

DEC 31 2012

ALAN CARLSON, Clerk of the Court

1 ROGER MAGNUSON (to be admitted *pro hac vice*)
2 DORSEY & WHITNEY LLP
3 50 South Sixth Street, Suite 1500
4 Minneapolis, MN 55402
5 Telephone: (612) 340-2600
6 Facsimile: (612) 340-2868

7 KENT J. SCHMIDT (SBN 195969)
8 KAREN A. MORAO (SBN 256428)
9 KATHERINE J. SANTON (SBN 265600)
10 DORSEY & WHITNEY LLP
11 600 Anton Boulevard, Suite 2000
12 Costa Mesa, CA 92626
13 Telephone: (714) 800-1400
14 Facsimile: (714) 800-1499

15 Attorneys for Plaintiff
16 JOHN SANDERSON

BY FAX

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF ORANGE

30-2012

19 JOHN SANDERSON, an individual,

CASE NO.: 00621436

20 Plaintiff,

VERIFIED COMPLAINT FOR:

21 vs.

- 22 (1) DEFAMATION – LIBEL *PER SE*
- 23 (2) DEFAMATION – SLANDER *PER SE*
- 24 (3) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS
- 25 (4) INVASION OF PRIVACY
- 26 (5) CONSPIRACY

27 NERIUM INTERNATIONAL, LLC, a Texas
28 limited liability company; NERIUM
BIOTECHNOLOGY, INC., a Canadian
corporation; NERIUM SKINCARE, INC., a
Texas corporation; JEFF OLSON, an individual;
DOUGLAS BURDICK, an individual; and
DOES 1 through 50, inclusive,

JURY TRIAL DEMANDED

Defendants.

JUDGE FRANZ E. MILLER
DEPT. C14

1 For his Verified Complaint, Plaintiff John Sanderson ("Plaintiff" and/or "Sanderson") hereby
2 alleges the following facts and causes of action against Defendants Nerium International, LLC
3 ("Nerium International"), Nerium Biotechnology, Inc. ("Nerium Biotechnology"), Nerium SkinCare,
4 Inc. ("Nerium SkinCare") (collectively referred to herein as "Nerium"), Jeff Olson ("Olson"), Douglas
5 Burdick ("Burdick") and DOES 1 through 50 (collectively "Defendants").

6 INTRODUCTION

7 1. Multilevel marketing organizations ("MLMs") are by design built on the concept of
8 spreading unbridled enthusiasm about a product that has life changing benefits flowing from its use
9 and promotion to unsuspecting friends and family. The key to a successful MLM is to keep an entire
10 organization energized and enthused about the product so that everyone—from the CEO to the newest
11 sales consultant—is on message promoting the product and lucrative business opportunity presented.

12 2. MLMs typically center around a charismatic leader whose good looks and winning
13 personality attract a cult-like following that encourages adherents to demonstrate an unwavering
14 commitment to the product and its promotion.

15 3. Criticisms of an MLM or its product can be devastating to its business model and rapid
16 growth plans. This is particularly true in an age in which the Internet in general and social media more
17 specifically provide a means for participants in the MLM to be exposed to messages that differ from
18 the party line such as criticisms of the MLM or its product.

19 4. This is an action for damages arising from an MLM's response to criticisms of its
20 product and organization.

21 5. The MLM in this case—operated by Nerium International, Nerium Biotechnology and
22 Nerium SkinCare ("Nerium")—through senior management, representatives and affiliates and the
23 individual defendants, engaged in a pre-planned, coordinated, and systematic campaign to attack
24 Plaintiff through defamatory statements which were then widely-published within the organization and
25 to the public. These defamatory statements were made in an effort to silence Plaintiff's criticism of
26 Nerium's product and organization.

27 6. For Nerium and its senior management, it was not sufficient to simply respond to
28 Plaintiff's criticism by providing a substantive refutation. Rather, Nerium commenced a public

1 campaign to attack the character and credibility of Plaintiff, assuring its adherents that it had hired a
2 PR (public relations) firm to dig up dirt on its critics.

3 7. Defendants further announced that their research had revealed that Plaintiff had been
4 arrested on multiple occasions for domestic violence. This statement is entirely and utterly false.

5 8. While in a more typical organization, the dissemination of defamatory statements might
6 be limited to a few individuals within the organization, given the fact that Nerium is an MLM, the
7 defamatory statements were made by its fast-talking CEO, Defendant Olson, in a video slickly-
8 packaged and then published through the company's social media outlets to everyone in the
9 organization and then to the general public including a re-publication on the Nerium Facebook page.

10 9. Defendant Burdick, who works for Nerium International with the title of "Corporate
11 Consultant," published his own separate Facebook page, reiterating the same false statements and
12 embellishing it with additional defamatory statements.

13 10. The goal of Nerium's senior executives was explicit: get this message to as many
14 Nerium adherents, marketing agents and potential customers as possible in order to discredit and
15 hopefully silence the critics.

16 11. Defendants gave no regard for the truth of the defamatory statements or the damage that
17 such false statements would cause to Plaintiff's reputation. Plaintiff brings this action for money
18 damages as a remedy for the defamatory statements made by Defendants.

19 12. While Nerium has hurled a variety of insults at Plaintiff and engaged in puerile name
20 calling, this lawsuit is not about those other statements. This lawsuit is limited in scope and relates
21 solely to the statements made by Defendants that Plaintiff had been arrested on multiple occasions for
22 domestic violence. Plaintiff does not presently assert claims arising from any other statements of
23 Nerium but reserves the right to amend this Verified Complaint to assert additional defamatory
24 statements as might be uncovered through discovery.

25 **PARTIES**

26 13. Plaintiff John Sanderson is, and at all times mentioned herein was, an individual
27 residing in Orange County, California.

28

1 14. Defendant Nerium International is, and at all times mentioned herein was, a limited
2 liability company organized and existing under the laws of the State of Texas and doing business
3 throughout the State of California.

4 15. Defendant Nerium Biotechnology is, and at all times mentioned herein was, a
5 corporation organized and existing under the laws of Canada and doing business throughout the State
6 of California.

7 16. Defendant Nerium SkinCare is, and at all times mentioned herein was, a corporation
8 organized and existing under the laws of the State of Texas and a subsidiary of Nerium Biotechnology
9 doing business throughout the State of California.

10 17. Defendant Olson is, and at all times mentioned herein was, the Chief Executive Officer
11 of Nerium International. Plaintiff is informed and believes that Defendant Olson's residence is in
12 either Texas or Oklahoma.

13 18. Defendant Burdick is, and at all times mentioned herein was, an employee with the title
14 of "Corporate Consultant" of Nerium International. Plaintiff is informed and believes that Defendant
15 Burdick's residence is in Illinois.

16 19. On information and belief, Nerium Biotechnology and Nerium Skincare have identical
17 or substantially overlapping officers and directors and operate out of the same San Antonio, Texas
18 address as a single entity.

19 20. On information and belief, at all times relevant to this action, the three entity
20 Defendants, Nerium International, Nerium Biotechnology and Nerium SkinCare, acted as a joint
21 venture and partnership in a single business enterprise, namely the business enterprise of researching,
22 developing, advertising, marketing and selling Nerium AD.

23 21. Nerium Biotechnology and/or its wholly-owned subsidiary, Nerium SkinCare, purport
24 to own proprietary rights to the Nerium skincare product and license and supply that product to Nerium
25 International which then markets and sells the product through its MLM sales organization, funneling
26 the revenues back to Nerium Biotechnology and/or Nerium Skincare.

27 22. Nerium International makes clear in its communications to the public that it is in a
28 partnership with the other two Nerium entity Defendants.

1 23. Nerium International holds itself out to the public through press releases, video
2 statements and other means as an enterprise constituting a “partnership” between the entities.

3 24. For example, Defendant Olson, CEO of Nerium International, has stated of Nerium
4 SkinCare: “They’re not just a supplier. They’re our partner.”

5 25. Similar statements have been made by Dennis Knocke, Chairman and CEO of Nerium
6 Biotechnology in a video on Nerium’s YouTube channel entitled “Jeff Olson and the Nerium
7 Partnership.”

8 26. The Nerium Defendants share in the profits and have an ownership interest in the
9 business venture. Mr. Knocke, Nerium Biotechnology’s Chairman and CEO, stated in an August 13,
10 2012 letter that the company “has discontinued selling stock or otherwise raising capital to continue
11 funding our research” because its wholly-owned subsidiary, Nerium SkinCare, “has been
12 extraordinarily profitable in its *partnership* with Nerium International in taking the first product,
13 NeriumAD [sic], to market.” (emphasis added).

14 27. On information and belief, the Nerium Defendants and each of them have control over
15 and engage in the business venture of marketing and selling Nerium AD. For example, Nerium
16 Biotechnology recently published a memorandum related to research it conducted and a safety panel
17 presentation with respect to the safety of Nerium AD. Nerium Biotechnology and Nerium SkinCare
18 coordinate nearly all the research and development efforts related to Nerium AD while Nerium
19 International focuses on marketing and selling Nerium AD.

20 28. These and other facts lead to the conclusion that the three entity Defendants engage in a
21 division of tasks in a single business venture. The three entity Defendants are therefore subject to joint
22 venture liability for the acts alleged herein.

23 29. The true names and capacities of Defendants DOES 1 through 50, inclusive, whether
24 individual, corporate, associate, partnership, and/or otherwise, are unknown to the Plaintiff and
25 therefore are sued under such fictitious names. Plaintiff will seek leave to amend this Complaint to
26 allege their true names and capacities, once ascertained.

27 30. At all times relevant to this action, each Defendant was an agent, principal, co-venturer,
28 representative, joint venturer, associate or alter ego of each other Defendant, and in doing things, acts,

1 omissions and wrongs hereinafter alleged, acted within the course and scope of its actual, apparent,
2 and/or ostensible authority of such employment, agency, servitude or alter ego relationship, and with
3 the permission and consent of its co-defendants, and each of them, and that all acts and/or omissions
4 alleged of each Defendant were authorized, ratified, approved and/or assented to by the remaining
5 Defendants, and each of them.

6 **JURISDICTION AND VENUE**

7 31. Jurisdiction is proper in the State of California because Defendants and each of them
8 have engaged in sufficient minimum contacts with the State of California and/or do business in the
9 State of California and the injury alleged herein occurred in the State of California.

10 32. Upon information and belief, Nerium advertises or markets the product described
11 herein, known as Nerium AD, to all fifty states in the United States as well as internationally.

12 33. Upon information and belief, Defendants and each of them regularly conduct regional
13 meetings throughout the country, including in California, which represents a lucrative market for
14 skincare products.

15 34. For example, Nerium International is presently advertising that Defendant Olson will
16 be appearing live and in the flesh at regional meetings on January 5, 2013 in San Francisco, California
17 and on January 12, 2013 in Anaheim, California. He has in recent months appeared at other such
18 meetings within California.

19 35. Upon information and belief, Nerium Biotechnology and Nerium SkinCare conduct
20 much of the product safety research and application, clinical testing as well as market research in
21 California.

22 36. Such conduct illustrates that the Defendants have substantial, continuous and systematic
23 contacts with the State of California and that Defendants have purposefully availed themselves of the
24 privileges of conducting business in the State of California.

25 37. The amount in controversy exceeds the jurisdictional minimum of this Court.

26 38. Venue is proper in the Orange County Superior Court because, pursuant to California
27 Code of Civil Procedure section 395, Orange County is the county in which the injury and damages
28 described herein occurred.

1 GENERAL ALLEGATIONS

2 39. Plaintiff John Sanderson ("Plaintiff" and/or "Sanderson") is a physician-scientist and
3 entrepreneur.

4 40. Sanderson volunteers his free time at a non-commercial blog, known as
5 BareFacedTruth.com, which discusses science and skin care. BareFacedTruth.com is entirely non-
6 commercial. It accepts no advertising and promotes no products. It is dedicated to providing
7 educational material, including information and research, relating to medical-scientific matters that are
8 in the public interest, including skin care science.

9 41. Plaintiff has been critical of the science behind Nerium AD and published information
10 with respect to his concerns on his blog for the public's benefit. The blog raised questions regarding
11 how a beneficial cosmetic effect can be produced by a known cellular toxin. The blog was also critical
12 of Nerium International's operations, including its status as a multilevel marketing organization and its
13 customer service.

14 42. In response to Plaintiff's critique of the science behind Nerium AD and the
15 organization, Defendants engaged in a campaign of harassment and defamation against Plaintiff to
16 destroy his reputation using false information.

17 43. This campaign of harassment and defamation was prefaced by credible threats issued in
18 a broadcast teleconference in or around early October 2012 where Defendant Olson, acting in his
19 capacity as CEO of Nerium International, stated: "We hired the proper people. We've done the
20 research. We've done the investigation. We've done—we probably know more about them than they
21 know about themselves and we will give you all the data to reverse everything they've said." The
22 audio has been preserved and will be presented to the jury at trial.

23 44. Defendants acted with malicious and outrageous disregard for the consequences of their
24 defamatory statements. Indeed, Nerium International's CEO, Defendant Olson, in early October 2012
25 expressed glee at the thought of perpetrating this harm: "And wait till you see what we have heading
26 your way. It's—actually, I hate to say this, but I'm going to really enjoy the day we put it out there,
27 quite honestly." The audio has been preserved and will be presented to the jury at trial.

28

PRAYER

WHEREFORE, Plaintiff prays for judgment on this Complaint as follows:

1. For a judgment in his favor on each and every cause of action alleged in this Complaint;
2. For compensatory and general damages according to proof;
3. For consequential or special damages;
4. For punitive damages in connection with the causes of action indicated above;
5. For prejudgment interest at the maximum legal rate;
6. For attorney's fees to the extent permitted by law;
7. For costs of suit; and
8. Such other and further relief as the Court deems just and proper.

Dated: December 31, 2012

DORSEY & WHITNEY LLP

By: 

ROGER MAGNUSON

KENT J. SCHMIDT

KAREN MORAO

KATHERINE J. SANTON

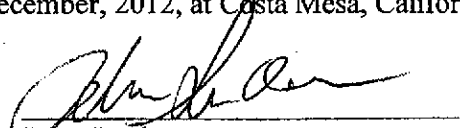
Attorneys for Plaintiff JOHN SANDERSON

VERIFICATION

I, John Sanderson, declare as follows:

1. I am the Plaintiff in the above matter. I have read the foregoing Verified Complaint and know its contents. The same is true of my own knowledge, except as to those matters that are alleged on information and belief, which I believe to be true.

2. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 31st day of December, 2012, at Costa Mesa, California.



John Sanderson

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: December 31, 2012

DORSEY & WHITNEY LLP

By: 

~~ROGER MAGNUSON
KENT J. SCHMIDT
KAREN MORAO
KATHERINE J. SANTON~~
Attorneys for Plaintiff JOHN SANDERSON