a residential area.
Code Compliance Investigation	Running business in res district	Unfounded	01/19/2011	John Lally	1.00	No evidence of running a business that would be against the Zoning Ordinance. Anonymous needs to contact me with more details.
	Animal Services					
	Building Inspections					
	Code Enforcement					
	Contractor Licensing					
	Environmental Health					
	Fire Prevention					
	Hazardous Waste					
	Neighborhood Response Team					
	Resource Protection					
	Sheriff's Office					
	Solid Waste					
	Traffic Problems					
	Utilities					
	Pollution Control					
			Total Hours		**1.25**	

Sarasota County
INQUIRY REPORT

INQUIRY NUMBER
12 138939 11

INQUIRY DATE
Tuesday November 06, 2012

NAME / ADDRESS
HERMES ERACLIDES
847 Siesta Key Circle ST SARASOTA Florida 34242

TELEPHONE NO.
(941) 586-5800

SOURCE OF INQUIRY
Daniel Zumbro

TYPE OF INQUIRY
Call Center Complaint

DIVISION / FOREMAN
Building Daniel Zumbro

LOCATION DESCRIPTION
4136 Roberts Point CircleLOT 34 ALSO BEG AT SLY COR OF LOT 34 TH N 65 DEG 24 MIN W 174.8 FT TO SHORE OF BAYOU NETTIE TH N ALONG WATERS OF

CO-ORDINATE

DETAILS OF PROBLEM
Resident is running a manufacturing/distribution center out of his house.

Approximately 50 pallets of product - weight loss dietary substance.

SOURCE OF INQUIRY

ASSIGNED TO	DATE	AREA
J. Tancey	5/29/15	Admin. staff

REPORT AND RECOMMENDATION

SCHEDULE DATE	COMPLETION DATE
6/2/15	6/2/15

ACTION TAKEN
Provide Activities for case #12-138939-11 (Complaint)
Provide Activities for case #CZ-12-3390 with copies of Case file, photos & documents
Email to Marc J. Randazza with Randazza Legal Group

SERVICE

Closed	N/A	
Open		

COMMENTS
See notes dated 11/8/2012 showing violation; at that time, CZ-12-3390 created by officer.

COMPLETION DATE (D D M M Y Y): 06/02/15

CALL BACK

SCHEDULE DATE (D D M M Y Y):

6/2/15 11:42AM

ACTIVITIES FOR CASE # 12-138939-11

Process	Process Comment	Activities	Date	Done By	Hrs	Activity Comments
Route Complaint		Completed	11/06/2012	Susan Anderson	0.25	Resident is running a manufacturing/distributio n center out of his house. Approximately 50 pallets of product - weight loss dietary substance.
Code Compliance Investigation	Resident is running a manufacturing/distribution center out of his house. Approximately 50 pallets of product - weight loss dietary substance.	Violation	11/08/2012	John Lally	1.00	Based on evidence recieved from an employee and her attorney a violation of the home based business ordinance has been violated. No employees and no manufacturing processes..

Animal Services
Building Inspections
Code Enforcement
Contractor Licensing
Environmental Health
Fire Prevention
Hazardous Waste
Neighborhood Response Team
Resource Protection
Sheriff's Office
Solid Waste
Traffic Problems
Utilities
Pollution Control

Total Hours **1.25**

2012 139264 000 00 CZ Zoning Compliance

Type	CZ Zoning Compliance	**Status**	Closed
Sub Type		**Parent ID**	809811
Work		**Row ID**	810136
Group	Violations		

Primary Property

Address 4136 Roberts Point Circle,
Sarasota County, Florida, 34242, USA **Roll** 0078100040 **PropID** 50212 **Folder Unit**

Location

Tracking Dates and Reference Information

In Date	Nov 08, 2012	**Issue/Approve**		**Expires**	
Ref. No.	CZ-12-3390	**Issued By**		**Final Date**	May 24, 2013
Name	4136 Roberts Point Cir			**Priority**	

Description

Based on evidence recieved from an employee and her attorney a violation of the home based business ordinance has been violated. No employees allowed,storage and no packaging/manufacturing/distribution processes.allowed.Note: Request for extension given to remove materials by 3/15/13.

Conditions

Indicators

Violation	Parent

6/2/15 11:38AM

ACTIVITIES FOR CASE # CZ-12-3390

Process	Process Comment	Activities	Date	Done By	Hrs	Activity Comments
Reinspection		Case Research	04/05/2013	John Lally	0.50	Sent EMail to attorneys requesting an inspection time
Reinspection		Compliance	05/24/2013	John Lally	2.00	I inspected property and found materials in front part of garage constituting the violation have been removed. Property is in compliance. No employees and no manufacturing processes observed at any time.
Code Enforcement Customer Contact		Contacted - phone	01/03/2013	Charles Marchione	1.00	P/O 941-586-5800, requested extention March15, 2012
Reinspection		Customer Contact	04/23/2013	John Lally	2.00	I attended a phone conference @ the county attorneys office with Mr. Juarvin's attorneys and discussed options on how to close the case providing the property is in compliance.
Reinspection		Extension Granted	01/03/2013	Charles Marchione	1.00	P/O 941-586-5800, requested extention March15, 2012
Reinspection		Extension Granted	12/20/2012	John Lally	1.00	I emailed the attorneys and described what corrections are needed, I also called Sal the owners property manager and explained what corrections are needed. Case has been extended till Jauary 31, 2013 to allow time for compliance.

Process	Process Comment	Activities	Date	Done By	Hrs	Activity Comments
Reinspection		Extension Granted	11/16/2012	John Lally	2.00	I inspected property on 11/15/12 and took pictures of the storage area. there are materials in the front part of garage that are going to be removed that are not part of the current operation. I will extend the compliance till Dec 21, 2012 and will be setting up a meeting with Brad to discuss the case
Violation Notification		Notice of Violation	11/08/2012	John Lally	2.00	ased on evidence recieved from an employee and her attorney a violation of the home based business ordinance has been violated. No employees and no manufacturing processes..
Violation Notification		Verbal Contact	02/20/2013	Kevin Burns	1.00	Spoke with neighbor and informed her that business will be gone in one month
			Total Hours		**12.50**	

Sarasota County

SARASOTA COUNTY CODE ENFORCEMENT
NOTICE OF VIOLATION
AND
ORDER TO CORRECT VIOLATION

CASE NUMBER: CZ-12-3390

DATE: November 14, 2012

Hermes Eraclides
874 Siesta Key Circle
Sarasota, Fl. 34242

Don Juravin (Tenant)
4136 Roberts Point Circle
Sarasota, Fl. 34242

LOCATION OF VIOLATION: 4136 Roberts Point Circle, Sarasota, Fl. 34242
PROPERTY IDENTIFICATION NUMBER: 0078-10-0040

NOTICE OF VIOLATION:
Pursuant to Chapter 2, Article VIII, Sarasota County Code, and Chapter 162, Florida Statutes, you are notified that a violation of the following Sarasota County Code exists:

Sarasota County Code, Appendix A, Sec. 5.4.4.f.1.iii.iv.2.i.Accessory Uses in Residential Districts

f. Home Occupations and Home-Based Businesses. The following regulations shall apply to the conduct of home occupations and home-based businesses in any district:

1. General Standards
iii. No storage or warehousing of business material, supplies or equipment is allowed in any accessory structure, garage or outside of the dwelling unit.

iv. No home occupation or home-based business shall be permitted in an open porch area, garage or any accessory structure not suited or intended for occupancy as living quarters.

2.Home Occupation as an Accessory Use. The intent of a home occupation is to allow very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the area. No evidence of the home occupation shall be visible. A home occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this section and the general standards in subsection f.1. above. Where private deed restrictions are more restrictive than the standards of this section, such restrictions shall apply.

i. No persons other than members of the family residing on the premises shall be engaged in such occupation, except that employees are permitted in association with Section 5.3.1.a.6.

DESCRIPTION OF CONDITIONS CONSTITUTING THE VIOLATION:
Storage of business materials, supplies in the garage/utility storage area, employees other than family members engaged in the occupation is a violation of the Zoning Ordinance.

ORDER TO CORRECT VIOLATION: You are directed by this notice to make the following corrective actions: **Cease the illegal home-based business and/or home occupation. Stop the warehousing of, and remove business material, supplies and equipment from property.**

BEFORE: November 21, 2012

PENALTIES MAY BE IMPOSED:
Failure to correct the deficiencies on the date specified above will result in an Affidavit or Statement of Violation to be filed the Code Enforcement Special Magistrate, charging you with the violations set out above, upon which a hearing will be held which you may attend. If the Code Enforcement Special Magistrate finds a violation exists, penalties up to $250.00 per day for each day the violation exists may be imposed. Penalties up to $500.00 per day for each repeat violation may be imposed.

_____

John Lally
Code Enforcement Officer
Planning & Development Services / Code Enforcement
1001 Sarasota Center Blvd.
Sarasota, FL. 34240 (941) 915-7548

SERVED BY: ☐ PERSONAL SERVICE ☐ CERTIFIED MAIL ☐ FIRST CLASS MAIL ☐ POSTED

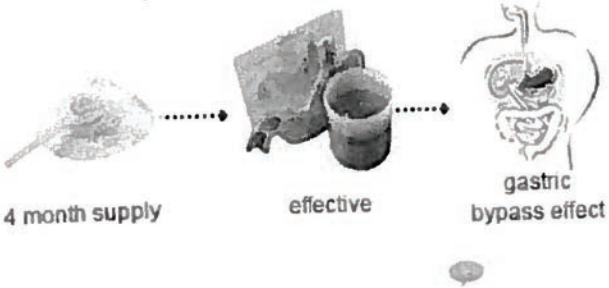
GASTRIC BYPASS no surgery™

HOME ANSWERS SUCCESS STORIES SUPPORT ORDER

Gastric Bypass Results / no surgery

Only $160 x 3 payments order

A dose in the morning limits available stomach space practically forcing you to eat half as much as before. This is a powerful weapon against obesity. A successful regimen will result in a smaller size stomach (3-6 months), improving eating habits and overcoming cravings.



Understanding the formula

click 2 talk
LIVE ADVICE

Roca Labs USA
Nutraceuticals Paris-Florida-Tokyo

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Gastric Bypass No Surgery

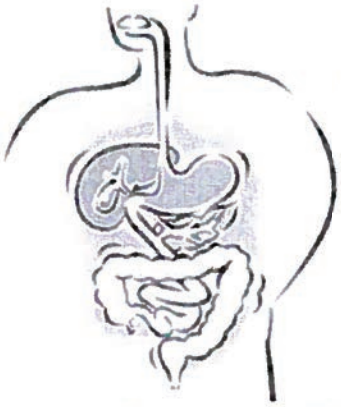
Natural formula creates Gastric Bypass Effect - only a small limited stomach volume available for food intake

1 Understanding the formula | Live Chat | 2 Choosing the right formula

A dose of the Formula mixed in water an the morning creates a fast gastric bypas leaving only a small limited stomach size for food intake, practically forcing you to and lose weight from day one. Without G Bypass surgery.

The patented *β-Glucan®* ingredient re your blood sugar levels and helps yo cravings.

Ch *click 2 talk* LIVE ADVICE



*based on Terms

Roca Labs is a special Formula designed to create a "gastric bypass effect" or "gastric bypass results" without the need fc a gastric bypass surgery. Statements on this site have not been evaluated by the FDA. The Formula does not diagnose, treat, cure, or prevent any disease. This food supplement should be taken with at least 8 ounces of liquid. Consuming the Formula(s) without sufficient liquid may cause choking or other complications. Do not consume or use the Formula if you have difficulty in swallowing. Consult your doctor before buying/using the Formula, especially if you have ever had any medical and/or health related condition. All purchases are governed by our Terms Page. This site is using visualization an persuasion that we consider appropriate to psychologically aid users in the important process of weight loss. Some of these efforts utilize paid actors. The information on this site supersedes any verbal information received from sales agents via phone or elsewhere. Support for our claims are on the Research page and are supplied by our users, as seen on YouTube. The use of the term "gastric bypass", and any other similar terminology, is meant only to illustrate the desired effect of the Formula which consists of herbs/food supplements. The various logos displayed on our site belongs to their respective trade mark holders and do not imply any endorsement. V1.7 Sep2011

gastric bypass gastric by-pass lap band surgery band surgery lapband stomach surgery gastric band

Ch click 2 talk LIVE ADVICE

John Lally

From: John Hagerman [john@banyantitle.net]
Sent: Wednesday, November 07, 2012 2:29 PM
To: John Lally
Subject: Fw: FDA run business garage/Juravin
Attachments: photo (14).JPG; photo (15).JPG; photo (16).JPG; photo (17).JPG; photo (12).JPG; Roca Roach-garage.zip

Good Afternoon John,

I hope the pictures and e-mail attached will help substantiate my claim of the illegal manufacturing and distribution plant being operated out of 4136 Roberts Point Rd. I can provide more pictures and information if you feel it will assist you in your investigation. Thank you again for your prompt attention to this most disturbing matter.

With Appreciation,

John J. Hagerman, CLA, LTA, CMS
President
Banyan Mitigation & Settlement Services
(941)-629-3825

----- Forwarded Message -----
From: "jodybarnes1@verizon.net" <jodybarnes1@verizon.net>
To: john@banyantitle.net
Sent: Wednesday, November 7, 2012 1:58 PM
Subject: FDA run business garage/Juravin

November 7, 2012

Dear Mr. Hagerman,

Thank you for all your support in this matter. Attached you will find a few photos taken from inside Mr. Don Juravin's home (garage). Pictures are of pallets with all materials that we fulfill orders from being boxes, bottles, lids, papers, scoopes, and of course the main product itself being the FDA approved food supplement. I only have a few pictures uploaded already and knowing you were in a hurry to see them, I'm only sending these. However, I have at least 100 photos, texts between myself and Mr. Juravin talking about what items we need to reorder and so on. Normal daily activites of business between myself and Mr. Juravin keeping him posted on product running low. I also have countless emails, notes of companies I've called on his behalf when scheduling truck delivery of all the pallets and the trucking companies used to deliver the pallets of product to his residence.

*****The pictures here were taken between the dates of July 2012 to present.. being October 25.***

***** pls note, I have received 9 calls within the last hour from Mr. Juravin. I know it's him b/c he is the ONLY person that has EVER called me with a blocked number. Especially being that I just recently moved to this area. Only a handful of people even know my number! It's him... last time he needed me desperately was when he needed to blow out of town early in the morning and drive to Miami. He called just like this: a dozen times from 7:30a.m. until when I finally answered around 9:00 after I got my daughter off to school.***

Don and Ania Juravin
4136 Roberts Point circle
Siesta Key, FL 34242

Don 813.500.9055 Phone numbers I know he has that r working :His wife, Ania @ 813.500.9055 and a private unlisted home phone@ 941.348.9193
859.816.8711

John Lally

From: David Pearce
Sent: Friday, November 09, 2012 2:21 PM
To: John Lally; Scott Bossard
Subject: RE: review

John,

Scott is still in code enforcement. The only question I would have is with regard to the order to correct violation at the bottom of the page. You direct the Respondent to, "Cease producing/packaging/distribution from this residentially zoned property." I think you may want to expand on that and say something like, "Cease the illegal home-based business and/or home occupations. Stop storage or warehousing of, and remove, business material, supplies, or equipment."

Sincerely,

Dave Pearce

David M. Pearce
Assistant County Attorney
OFFICE OF THE COUNTY ATTORNEY
1660 Ringling Blvd., Second Floor
Sarasota, FL 34236
Telephone: 941-861-7261
Facsimile: 941-861-7267

From: John Lally
Sent: Friday, November 09, 2012 12:34 PM
To: Scott Bossard; David Pearce
Subject: review

Can you review this NOV for me this case has the Sheriff's office and the DBPR involved. I will also forward an email with some of the pictures from the complainant.

Sarasota County
Property Appraiser

2013 Detail Information for Parcel 0078-10-0040

Ownership
HERMES ERACLIDES
874 SIESTA KEY CIR
SARASOTA, FL, 34242
Incorrect Mailing Address?

Situs Address
4136 ROBERTS POINT CIR, SARASOTA, FL 34242

Parcel Description
BEG SELY COR OF LOT 34, RESUB OF BLKS 1, 2, 3 & 4 ROBERTS POINT OF PLAT OF SIESTA, TH S-44-02-56-W 93.96 FT TO ELY R/W OF VACATED EAST AVE TH N-65-24-W 174.84 FT TO BAYOU NETTIE, TH N-35-11-05-E 26.06 FT M/L TO S LINE OF LOT 3, BLK 55, REV PLAT OF SIESTA,...

Associated Personal Property
No Personal Property

Parcel Characteristics

Land Area:	16,021 (square feet)
Incorporation:	UNINCORPORATED
Delineated District:	N/A
Subdivision Code:	0236
Use Code:	N/A
Sec/Twp/Rge:	01-37S-17E
Census:	121150019031
Zoning:	RSF1

2013 Values (Available Mid July)

Just (Market) Value:	N/A
Land Value:	N/A
Improvement Value:	N/A
Assessed Value:	N/A
Homestead:	N/A
Exemptions:	N/A
Total Taxable:	N/A

Property records have been updated with 2013 information. To view 2012 values, please click the 2012 button above.

Improvements (Preliminary)

Total Building Area:	11,849
Living Area:	7,099
Living Units:	1
Bed / Bath:	6 Bed/5 Bath/2 Half
Pool:	Yes (Built 2008)
Year Built:	2008

Transfer History

Transaction Date	Recorded Consideration	Transaction Qual. Code	Instrument #	Seller/Grantor
5/7/2004	$920,000	01	2004089820	NEVITT,STEPHEN H
4/24/2002	$870,000	01	2002069642	REISSIG,KRISTIAN

Show Transaction Qual. Codes Show Instrument Types

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

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Events | Name History

Detail by Entity Name

Florida Profit Corporation

ROCA LABS, INC.

Filing Information

Document Number	P06000132455
FEI/EIN Number	208616355
Date Filed	10/18/2006
State	FL
Status	ACTIVE
Last Event	AMENDMENT AND NAME CHANGE
Event Date Filed	04/15/2009
Event Effective Date	NONE

Principal Address

12271 LEXINGTON PARK DR
204
TAMPA FL 33626 US

Changed 05/17/2011

Mailing Address

12271 LEXINGTON PARK DR
204
TAMPA FL 33626 US

Changed 05/17/2011

Registered Agent Name & Address

CT CORPORATION SYSTEM
1200 S PINE ISLAND RD
PLANTATION FL 33324 US

Name Changed: 04/17/2012

Address Changed: 04/17/2012

Officer/Director Detail

Name & Address

Title DPST

WHITING, GEORGE C DR.
12271 LEXINGTON PARK DR NR 204
TAMPA FL 33626 US

Title D

FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS

Sunbiz

Detail by Entity Name

Florida Profit Corporation

ZERO CALORIE LABS, INC.

Filing Information

Document Number	P06000135849
FEI/EIN Number	208616367
Date Filed	10/25/2006
State	FL
Status	ACTIVE
Last Event	AMENDMENT
Event Date Filed	01/05/2010
Event Effective Date	NONE

Principal Address

12271 LEXINGTON PARK DR
APT 204
TAMPA FL 33626 US

Changed 04/20/2011

Mailing Address

12271 LEXINGTON PARK DR
APT 204
TAMPA FL 33626 US

Changed 04/20/2011

Registered Agent Name & Address

C T CORPORATION SYSTEM
1200 SOUTH PINE ISLAND ROAD
PLANTATION FL 33324 US

Name Changed: 04/19/2012

Address Changed: 04/19/2012

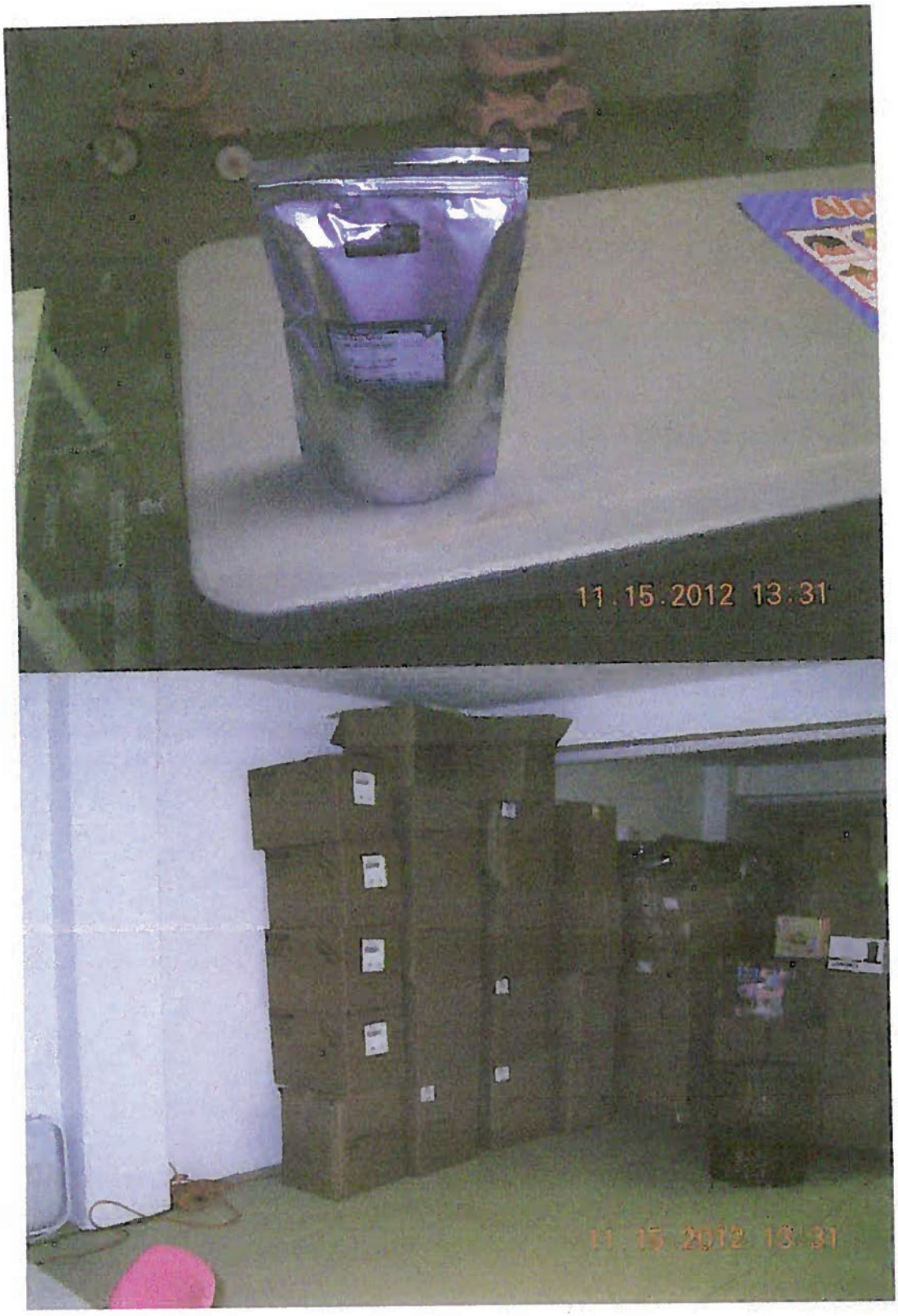
Officer/Director Detail

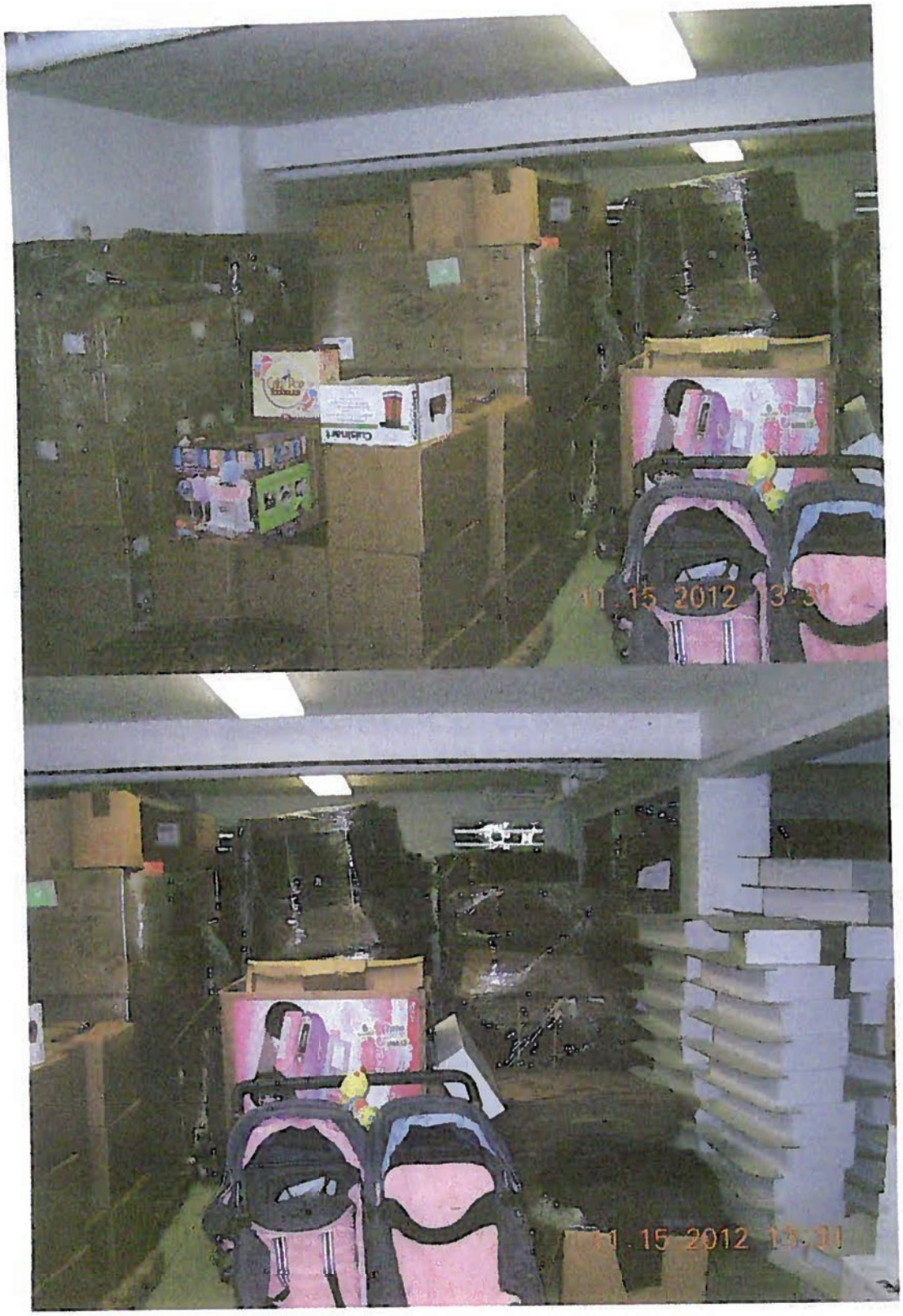
Name & Address

Title DPST

WHITING, GEORGE C
12271 LEXINGTON PARK DR NR 204
TAMPA FL 33626

Annual Reports


11.15.2012 13:31
11.15.2012 13:31


11 15 2012 13 31
11 15 2012 13 31


11.15.2012 13:31
11.15.2012 13:32


11 15 2012 13:32
11 15 2012 13:32

MATERIALS IN FRONT PART OF GARAGE
CONSTITUTING THE VIOLATION HAVE
BEEN REMOVED. PROPERTY IS IN
COMPLIANCE.
NO EMPLOYEES AND NO MANUFACTURING
PROCESSES AT ANY TIME
OBSERVED