DAVIS & GILEHUDGE BATTS

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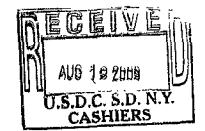
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

DR. MEHMET OZ; ZO CO I, LLC; OW LICENSING COMPANY, LLC; and HARPO, INC.,

Plaintiffs,

v.

FWM LABORATORIES, INC.; CPX INTERACTIVE LLC; NETALAB CORP; GILLMAP LIMITED a/k/a NATURES PERFECTION; MINIRED UAB; NUTRA LANE LLC a/k/a GNS GLOBAL LLC; CENTRAL COAST NUTRACEUTICALS a/k/a CCN INC.; PURE NUTRIENTS; B67 NUTRA PURE SYSTEMS a/k/a 96R PURE NATURE PRODUCTS a/k/a P67 WIE NATURAL PRODUCTS LLC: SFL NUTRITION. LLC; ACAI BERRY BREEZE; LIFE FIT LABS LLC; **REJUVENATE WORLDWIDE; HEALTHBUY.COM** a/k/a HEALTH BUY LTD.; PHYSICAL ENHANCEMENT LABS; MYCOLONRELIEF; XM LABS LLC a/k/a RX LABS; RAUSCHER BEKKE, LLC a/k/a RESVLIFE, LLC a/k/a RES-V-LIFE, INC .: BODY SOLUTION; 456 VITAL HEALTH SYSTEMS, LLC a/k/a FCM PERFORMANCE HEALTH USA a/k/a AEG PARTNERS LTD.; JDW MEDIA, LLC; PURE VITAMINS; XLENT HEALTH; ORGANICA **RESEARCH LLC; INCLINE HEALTH LTD.;** HEALTH TECHNOLOGY; NATURAL SOURCE STORE, LLC; 0841092 B.C. LTD.; BOTTOM TWO INVESTMENTS a/k/a NUTRA FOODS; HEALTHREZV, LLC a/k/a HEALTHREZV; HEALTHY COLON, INC. a/k/a HEALTHY COLON. LLC; REDUX-V HOLDINGS, INC. a/k/a REDUX HOLDINGS, INC. a/k/a NATURADE, INC.; EASY WHITE, INC. a/k/a EASY WHITE LABS; JET



7297

Index No. 09 Civ.

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COMPLAINT

Plaintiffs Demand A Trial By Jury

PROCESSING; MONAVIE AS, LLC a/k/a MONAVIE HOLDINGS INTERNATIONAL, LLC a/k/a MOVAVIE LLC a/k/a MONAVIE; BRAZILIAN BASICS; L'AVENIR; ULTRA GREEN PRODUCTS, LLC a/ka/ ULTRA GREEN PRODUCTS; REZ-BERRIES a/k/a REZACTIV a/k/a RES Q; CRUSH LLC; 3V MARKETING, LLC; JAMES RUSSEL; MIKE JOHNSON; DAVID DUBE; KATHERINE CLEMENTS; PAWEL RESZKA; MIKE KOENS; TOUVAN SUGHIARTO; RYAN BUKEVICZ; MARK SWARTZ; MATTHEW KELLY; SIDNEY FEIN; AND DOES and ABC COMPANIES 1-500 inclusive,

Defendants.

Plaintiffs Dr. Mehmet Oz, Zo Co I, LLC ("Zo Co"), OW Licensing Company, LLC ("OW"), and Harpo, Inc. ("Harpo") (together, "Plaintiffs"), by and through their undersigned attorneys, for their Complaint against the defendants named in this action and described below (collectively referred to herein as the "Defendants") allege as follows:

NATURE OF ACTION

1. Dr. Oz, a renowned doctor who regularly appeared on television on the talk show *The Oprah Winfrey Show* ("*TOWS*") and who will host the soon-to-premiere *The Dr. Oz Show*, Zo. Co, the owner of the DR. OZ family of trademarks, OW, the holder of the right of publicity rights of Oprah Winfrey – one of the most famous and respected individuals in the world – and Harpo, the owner of the "OPRAH" and "O" family of trademarks and the copyrights in the number-one-rated, award-winning *TOWS*, bring this action seeking injunctive relief and damages for the Defendants' deceptive and fraudulent practices that have harmed them and thousands of consumers who have been and are being injured by Defendants' conduct.

2. Defendants are the sellers, suppliers, importers and/or marketers of products that purport to be dietary supplements, such as for "resveratrol," "acai berry" and colon cleansing; cosmetics,

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such as cellulite and anti-wrinkle creams; and/or over-the-counter drugs, such as tooth-whitening products (together, the "Infringing Products"). These Infringing Products include, but are not limited to: Resveratrol Ultra, ResV, Vital RezV, ResV Pure, ResV Pro, Youth ResV, ResVer XP, Acai Berry Breeze, Acai X3, Acai Pure, Acai Berry Detox, Acai Edge, Acai Burn, Body Solutions, Nature Cleanse, Colon Pro Cleanse, Power Colon Cleanse, Colon Max, Whitening Now, Easy White, Cellutone, and Cosmetyn.

3. These Defendants are willfully capitalizing on Plaintiffs' valuable reputation and intellectual property rights to lure consumers into ordering their Infringing Products on the false premise that they have been tested or recommended by Ms. Winfrey and/or Dr. Oz when they have not. Defendants are fabricating quotes or falsely purporting to speak in Dr. Oz's and/or Ms. Winfrey's voice about specific brands and products that neither of them has endorsed. Defendants' conduct has gravely injured Plaintiffs' reputations. Plaintiffs seek to stop the unauthorized and unlawful use of Dr. Oz's and Ms. Winfrey's names, pictures, voices and identities, and Harpo's and Zo Co's trademarks and copyrighted works in connection with Defendants' marketing and sales of, or offers to sell the Infringing Products.

4. Upon information and belief, many of Defendants' offers turn out to be credit card scams or other fraudulent schemes by which Defendants (a) charge customers despite advertising that the Infringing Products are available for a "free trial;" (b) fail to fulfill orders despite charging consumers; or (c) charge consumers for monthly subscriptions of Infringing Products without the consumers having signed up for any such subscription.

5. Defendants' conduct also raises serious public health and safety concerns because many, if not all, of the Defendants are illegally marketing the Infringing Products, which are not approved as drugs, as a means to cure, mitigate, treat or prevent diseases, illnesses, or serious

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conditions. Such marketing messages are, upon information and belief, unsubstantiated and unauthorized health claims, which Defendants falsely attribute to Dr. Oz and Ms. Winfrey.

6. Defendants are brazenly using Plaintiffs' property and infringing upon their rights despite repeated requests that they cease and desist from such use and/or Plaintiffs' other extensive efforts to put a stop to such unauthorized and unlawful use.

7. Plaintiffs seek injunctive relief, damages, including exemplary and punitive damages, and attorney's fees under various causes of action, for violation of their statutory rights of privacy and publicity under New York Civil Rights Law §§ 50 and 51 and the Illinois Right of Publicity Act, 765 ILCS § 1075/1 *et seq.*, trademark infringement, false endorsement, sponsorship or affiliation, and dilution under Sections 32 and 43(a) of the Trademark Act of 1946 (the "Lanham Act"), 15 U.S.C. §§1114, 1116-1118 and 1125, copyright infringement under the Copyright Act, 17 U.S.C. § 101 *et seq.*, deceptive acts and practices under New York General Business Law § 349, false advertising under New York General Business Law § 350, violation of the Illinois Uniform Deceptive Trade Practices Act, cybersquatting under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), common law unfair competition, and unjust enrichment.

THE PARTIES

8. Plaintiff Dr. Oz is an individual with a principal place of business at Columbia University Medical Center, Milstein Hospital Building 7-435, 177 Fort Washington Avenue, New York, New York 10032. Dr. Oz is a renowned medical doctor who has been a frequent guest on *TOWS*. He is the Director of the Cardiovascular Institute and Vice Chairman of Cardiovascular Services, Department of Surgery, at Columbia University Medical Center, and Professor of Surgery at Columbia University College of Physicians & Surgeons in New York, New York. Dr. Oz is nationally renowned, but since his professional activities are based in New York and in this

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District, his professional reputation stands to be most affected by Defendants' conduct in the State of New York.

9. Plaintiff Zo Co is a Delaware corporation, with its principal place of business at 110 North Carpenter Street, Chicago, Illinois 60607, and is registered to do business in the State of New York. Zo Co is the owner of the "Dr. Oz" family of trademarks.

10. Plaintiff OW is a Delaware limited liability company, with its principal place of business at 110 North Carpenter Street, Chicago, Illinois 60607. OW is the holder of the rights of publicity and related rights of Ms. Oprah Winfrey, one of the world's most known and respected individuals, who resides in the State of Illinois. OW has the right to assert and enforce Ms. Winfrey's rights of publicity.

11. Plaintiff Harpo is an Illinois corporation, with its with its principal place of business at 110 North Carpenter Street, Chicago, Illinois 60607, and is registered to do business in the State of New York. Harpo is the owner of the "OPRAH" and "O" family of trademarks and the copyrights in the images from and episodes of *TOWS* and Ms. Winfrey that are at issue in this case.

12. Upon information and belief, Defendant FWM Laboratories, Inc. ("FWM") is located at 4961 Leeward Lane, Fort Lauderdale, Florida 33312, or at 3007 Greene Street, Hollywood, Florida 33019, or at 2040 NE 163 Street, #305, North Miami Beach, Florida 33162. Upon information and belief, FWM is a supplier or importer of certain of the Infringing Products at issue, including Maximum ResV, ACAI X3, Acai Berry Detox, Resveratrol Ultra, RezMelts, Colon Max and Resvie, which are the subject of numerous consumer complaints. FWM's deceptive advertising for these Infringing Products is violating Plaintiffs' rights, and thousands of consumers have complained of credit card fraud and other deceptive practices by FWM in connection with its sale of these Infringing Products, and of its deceptive practices. FWM is doing and transacting business within the State of New York and this judicial district, marketing, selling and/or offering for sale the Infringing Products via its interactive websites and its affiliate marketers.

13. Upon information and belief, Defendant CPX Interactive LLC ("CPX") is a New York limited liability corporation, with its principal place of business at 1600 Steward Avenue, Suite 401, Westbury, New York 11590. Upon information and belief, CPX is an online advertising network and global marketing company that is placing banner ads displaying infringing material on websites, including using Dr. Oz's and Ms. Winfrey's name and images without their authority.

14. Upon information and belief, Defendant Netalab Corp is located at 940 Lincoln Road, Suite 215, Miami Beach, Florida 33139, or at 500 South Pointe Drive, Suite 230, Miami Beach, Florida 33139. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Pure ResV Pro, South Beach Java, Acai Energy, and RezV Advance. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

15. Upon information and belief, Defendant Gillmap Limited a/k/a Natures Perfection is located at 600 SW Army Post Road, Des Moines, Iowa 50321 or at 4977 Fairview Avenue, Boise, Idaho 83706. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including ACAI BURN, Pure ResV, and Colon Revitalize. Defendant is doing and transacting business within the State of New York and this judicial

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district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

16. Upon information and belief, Defendant MiniRED UAB is located at Sunroad Corporate Center, 4445 Eastgate Mall, 2nd Floor, San Diego, California 92121. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Ultimate, Power Colon Cleanse, and Vital RezV. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

17. Upon information and belief, Defendant Nutra Lane LLC a/k/a GNS Global LLC is located at 871 Coronado Center Drive, #500, Henderson, Nevada 89052 or at 6452 Fig Street, Suite A, Arvada, Colorado 80007. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry Elite, ACAI EDGE, Res Ver XP, and ResV. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

18. Upon information and belief, Defendant Central Coast Nutraceuticals a/k/a CCN Inc. is located at 2375 East Camelback Road, 5th Floor, Phoenix, Arizona 85001. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Pure, Acai Power Blast, and Acai Blast. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

19. Upon information and belief, Defendant Pure Nutrients is located at 273 Walt Whitman Road, Suite 274, Huntington Station, New York 11746. Upon information and belief, Defendant

is a supplier or importer of certain of the Infringing Products at issue, including Natural Cleanse. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

20. Upon information and belief, Defendant B67 Nutra Pure Systems a/k/a 96R Pure Nature Products a/k/a P67 Wie Natural Products LLC is a supplier or importer of certain of the Infringing Products at issue including ResV Pure. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

21. Upon information and belief, Defendant SFL Nutrition, LLC is located at 123 NW 13th Street, Suite 212, Boca Raton, Florida 33432. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry Supreme, Total Cleanse, Colon xR, and Colon rx. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

22. Upon information and belief, Defendant Acai Berry Breeze is located at 3370 N. Hayden Road, Suite 123-180, Scottsdale, Arizona 85251. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry Breeze and UltraSlim XS. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

23. Upon information and belief, Defendant Life Fit Labs LLC is located at 1101 High View Drive, Webberville, Michigan 48892. Upon information and belief, Defendant is a supplier or

importer of certain of the Infringing Products at issue, including Colon Cleanse, Colon Cleanse Pro, Probiotic Complete, and Goji Trim Pro. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

24. Upon information and belief, Defendant Rejuvenate Worldwide is located at 3634 Long Prairie Road, Suite 108-113, Flower Mound, Texas 75022. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Certified Resveratrol, Colon Pro Cleanse, and Miracle Resveratrol. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

25. Upon information and belief, Defendant HealthBuy.Com a/k/a Health Buy Ltd. is located at 350 N. Glenoaks Boulevard, Suite 305, Burbank, California 91502. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry Select and Resveratrol Select. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

26. Upon information and belief, Defendant Physical Enhancement Labs is located at 1025 SW 59th Street, Oklahoma City, Oklahoma 73109, or at 6409 S. Western Avenue, Oklahoma City, Oklahoma 73139. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry Blast and Acai Blast. Defendant is doing and transacting business within the State of New York and this judicial district by

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marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

27. Upon information and belief, Defendant MyColonRelief is located at 1210 S. Brand Boulevard, Glendale, California 91204. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including My Colon Relief. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

28. Upon information and belief, Defendant XM Labs LLC a/k/a RX Labs is a supplier or importer of certain of the Infringing Products at issue, including Acai Flush and ResV Ultra. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

29. Upon information and belief, Defendant Rauscher Bekke, LLC a/k/a ResVLife, LLC a/k/a Res-V-Life, Inc. is located at 407 Lincoln Road, Suite 11C, Miami Beach, Florida 33137, or at 12399 Belcher Road South, Largo, Florida 33773, or at 1500 Ocean Drive, Miami Beach, Florida 33139. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Dermapril, Dermapril-SP, and ResV Life. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

30. Upon information and belief, Defendant Body Solution is located at 20828 Lassen Street, Chatsworth, California 91311. Upon information and belief, Defendant is a supplier or importer

of certain of the Infringing Products at issue, including Body Solution and Striation. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

31. Upon information and belief, Defendant 456 Vital Health Systems, LLC a/k/a FCM Performance Health USA a/k/a AEG Partners Ltd. is located at 654 North 800 East, #501, Spanish Fork, Utah 84660, or at 78 West 560 South, Orem, Utah 84058. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including ResV Pro. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

32. Upon information and belief, Defendant JDW Media, LLC is located at 2184 Channing Way, #322, Idaho Falls, Idaho 83404. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Pure Cleanse and Acai Ultra Burn. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

33. Upon information and belief, Defendant Pure Vitamins is located at 273 Walt Whitman Road, Suite 274, Huntington Station, New York 11746, or at 3280 Suntree Blvd, Suite 101, Melbourne, Florida 32940. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Phosphacore and Eternal RczV. Defendant is doing and transacting business within the State of New York and this judicial district by

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marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

34. Upon information and belief, Defendant XLENT Health is located at 3005 South Street, East Troy, Wisconsin 53120. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Res-V and Energai. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

35. Upon information and belief, Defendant Organica Research LLC is located at 11701 East 53rd Avenue, Denver, Colorado 80239. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Ultimate Colon Cleanse. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

36. Upon information and belief, Defendant Incline Health Ltd. is located at 6841 Virginia Parkway, Suite 103 #218, McKinney, Texas 75071. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including ResV Daily, Acai Fuel Extreme, and Acai Fuel Cleanse. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

37. Upon information and belief, Defendant Health Technology is located at 5300 Ontario Mills Parkway, Ontario, California 91764. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Away and Youth ResV.

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Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

38. Upon information and belief, Defendant Natural Source Store, LLC is located at 4051 SW 47th Avenue, Suite 101-102, Davie, Florida 33314 or at 6565 Taft Street, #204, Hollywood, Florida 33024. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Cosmetyn. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

39. Upon information and belief, Defendant 0841092 B.C. Ltd. is located at 180 West Westfield Avenue, Roselle Park, New Jersey 07204. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Resvermax, Premium Acai Berry, Slim Berry, and Procolo. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

40. Upon information and belief, Defendant Bottom Two Investments a/k/a Nutra Foods is located at 110 West 9th Street, #665, Wilmington, Delaware, 19801. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Resolution, Acai Nutraburst, RezEX, Maqui Nutraburst, and Exilatrol. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

41. Upon information and belief, Defendant HealthRezV, LLC a/k/a HealthRezV is located at 10134 6th Street, Suite M, Rancho Cucamonga, California 91730. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including HealthRezV. Defendant is doing and transacting business within the State of New York and this judicial district by marketing; selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

42. Upon information and belief, Defendant Healthy Colon, Inc. a/k/a Healthy Colon LLC is a supplier or importer of certain of the Infringing Products at issue, including Body Flush. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

43. Upon information and belief, Defendant Redux-V Holdings, Inc. a/k/a Redux Holdings, Inc. a/k/a/ Naturade, Inc. is located at 2099 South State College Boulevard, Suite 210, Anaheim, California 92886, or at 1 City Boulevard West, Suite 1440, Orange, California 92868. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Redux-V. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

44. Upon information and belief, Defendant Easy White, Inc. a/k/a Easy White Labs is located at 5711 SW 137th Avenue, Miami, Florida 33183, or at 6899 Winchester Circle, Suite 103, Boulder, Colorado 80301, or at 5711 SW 137 Avenue, Miami, Florida 33183. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Easy White. Defendant is doing and transacting business within the State of

New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

45. Upon information and belief, Defendant Jet Processing is located at 13799 Park Boulevard North, Suite #330, Seminole, Florida 33776. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Natura Burn. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

46. Upon information and belief, Defendant Monavie AS, LLC a/k/a Monavie Holdings International, LLC a/k/a Monavie LLC a/k/a Monavie is located at 10757 South Riverfront Parkway, Suite 110, Salt Lake City, Utah 84095. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Monavie. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

47. Upon information and belief, Defendant Brazilian Basics is located at 165 Pleasant Avenue, South Portland, Maine 04106. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Energy. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

48. Upon information and belief, Defendant L'avenir is located at 1275 Bloomfield Avenue, Building 9, Unit 85, Fairfield, New Jersey 07004. Upon information and belief, Defendant is a

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supplier or importer of certain of the Infringing Products at issue, including Cellutone. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

49. Upon information and belief, Defendant Ultra Green Products, LLC a/k/a Ultra Green Products is located at 2820 Remington Green Circle, Tallahassee, Florida 32308, or at 2160A Sunnydale Boulevard, Clearwater, Florida 33765. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Goji Raw, Resveratrol Lifeline. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

50. Upon information and belief, Defendant Rez-Berries a/k/a RezActiv a/k/a Res Q is located at 6899 Winchester Circle, Suite 103, Boulder, Colorado 80301. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Rez Activ. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

51. Upon information and belief, Defendant Crush LLC is located at 9140 S. State Street, Suite 202, Sandy, Utah 84070. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Berry 500. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

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52. Upon information and belief, Defendant 3V Marketing, LLC is located at 100 Middle Street, West Tower, Portland, Maine 04101 or 482 Congress Street, Portland, Maine 04101. Upon information and belief, Defendant is a supplier or importer of certain of the Infringing Products at issue, including Acai Advanced and Acai Advance. Defendant is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via its interactive websites and affiliate marketers.

53. Upon information and belief, Defendant James Russel is an individual residing at 9321 W. Hudson Street, Hartford, Connecticut 21563. Defendant James Russel is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or websites offering for sale the Infringing Products via his www.resveratrolreviewboards.com, www.resveratrol24.com, www.celluliteallgone.com, and www.byebyewrinkle.com.

54. Upon information and belief, Defendant Mike Johnson is an individual residing at 12 Front Street, San Francisco, California 90231. Defendant Mike Johnson is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.drozstretchmarkcure.com and www.exclusiveresveratrol.com.

55. Upon information and belief, Defendant David Dube is an individual residing at 30 Chelsea Road, Essex Junction, Vermont 05452. Defendant David Dube is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.resveratrolreports.com and www.resveratrolreviewed.com.

56. Upon information and belief, Defendant Katherine Clements is an individual residing at 2015 Springvale Road, Duluth, Minnesota 55811. Defendant Katherine Clements is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via her websites www.droz4-diet.info and www.healthynaturals.com

57. Upon information and belief, Defendant Pawel Reszka is an individual residing at 499 Ivy Lane, Apt. 7, Bradley, Illinois 60915. Defendant Pawel Reszka is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.acaisavedmylife.com and http://www.Drozmiracle.com.

58. Upon information and belief, Defendant Mike Koens is an individual residing at 2342 Santa Monica Boulevard, Los Angeles, California 90025. Defendant Mike Koens is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his website www.dr-oz-resv.com.

59. Upon information and belief, Defendant Touvan Sughiarto is an individual residing at 10601-G Tierrasanta Boulevard, San Diego, California 92124. Defendant Touvan Sughiarto is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.dr-ozacai-berry-alert.com and www.oz-resveratrol-alert.com.

60. Upon information and belief, Defendant Ryan Bukevicz is an individual residing at 1 Breckenridge Drive, Warminster, Pennsylvania 18974. Defendant Ryan Bukevicz is doing and transacting business within the State of New York and this judicial district by marketing, selling

and/or offering for sale the Infringing Products via his websites www.acaiberriestrial.com and www.drozdiet-acaiberry.com.

61. Upon information and belief, Defendant Mark Swartz is an individual residing at Laurel Oak Road, #1, Voorhees, New Jersey 08043. Defendant Mark Swartz is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.whatisresveratrol.com and www.resveratrolreviews.com.

62. Upon information and belief, Defendant Matthew Kelly is an individual residing at 2497 Martin Avenue, Bellmore, New York 11710. Defendant Matthew Kelly is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.resveratroltop3.com and www.resveratrolwinepills.com.

63. Upon information and belief, Defendant Sidney Fein is an individual residing at 1600 Stewart Avenue, Suite 401, Westbury, New York 11590. Defendant Sidney Fein is doing and transacting business within the State of New York and this judicial district by marketing, selling and/or offering for sale the Infringing Products via his websites www.doctorozresv.com and www.aol.doctorozresv.com.

64. Upon information and belief, Defendants Does and ABC Companies 1-500 are affiliates, marketers, suppliers, manufacturers and/or importers of certain of the Infringing Products via hundreds of websites, including but not limited to: <u>www.drozadvice.com</u>, <u>www.dr-oz-resv.net</u>,

www.dr-oz-resv.com,	www.ozresvtrial.com,	www.dr-oz-resveratrol-alert.net,
www.drozresv.com,	www.droz-resv-free.com,	www.Theozresveratrol.com,
www.doctorozresv.com,	www.droz-resveratrol-trial.com,	www.oz-loves-resveratrol.com,

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www.oprahsacaiberrydiet.com, http://webmdacaireview.com, www.dr-oz-acai-ratings.com, www.dr-oz-suggests.com, www.dr-oz-coloneleanse.com, www.drozstretchmarkeure.com, www.celluliteassociation.com, www.Drozteethwhitening.com, www.resveratrol60.com, www.oprahsspecialdiet.com, www.oprahdietsecret.com, www.oprahsnewdiet.com, www.oprahsbestdiet.com, and www.oprahhealthoffers.com.

65. Plaintiffs are currently ignorant of the true names and capacities of the defendants sued herein as Does and ABC Companies 1 through 500, inclusive, and therefore sue these defendants by such fictitious names. Plaintiffs have identified over 500 web sites selling and/or marketing the Infringing Products, and will amend this Complaint to allege their true names and capacities when ascertained. Upon information and belief, Defendants Does and ABC Companies 1-500 include individuals and corporations.

66. Upon information and belief, at all times all Defendants were the principals, agents, affiliates, partners, alter-egos, co-conspirators, and/or are acting in concert with each other, and each acted within the course, scope and authority of such relationships so that, as a result, all Defendants are jointly and severally liable for the acts alleged in this Complaint. This belief is based, in part, on the facts that some or all of the Defendants: (a) have identical or similar websites, (b) are using the same language and images, (c) link or redirect visitors to the same websites, (d) are aggregated on single websites, (e) market and/or sell the same Infringing Products. A list of the suppliers, products and websites believed to be affiliated with each other at the time of the filing of this Complaint is attached as Exhibit 1.

JURISDICTION AND VENUE

67. This action arises under the Lanham Act, 15 U.S.C. § 1051, et seq. and the Copyright Act, §17 U.S.C. 101, et seq. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1338(a) and (b), and 28 U.S.C. § 1367(a), because this action arises under the laws of the United States, and this Court has supplemental jurisdiction over related state law claims.

68. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) because a substantial part of the events giving rise to Plaintiffs' claims occurred in this district, or a substantial part of the property that is the subject of the action is situated within this district, and Defendants are subject to personal jurisdiction within this district. New York is a major center of Plaintiffs' activities, and Defendants aggressively market and sell their goods in New York and in this District, including making sales to New York residents through active websites.

FACTUAL ALLEGATIONS

Plaintiffs Have Valuable Rights in Their Names, Pictures, Voices, Identities, and <u>Trademarks</u>

69. As a result of the investment of considerable time, effort and expense, both Dr. Oz and Ms. Winfrey have developed valuable rights in their names, pictures, voices, identities personas, and trademarks.

The Oprah Name and Marks

70. Ms. Winfrey is one of the world's most famous and respected individuals. Her fame is so extensive that she is instantly recognized by her first name "Oprah" alone.

71. TOWS, featuring Ms. Winfrey as the host, has aired since 1986, and is watched by tens of millions of daily viewers in 145 countries. New York City is a major market for TOWS and for the activities of Plaintiffs.

72. TOWS has covered a wide range of topics, including lifestyle, health, and nutrition. Just getting mentioned by Ms. Winfrey on TOWS can lead to an exponential increase in a product's sales. This has been colloquially referred to as "The Oprah Effect" or "The O Factor," and was recently the subject of a documentary aired on CNBC titled *The Oprah Effect* which premiered on or about May 28, 2009. Ms. Winfrey's reputation depends, in part, on the quality of the products she recommends, which she does only after careful consideration and vetting to make sure such products meet her standards and approval.

73. Plaintiff Harpo is the owner of many federal trademark registrations and applications for the mark "OPRAH," alone and in combination with other words. Harpo owns a federal registration, Registration No. 1,726,373, for "OPRAH" in International Class 041, covering "entertainment services rendered through the medium of television in the nature of a variety talk show series." Harpo is also the owner of Registration No. 2,521,889 for "OPRAH" in International Class 041, covering "[c]omputer services, namely, information via a web site featuring information on the subject matter of Applicant's television programs, films and videos, food and books via the Internet," and International Class 042, covering "[c]omputer services, namely, information via a web site featuring health, nutrition, fitness, volunteerism for charities, charitable work and philanthropic lifestyles via the Internet." Harpo is also the owner of Registration No. 2,638,506 for "THE OPRAH WINFREY SHOW" in International Class 041, covering "entertainment services rendered through the medium of television in the nature of a variety talk show series; and computer services, namely, providing information via an Internet

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web site featuring information on the subject matter of Applicant's television programs, films and videos, food, and books," and International Class 042, covering "computer services, namely, providing information via an Internet web site featuring health, nutrition, fitness, volunteerism for charities, charitable work and philanthropic lifestyles." These registrations are incontestable pursuant to 15 U.S.C. §§ 1065 and 1115(b).

74. The name and trademark OPRAH is well recognized as denoting Harpo and is famous under 15 U.S.C. § 1125(c).

75. The fame of *TOWS* together with the fame of Ms. Winfrey have resulted in invaluable and incalculable good will to the right of publicity of Ms. Winfrey and to the "OPRAH" and "O" family of trademarks and copyrights.

The Dr. Oz Name and Marks

76. Dr. Oz is a well-regarded medical doctor and is vice chair of surgery and professor of cardiac surgery at Columbia University Medical Center and its College of Physicians and Surgeons, and host of the soon-to-premiere *The Dr. Oz Show*. He has written numerous books, including the *You* series, and other publications, and is a sought-after lecturer. He is involved in a number of non-profit efforts, including as a spokesman and adviser for an organization that provides health information to consumers. He has received multiple awards for his work.

77. Dr. Oz frequently appears on television to talk about healthcare and nutritional advice and policy, and is a frequent guest on *TOWS*.

78. Dr. Oz is known to the public as "Dr. Oz." He has obtained celebrity status and soon will be appearing in his own television show.

79. Zo Co owns several federal trademark applications for the mark DR. OZ, alone and in combination with other words, including Serial No. 77,736,468 for "DR. OZ" in International

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Class 041, covering "Entertainment services in the nature of providing newsletters in the fields of diet, exercise, fitness, health and wellness, medicine and medical practices via e-mail; providing on-line journals, namely, blogs featuring information and entertainment in the fields of diet, exercise, fitness, health and wellness, medicine and medical practices; providing information and entertainment via the Internet in the fields of diet, exercise, fitness, health and wellness, medicine and medical practices."

80. Dr. Oz's fame has resulted in invaluable and incalculable good will to the name and trademark DR. OZ.

Plaintiffs' Copyrighted Shows In Which No Particular Dietary Supplements, Cosmetics or <u>Drugs are Endorsed</u>

81. Dr. Oz and Ms. Winfrey are very discerning about the products and services with which they associate themselves.

82. On or about May 5, 2005, Dr. Oz appeared in an episode of *TOWS* entitled "Insider's Secrets to Make You Younger and Healthier," in which he discussed colon health. Immediately following the episode, upon information and belief, Defendants started advertising and selling dietary supplements that purport to aid in "colon cleansing" on various websites by unlawfully and deceptively using Dr. Oz's and Ms. Winfrey's names, images, and voices.

83. On or about February 5, 2008, Dr. Oz appeared in another episode of *TOWS* entitled "Dr. Oz Reveals the Ultimate Checklist for Great Aging" in which he discussed a fruit called the "acai berry." Immediately following the episode, upon information and belief, Defendants started advertising and selling dietary supplements that purport to contain acai berry on various websites by unlawfully and deceptively using Dr. Oz's and Ms. Winfrey's names, images, and voices.

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84. Most recently, on March 24, 2009, Dr. Oz appeared in an episode of *TOWS* entitled "Dr. Oz Extreme Life Extension," which focused on aging. In a segment of that episode, he discussed resveratrol, a compound found in some plants, fruits and seeds, and especially in the skin of grapes and certain grape-derived products (such as red wine) ("Resveratrol"). This segment of the March 24, 2009 episode of *TOWS* is hereinafter referred to as the "Resveratrol Clip."

85. Immediately following the airing of the Resveratrol Clip, upon information and belief, Defendants started advertising and selling dietary supplements allegedly containing Resveratrol on various websites by unlawfully and deceptively using Dr. Oz's and Ms. Winfrey's names, images, and voices.

86. Upon information and belief, Defendants are also advertising and selling anti-wrinkle and cellulite creams, as well as tooth-whitening products, by unlawfully and deceptively using Dr. Oz's and Ms. Winfrey's names, images, and voices.

87. Critically, neither Dr. Oz nor Ms. Winfrey endorsed any specific dietary supplement, cosmetic, or drug, on *TOWS* or at any other time, and in fact, in certain cases, discouraged the use of certain dietary supplements, cosmetics or drugs altogether.

Defendants' Unauthorized Use of Plaintiffs' Names, Pictures, Voices, Identities, Trademarks and Copyrighted Works

88. Defendants are unlawfully using Dr. Oz and Ms. Winfrey's names, pictures, voices, identities, personas, Plaintiffs Dr. Oz's, Harpo's and Zo Co's trademarks and Plaintiff Harpo's copyrighted works (together, "Plaintiffs' Property") in a number of ways, including, but not limited to, through search engine optimization through the use of embedded meta-tags and other methods; by purchasing keywords for sponsored links in search engines' advertising programs; through Internet and behavioral advertising methods, such as banner ads and affiliated marketing

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programs; by using Dr. Oz's and/or Ms. Winfrey's names in domain names or webpage addresses themselves; by using Dr. Oz's and or Ms. Winfrey's names, images and voices on their websites; by purporting to be Dr. Oz and/or Ms. Winfrey; by claiming their Infringing Products have been recommended by Dr. Oz and/or Ms. Winfrey; and through videos containing images of Dr. Oz and/or Ms. Winfrey (together, "Defendants Unlawful Marketing"). These methods are explained in further detail below.

89. Defendants are using Plaintiffs' Property without Plaintiffs' consent or authorization.

90. Upon information and belief, Defendants did not seek Plaintiffs' written consent for use of Plaintiffs' Property in connection with the Infringing Products because they believed that they would not have received it, and because they wished to profit from this use without paying any compensation to Plaintiffs.

91. Had their permission been sought, Plaintiffs would have flatly refused to consent to the use of Plaintiffs' Property in connection with the Infringing Products.

Unauthorized and Deceptive Use in Search Engine Optimization: Sponsored Links and <u>Meta-Tags</u>

92. Defendants are using the Dr. Oz and Oprah names and marks in a number of ways to optimize their visibility on online search engines such as Google, Yahoo!, and MSN (now Bing). 93. Upon information and belief, Defendants have embedded meta-tags containing the Dr. Oz and Oprah names and marks, and are engaging in other search engine optimization strategies that violate Plaintiffs' rights in the Dr. Oz and Oprah names and marks, such that links to Defendants' websites appear in results of online searches for Dr. Oz's and Ms. Winfrey's names. 94. Upon information and belief, Defendants have bought keywords using the Dr. Oz and Oprah names and marks from online search engines, such that a search for "Dr. Oz" or "Oprah"

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on their own and in conjunction with other words results in "sponsored links" to Defendants' websites. Copies of sample sponsored link results for "Dr. Oz" and "Oprah" on Google, Yahoo! and MSN/Bing printed on July 10, 2009 are attached as Exhibit 2. These sponsored links listings give the false impression that the listed websites are sponsored or otherwise approved of by Dr. Oz and Ms. Winfrey when they are not.

95. In addition to purchasing keywords containing the Dr. Oz and Oprah names and marks, the titles and descriptions of Defendants' "sponsored links" contain the Dr. Oz and Oprah names and marks. For example, they bear titles such as "Free Resveratrol – Dr. Oz" and "Dr. Oz Recommends" and descriptions such as "Oz is Giving You Two Free Bottles of Resveratrol." This reinforces the false impression that the listed websites are sponsored or otherwise approved of by Dr. Oz and/or Ms. Winfrey.

Unauthorized Use in Domain Names

96. Defendants have or are also using the Dr. Oz name and mark in the domain names for their websites and/or their web addresses for specific pages on their websites. A representative sample of these domain names and web addresses is attached as Exhibit 3.

97. Defendants have or are also using the Oprah name and mark in the domain names for their websites and/or their web addresses for specific pages on their websites. A representative sample of these domain names and web addresses is attached as Exhibit 4.

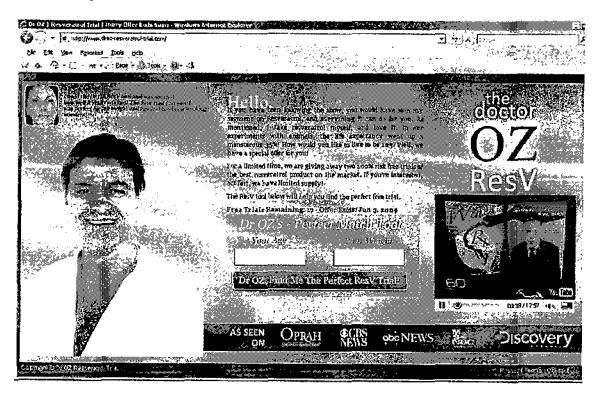
98. Many of these domain names are registered through third-party proxies, upon information and belief, in an effort to mask the identities of the true owners of the domain names and the operators of the offending websites, and to attempt to shield such owners from liability for their deceptive conduct. Case 1:09-cv-07297-DAB Document 1 Filed 08/19/2009 Page 28 of 53

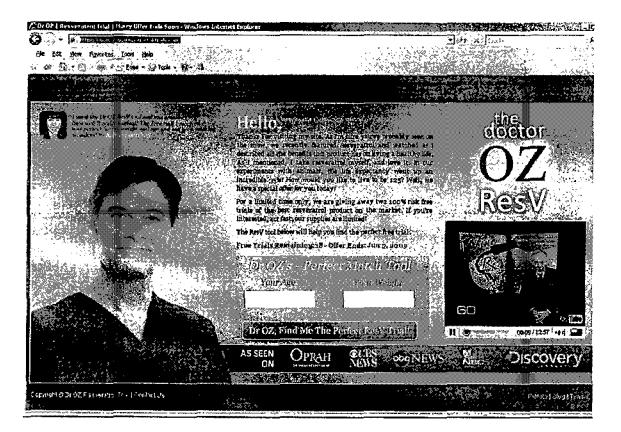
Unauthorized and Deceptive Use on Websites

99. Defendants are unlawfully using Plaintiffs' Property in a number of ways on their websites, such as: (a) prominently displaying Dr. Oz and/or Ms. Winfrey's name and marks as a false "branding" for their websites; (b) copying and distributing Harpo's copyrighted Resveratrol Clip, including Dr. Oz and/or Ms. Winfrey's voice, picture and identity; and/or (c) prominently displaying Dr. Oz and/or Ms. Winfrey's photographs, including still images from the Resveratrol Clip.

100. In addition, Defendants' websites claim or suggest that Dr. Oz and/or Ms. Winfrey specifically endorse or promote the Infringing Products, when in fact they do not.

101. For example, as shown below, on <u>www.droz-resveratrol-trial.com</u> and <u>www.dr-oz-</u> <u>resveratrol-trial.com</u>, Dr. Oz's name and image were illegally used to refer consumers to a Resveratrol product.

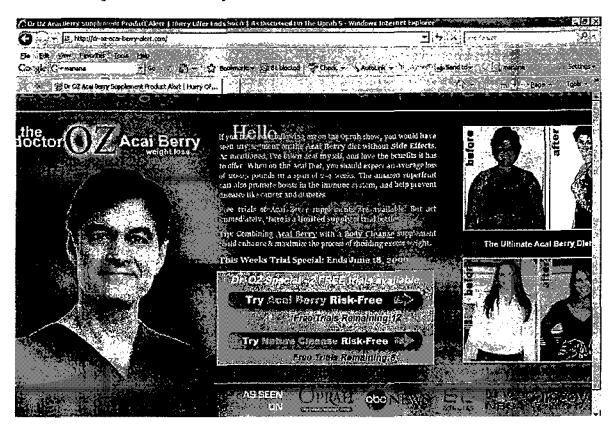




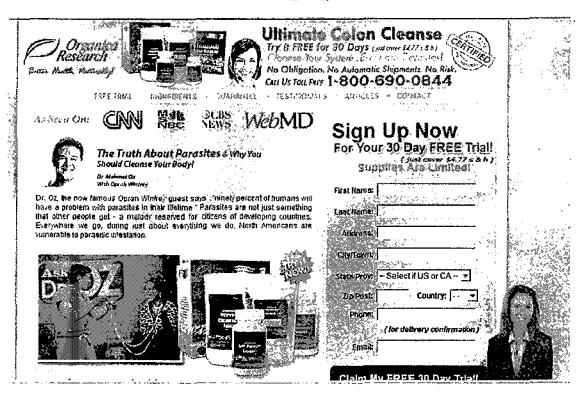
102. In the examples above, which are nearly identical, Defendants purport to sell "the doctor OZ ResV," prominently display Dr. Oz's photograph, and purport to be websites belonging to Dr. Oz, such as by including a "Dr. Oz's Perfect Match Tool," and state that he is giving away trials of Defendants' product. All of this was done without Plaintiffs' authority. The examples above also prominently display the words "As Seen On Oprah/The Oprah Winfrey Show," misleadingly suggesting that this specific product was featured on *TOWS*, when in fact it was not.

103. Similar examples of Defendants' Unlawful Marketing appear on websites that sell acai berry and colon cleanse dietary supplements, for example: Case 1:09-cv-07297-DAB Document 1 Filed 08/19/2009 Page 30 of 53

A. http://dr-oz-acai-berry-alert.com



B. http://www.ultimatecoloncleanse.com/30_day_trial/



104. Attached as Exhibit 5 are equally egregious examples of additional websites that are part of the Defendants' Unlawful Marketing. These websites sell or promote several different Infringing Products and prominently display Dr. Oz's photograph and purport to speak in Dr. Oz's voice. For example, these websites make such misleading statements as, "if you have been following me on the Oprah show, you would have seen my segment on Resveratrol, and everything it can do for you." These websites go on to make specific false claims, such as that "our review team ordered twenty (20) products that provided FREE TRIALS and the good news is that the products arrived on time and were in fact free!" The websites also make specific health claims that are false, and which were never made by Dr. Oz on the Resveratrol Clip or in any other forum, such as that "a majority of patients were able to lose 15-35 lbs within a very short period of time and felt 50% healthier. We are also very happy to report that there were no

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Resveratrol side effects detected during this test." These websites also point to a particular Infringing Product, Resveratrol Ultra, and identifies it as "the Resveratrol that was showcased on Oprah," when in fact it was not.

105. As set forth above, based upon information and belief, and on the identity or similarity of these websites, the fact that they are inter-linked, and the aggregation of these Infringing Products on certain websites, Defendants are alter egos of each other and/or are acting in concert with each other in connection with all the Defendants' Unlawful Marketing and Infringing Products.

Fake Blogs and False News Reports

106. Defendants are also deceiving consumers by the use of fake blogs and news reports that purport to report true accounts of positive results from use of the Infringing Products, when in fact, these websites are advertisements for the Infringing Products. In addition, these fake blogs and news reports falsely reference Ms. Winfrey and Dr. Oz as their "sources."

107. One such example is a false news report accessible at the URL <u>www.news13direct.com</u>, which contains a story reported by Cathy Diaz of News 13 WKTV in New York City. A copy of the fake news report is attached as Exhibit 6. Upon information and belief, no such reporter or news station, however, exists in New York City. The website directs visitors to purchase Resveratrol Ultra.

Unauthorized and Deceptive Use in Internet Advertising

108. In addition, Defendants advertise their Infringing Products through contextual and behavioral advertising methods, whereby advertisements are directed to consumers based on their browsing history or the content on the sites they visit.

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109. These advertisements contain or use Plaintiffs' Property without authorization, and falsely claim or suggest that Plaintiffs endorsed or are affiliated with Defendants when in fact they are not. Representative samples of deceptive "banner ads" using Plaintiffs' Property are attached as Exhibit 7. Upon information and belief, these banner ads were placed by defendant CPX on behalf one or more of the defendant Does and ABC Companies 1 to 500 whose identities we have yet been able to ascertain. Upon information and belief, CPX placed these banner ads with, among other websites, AOL, and falsely and fraudulently represented to AOL that Dr. Oz had authorized the use of his name and image in the advertisement when he had not. Through AOL's advertising service, these banner ads have appeared on various websites, including the LA Times website, <u>www.latimes.com</u>.

Unauthorized and Deceptive Use in Unsolicited Email

110. Defendants advertise their Infringing Products through unsolicited spam emails using Plaintiffs' Property. Examples of Defendants' spam emails are attached as Exhibit 8.

Unauthorized and Deceptive Use in Videos

111. In addition, Defendants advertise their Infringing Products by distributing clips of *TOWS*, or making their own videos, which are distributed on various third-party websites, such as YouTube, which display user-generated video content ("UGC Video Sites"). These videos contain or use Plaintiffs' Property, and falsely claim or suggest that Plaintiffs endorsed or are affiliated with Defendants when in fact Plaintiffs have not endorsed and are not affiliated with Defendants. Examples of Defendants' use of Plaintiff's Property on UGC Video Sites are attached as Exhibit 9.

Unauthorized Use of Harpo's Copyrighted Works

112. Harpo is the owner of all rights, title and interest, including without limitation all Oprah Winfrey (the copyrights, in and various photographs of to Photographs") and the following episodes of TOWS (the "Episodes"): "Dr. Oz Extreme Life Extension" (containing the Resveratrol Clip), date of first publication March 24, 2009, Registration No. PA 1-633-071, with an effective date of registration within three months of first publication; "Insider's Secrets to Make You Younger and Healthier," date of first publication May 5, 2005, Registration No. PA 1-633-068; "Dr. Oz Reveals the Ultimate Checklist for Great Aging," date of first publication February 5, 2008, Registration No. PA 1-633-070; "Ask Dr. Oz," date of first publication February 13, 2007, Registration No. PA 1-635-926; "The Dr. Oz Diet," date of first publication November 2, 2006, Registration No. PA 1-635-927; "Dr. Oz 90 Day Live Longer, Feel Younger Plan," date of first publication May 1, 2006, Registration No. PA 1-635-929; "Look Ten Years Younger in 10 Days," date of first publication November 10, 2004, Registration No. PA 1-635-930; "The Great Debate: Should You Replace Your Hormones," date of first publication January 15, 2009, Registration No. PA 1-636-640. Copies of the recordation certificates for the assignment documents for the Photographs and representative samples of corresponding infringing uses are attached as Exhibit 10 and copies of the registration certificates for the Episodes and representative samples of corresponding infringing uses are attached as Exhibit 11.

113. Harpo has complied in all respects with the copyright laws of the United States, and all other laws governing copyright, and the Photographs and Episodes are original works of authorship.

114. Defendants have promoted the Infringing Products by, among other conduct, reproducing, distributing, publicly displaying and creating derivative works of the Photos and the Episodes on their websites, on UGC Video Sites and on third-party websites where Defendants' Unlawful Marketing appears, for example in banner ads.

115. A non-exhaustive list of websites on which Defendants have copied, distributed, publicly displayed and created derivative works of the Resveratrol Clip, is attached as Exhibit 12.

Defendants' Fraudulent Schemes Directed to the Public

116. Defendants' conduct does not stop at deceptively luring customers by unlawfully using Plaintiffs' intellectual property and other rights.

117. Upon information and belief, Defendants are engaging in fraudulent credit card scams. For example, consumers are promised a free trial, or told they will only incur certain limited charges, but Defendants then charge additional amounts to consumers, without their authorization, after obtaining their credit card account information. Defendants are also engaging in "negative option marketing," whereby consumers are required to automatically opt out of receiving unknown, recurring shipments and charges. When consumers attempt to reach company representatives in order to cancel their "free" trials, or to reverse or stop charges that the consumer did not agree to pay, they are unable to do so, and/or Defendants continue to charge additional amounts to the credit cards. In some cases, Defendants charge consumers and never send them any Infringing Products.

118. Upon information and belief, Defendants are also engaging in affiliated marketing programs, whereby they re-route visitors to various websites in order to increase the amount of "click through" revenues they can receive.

119. Upon information and belief, Defendants deliberately make themselves difficult to detect by failing to properly disclose their contact information, by obscuring their proper names and by changing their names, and by acting in concert in some other manner and/or as alter egos of each other which make them difficult to distinguish.

Injuries Due to Defendants' Unlawful Conduct

120. Defendants' Unlawful Marketing falsely suggests that Dr. Oz and/or Ms. Winfrey endorsed, sponsored and/or were otherwise affiliated or associated with the Infringing Products. Dr. Oz and Ms. Winfrey have never endorsed, sponsored or otherwise been affiliated or associated with the Infringing Products.

121. Defendants' actions are likely to cause, and have caused, confusion and misled the public, which has been and is being led to believe that Dr. Oz and Ms. Winfrey endorse, sponsor and/or are otherwise affiliated or associated with the Infringing Products, when, in fact, they are not.

122. In fact, Plaintiffs have received thousands of complaints from consumers, including consumers in New York and Illinois, reflecting their actual confusion and damage to Plaintiffs' reputation due to Defendants' conduct. Other organizations, such as the Better Business Bureau and <u>www.complaintsboard.com</u>, have also received thousands of similar complaints. For example, a recent article on Forbes.com, "A Headache for Dr. Oz" by Dirk Smillie, dated June 16, 2009, describes Defendants', including FWM's, deceptive conduct, details consumer complaints, and discusses the injury to Dr. Oz as a result. A copy of the article is attached as Exhibit 13.

123. Defendants' conduct is especially damaging to Dr. Oz's professional reputation as a doctor. In fact, Dr. Oz's employer, Columbia University, received a complaint based on

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websites that falsely claim that Dr. Oz has conducted studies on the Infringing Products and endorsed particular brands.

124. The harm to consumers is both significant and widespread. Thousands of consumers have made complaints of Defendants' unlawful credit card charges and the effects they have had on the consumers' financial health and credit scores, in addition to other injuries. These complaints have been made, *inter alia*, directly to Plaintiffs, to consumer organizations such as the Better Business Bureau, <u>www.complaintsboard.com</u> and to law enforcement bodies.

125. Upon information and belief, Defendants' unauthorized health claims also pose significant risk to public health and safety.

126. Upon learning about Defendants' wrongful actions, Plaintiffs have undertaken various efforts to stop Defendants' conduct and to stem the harm to consumers, such as by sending cease and desist letters, fielding phone calls from viewers and the public, issuing statements on the Oprah.com website, working with Internet Service Providers and search engines, and cooperating with various government authorities to remove infringing content. Plaintiffs have borne, and continue to bear, significant costs and expenses in undertaking these efforts.

127. Despite these efforts, Defendants continue to violate Plaintiffs' rights and defraud the consuming public. Upon information and belief, in many instances, upon receiving notice from Plaintiffs of their unlawful conduct, or in response to Plaintiffs' efforts to have infringing materials removed or domain names transferred, many of the Defendants have merely changed the domain names at which the websites reside to avoid detection.

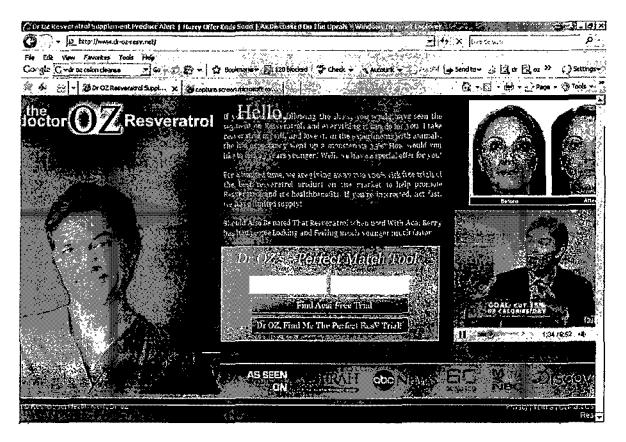
128. For example, shortly after Plaintiffs sent a Digital Millennium Copyright Act Notice to Google to request that the infringing materials on <u>www.droz-resveratrol-trial.com</u> and <u>www.dr-oz-resveratrol-trial.com</u> be removed, upon information and belief, Defendants registered a new

domain name through a proxy and posted the identical website at the domain name www.dr-oz-

suggests.com:



129. Defendants' conduct of changing the domain names at which the websites reside to avoid detection continues to this day. For example, although the web site shown above is no longer accessible, a similar web site can be accessed at www.dr-oz-resv.net. A screenshot from www.dr-oz-resv.net, captured on August 17, 2009, follows below:



COUNT I (Violation of Right of Publicity and Right of Privacy, N.Y.C.R.L §§ 50-51) (By Plaintiff Dr. Oz)

130. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

131. Defendants used Dr. Oz's name, image, voice and/or persona in connection with advertising the Infringing Products throughout the United States, including both within and outside of the State of New York.

132. Dr. Oz did not consent, in writing or otherwise, to Defendants' use of his name, image, voice and/or persona in connection with the Infringing Products.

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133. As a result, Defendants have violated Dr. Oz's right of publicity and right of privacy under Section 51 of the Civil Rights Law of the State of New York (the "CRL") and related statutes in other states and territories.

134. Defendants knowingly used Dr. Oz's name, image, voice and/or persona for advertising purposes without obtaining his written consent.

135. As a direct and proximate result of Defendants' actions, Plaintiff Dr. Oz has been damaged in an amount to be determined at trial.

136. By reason of the foregoing, plaintiff Dr. Oz is entitled to punitive or exemplary damages in an amount to be determined at trial, as well as disgorgement of Defendants' profits, receipt of plaintiff's costs, including reasonable attorneys' fees, and all other available relief under the CRL and related statutes.

<u>COUNT II</u> (Violation of Right of Publicity, 765 ILCS 1075/1 et seq.) (By Plaintiff OW)

137. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

138. Defendants used Ms. Winfrey's identity, including her name, image, voice and/or persona in connection with advertising the Infringing Products throughout the United States, including both within and outside of the States of New York and Illinois.

139. OW and/or Ms. Winfrey did not consent, in writing or otherwise, to Defendants' use of her identity in connection with the Infringing Products.

140. As a result, Defendants have violated OW's rights in Ms. Winfrey's right of publicity under the Illinois Right of Publicity Act and related statutes in other states and territories.

141. Defendants knowingly and willfully used Ms. Winfrey's name, image, voice and/or persona for advertising purposes without obtaining her written consent.

142. As a direct and proximate result of Defendants' actions, Plaintiff OW has been actually damaged in an amount to be determined at trial.

143. By reason of the foregoing, Plaintiff OW is entitled to punitive or exemplary damages in an amount to be determined at trial, as well as disgorgement of Defendant' profits, plaintiff's costs, including reasonable attorneys' fees, and all other available relief under the Illinois Right of Publicity Act and related statutes.

144. Plaintiff OW is also entitled to injunctive relief under the Illinois Right of Publicity Act and related statutes.

<u>COUNT III</u> (Direct, Contributory and/or Vicarious Trademark Infringement under Section 32(1) of the Lanham Act) (By Plaintiff Harpo)

145. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

146. Upon information and belief, Defendants have either used the OPRAH marks directly on their websites without Harpo's consent, and/or with knowledge of the infringement, intentionally induced others to infringe the marks, continued to supply Infringing Products to others with knowledge or reason to know that they are engaging in trademark infringement, have profited from the infringement, are able to exercise direct control over the affiliates' infringement, had the ability to stop their affiliates' infringement, monitor their affiliates' actions that lead to sales of the Infringing Products, could take simple measures to prevent their affiliates' infringement and yet fail to do so, and there is an apparent or actual partnership between Defendants and the

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direct infringers, giving each the authority to bind the other or exercise joint control over the products at issue.

147. Defendants' use of the OPRAH marks is likely to confuse or deceive the public in the United States into believing that the unauthorized activities of Defendants originate from, are associated with, or are licensed, sponsored or authorized, or otherwise approved by Harpo, all to the damage and detriment of the reputation and good will in the OPRAH marks.

148. Defendants' use constitutes direct, contributory and/or vicarious trademark infringement under section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

149. Defendants' acts were done intentionally and with knowledge of Harpo's rights, and thus constitute deliberate and willful infringement. This is an exceptional case that warrants the award of attorneys' fees.

150. As a consequence of Defendants' willful misconduct, Harpo is entitled to injunctive relief as set forth below, and to an award against Defendants in the amount of three times Harpo's damages (which include damage to its marks and the reasonable value of a license), such sum above Defendants' profits arising from the infringement as the court deems just, destruction of all infringing materials, and Harpo's costs and attorneys' fees incurred in connection with this action.

<u>COUNT IV</u> (Trademark Dilution by Blurring and Tarnishment under Section 43(c) of the Lanham Act) (By Plaintiff Harpo)

151. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

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152. The OPRAH marks are distinctive and are famous as they are widely recognized by the general consuming public of the United States as a designation of the source of the goods and services of Plaintiffs Ms. Winfrey and Harpo.

153. Defendants began making use of the OPRAH Marks long after they became famous.

154. Defendants' use of the OPRAH Marks impairs the distinctiveness (blurs) and harms the reputation of (tarnishes) the OPRAH Marks.

155. Defendants willfully intended to trade on the reputation of and dilute the distinctiveness of the famous OPRAH Marks. This is an exceptional case that warrants the award of attorneys' fees.

156. Defendants' use of the OPRAH Marks without Harpo's consent, as described above, and/or causing, inducing or materially contributing to such use constitutes trademark dilution under section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

157. Plaintiff Harpo is accordingly entitled to injunctive relief and an award against defendants in the amount of three times its damages (which include damage to its marks), such sum above Defendants' profits arising from the infringement as the court deems just, destruction of all infringing materials, together with Harpo's costs and attorneys' fees incurred in connection with this action.

<u>COUNT V</u> (Direct, Contributory and/or Vicarious Trademark Infringement under Section 43(a) of the Lanham Act) (By Plaintiff Zo Co)

158. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

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159. Upon information and belief, Defendants have either used the DR. OZ mark directly on their websites without Zo Co's consent and/or with knowledge of the infringement, intentionally induced others to infringe the marks, continued to supply Infringing Products to others with knowledge or reason to know that they are engaging in trademark infringement, have profited from the infringement, are able to exercise direct control over the affiliates' infringement, had the ability to stop their affiliates' infringement, monitor their affiliates' actions that lead to sales of the Infringing Products, could take simple measures to prevent their affiliates' infringement and yet fail to do so, and there is an apparent or actual partnership between Defendants and the direct infringers, giving each the authority to bind the other or exercise joint control over the products at issue.

160. Defendants' conduct constitutes direct, contributory and/or vicarious trademark infringement under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

161. Defendants' acts were done intentionally and with knowledge of Plaintiff Zo Co's rights, and thus constitute deliberate and willful infringement. This is an exceptional case that warrants the award of attorneys' fees.

162. As a result of Defendants' deliberate and willful infringement, Plaintiff Zo Co has suffered irreparable harm. Plaintiff Zo Co has no adequate remedy at law and, if Defendants' activities are not enjoined, Plaintiff Zo Co will continue to suffer irreparable harm and injury to its reputation and good will. In addition, as a result of this trademark infringement, Plaintiff Zo Co has sustained and is continuing to sustain damages in an amount to be determined at trial, plus interest, costs and attorneys' fees.

<u>COUNT VI</u> (False Designation of Origin, False Endorsement and Sponsorship and Unfair Competition under Section 43(a) of the Lanham Act) (By Plaintiffs Zo Co and Harpo)

163. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

164. Defendants' use of Plaintiffs' names, marks, and identities, without their consent, as described above, and/or causing, inducing or materially contributing to such use, constitutes false designation of origin, and unfair competition under section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

165. By disseminating the Defendants' Unlawful Marketing without authorization, Defendants have falsely represented to the public that Plaintiffs endorse, sponsor and/or are otherwise affiliated or associated with Defendants' goods, services or other commercial activities, when in fact that is not the case.

166. Defendants' acts were designed to entice consumers to purchase the Infringing Products, and their materially false representations were likely to deceive or confuse, and have deceived or confused, the public into believing that Plaintiffs endorse, sponsor and/or are otherwise affiliated or associated with Defendants, when in fact that is not the case.

167. Defendants availed themselves of the advantages of Plaintiffs' extensive efforts, goodwill and fine reputation willfully and deliberately, with knowledge of Plaintiffs' rights, and with the intent to unfairly commercially benefit Defendants' at Plaintiffs' expense. This is an exceptional case that warrants the award of attorneys' fees.

168. Plaintiffs have been damaged by Defendants' unauthorized use of their names, marks and identities.

169. Upon information and belief, Defendants have derived substantial revenue and profits as a result of their conduct, at Plaintiffs' expense.

170. As a consequence of Defendants' willful misconduct, Plaintiffs are entitled to injunctive relief and to an award against defendants in the amount of three times Plaintiffs' damages, such amount to be determined at trial, destruction of all infringing materials, and plaintiffs' costs and attorneys' fees incurred in connection with this action.

<u>COUNT VII</u> (Cybersquatting under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1)(A)) (By Plaintiffs Zo Co and Harpo)

171. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

172. Defendants' registration of domain names using Zo Co's and Harpo's marks, including those in Exhibits 3 and 4, constitutes cybersquatting in violation of Section 1125 of the Anticybersquatting Consumer Protection Act, 15 U.C.S. § 1125(d)(1)(A).

173. The DR. OZ mark and OPRAH marks are inherently distinctive.

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174. The domain names registered by Defendants are identical and/or confusingly similar to the DR. OZ and OPRAH marks.

175. Upon information and belief, Defendants registered the above-described domain names in bad faith with an intent to profit. Defendants' bad-faith in registering the infringing domain names is evidenced by, among other things, Defendants' registration of multiple domain names which Defendants know are identical or confusingly similar to Plaintiffs' marks. Upon information and belief, Defendants were fully aware of Plaintiffs' strong marks in DR. OZ and OPRAH before they registered the domain names at issue. 176. Furthermore, for the following reasons, Defendants' actions have been taken in bad faith with an intent to profit: (a) Defendants do not have any trademark or intellectual property rights in the domain names; (b) the domain names do not contain the legal name of Defendants or a name commonly used to identify Defendants; (c) Defendants did not make noncommercial or fair use of the DR. OZ or OPRAH marks in a site accessible under the domain name; and (d) Defendants intended to divert consumers to websites that could harm the goodwill represented by the DR. OZ and OPRAH marks for commercial gain, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of their websites.

177. As a result of Defendants' actions, Plaintiffs have suffered irreparable harm. Plaintiffs have no adequate remedy at law and, if Defendants' activities are not enjoined, will continue to suffer irreparable harm and injury to their goodwill and reputations.

178. As a consequence of Defendants' willful misconduct, Plaintiffs are entitled to injunctive relief prohibiting Defendants from using or registering as a domain name Plaintiffs' names and trademarks, alone or in combination with other words, and ordering Defendants to transfer any such domain names to Plaintiffs, and to an award against Defendants in the amount of three times plaintiffs' damages, such sum above Defendants' profits arising from the infringement as the court deems just, destruction of all infringing materials, and plaintiffs' costs and attorneys' fees incurred in connection with this action. In the alternative, Plaintiffs are entitled to an award of statutory damages in the amount of up to \$100,000 per domain name, or as the court considers just but no less than \$1,000 per domain name, plus costs and attorney's fees.

<u>COUNT VIII</u> (Direct, Contributory and/or Vicarious Copyright Infringement Under The Copyright Act) (By Plaintiff Harpo)

179. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

180. Harpo owns valid copyrights in the registered Resveratrol Clip and all of the infringed *TOWS* episodes and images of Oprah, including the works identified in Exhibits 10 and 11, which are original works of authorship.

181. Defendants had access to Harpo's copyrighted works, and intentionally copied and distributed them, or portions or still images from them, without Harpo's consent, and/or had knowledge of infringing activity and induced, caused, or materially contributed to it, and/or induced the infringement, and/or had the right and ability to supervise the infringing activity and had a direct financial interest in the activity.

182. Defendants' use constitutes direct copyright infringement and/or contributory and/or vicarious infringement under the Copyright Act.

183. Defendants' acts were done intentionally and with knowledge of Harpo's rights, and thus constitute deliberate and willful infringement.

184. As a consequence of Defendants' willful misconduct, plaintiff Harpo is entitled to injunctive relief as set forth below; to an award against Defendants in the amount of (i) Harpo's damages and Defendants' profits arising from the infringement, or in the alternative, (ii) statutory damages in the amount of up to \$150,000 per work infringed; destruction of all infringing materials; and plaintiffs' costs and attorneys' fees incurred in connection with this action.

<u>COUNT IX</u> (Common Law Unfair Competition / Unjust Enrichment)

185. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

186. Defendants' use of Plaintiffs' Property without Plaintiffs' consent, as described above, and/or causing, inducing or materially contributing to such use constitutes unfair competition under New York and Illinois common law.

187. As a direct and proximate result of the foregoing, Defendants have been unjustly enriched at the expense of Plaintiffs.

188. Defendants' acts were done intentionally and with knowledge of Plaintiffs' rights, and therefore in bad faith.

189. As a result of Defendants' deliberate and willful conduct, Plaintiffs have suffered irreparable harm. Plaintiffs have no adequate remedy at law and, if Defendants' activities are not enjoined, Plaintiffs will continue to suffer irreparable harm and injury to their reputations and good will. In addition, Plaintiffs have sustained and are continuing to sustain damages in an amount to be determined at trial.

<u>COUNT X</u> (Violation of Section 349 of New York General Business Law)

190. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

191. Defendants' aforesaid acts constitute deceptive acts and practices in the conduct of business in willful and knowing violation of New York General Business Law § 349.

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192. Plaintiffs have no adequate remedies at law to compensate them for all the damages that have been caused by defendants' wrongful acts, and that will be caused if Defendants' wrongful acts are not immediately enjoined.

193. Plaintiffs have suffered monetary damages as a result of Defendants' wrongful acts, in an amount to be proved at trial.

COUNT XI (Violation of Section 350 of New York General Business Law)

194. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

195. New York General Business Law § 350 prohibits "[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state"

196. Defendants' statements, as set forth above, were consumer-oriented and made in the conduct of business, trade or commerce in New York.

197. Defendants' statements were misleading in a material respect and were and/or are likely to mislead consumers.

198. Defendants' statements constitute false advertising in willful and knowing violation of New York General Business Law § 350.

199. Defendants' statements caused harm to Plaintiffs and to the public at large.

200. Plaintiffs have no adequate remedy at law to compensate them for all the damages that have been caused by Defendants' false advertising and that will be caused should those acts not immediately cease.

201. Defendants have suffered money damages as a result of Defendants' false advertising, in an amount not yet ascertainable but which will be determined at trial.

<u>COUNT XII</u> (Violation of Illinois Uniform Deceptive Trade Practices Act) (By Plaintiffs OW and Harpo)

202. Plaintiffs repeat and reallege the allegations stated in the preceding paragraphs of the Complaint as if set forth fully herein.

203. Defendants' conduct as described above constitutes deceptive trade practices in violation of the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS §§ 510 et seq.

204. As a result of Defendants' unlawful acts, Plaintiffs have suffered, and continue to suffer irreparable harm and pecuniary damages in an amount yet to be determined.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant an order or orders:

A. Preliminarily and permanently enjoining Defendants, their officers, directors, agents, servants, employees, successors and assigns, and all other persons acting on their behalf or under their control in active concert and participation with any of them, from (a) using Plaintiffs' Property to sell or market any product or service in any and all media and forums, or using Plaintiffs' names and trademarks, alone or in combination, in any domain name; and (b) doing any other act likely to cause the public to believe that Defendants' business or services, in any way, originate from, are associated or affiliated with or are sponsored by one or all Plaintiffs; and

B. Directing Defendants to (a) withdraw all advertising and promotions in any and all media that include the Plaintiffs' Property; (b) destroy all advertising, marketing materials and other tangible items that incorporate Plaintiffs' Property and provide a certificate of such destruction; (c) transfer all domain names containing Plaintiffs' names or marks to Plaintiffs; and (d) issue a press release and run prominent corrective advertising alerting the public and consumers to the fact that Plaintiffs are not, and never have been, associated with Defendants.

C. Awarding damages in an amount to be proven at trial, caused by Defendants' copyright and trademark infringement and/or contributory infringement, dilution, unfair competition, and invasion of right of privacy and publicity, and other misconduct as specified herein. In the alternative, awarding statutory damages in the amount of up to \$150,000 per work infringed under the Copyright Act and up to \$100,000 per domain name under the Anti-Cybersquatting Consumer Protection Act.

D. Ordering that Defendants make restitution to Plaintiffs for any unjust enrichment caused by virtue of their unlawful conduct.

E. Awarding Defendants' profits arising out of Defendants' willful copyright and trademark infringement and contributory infringement, false representations, use of false designations of origin, dilution, invasion of right of privacy and right of publicity.

F. Awarding treble damages to be assessed against Defendants and such amount above profits as the court finds just under the Lanham Act, 15 U.S.C. § 1117, exemplary damages under New York Civil Rights Law § 51, and punitive damages under the Illinois Right of Publicity Act.

G. Awarding plaintiffs interest and costs of this action together with statutory attorneys' fees under the Illinois Right of Publicity Act, 765 ILCS § 1075/55, New York Civil Rights Law § 50-c, the Lanham Act, 15 U.S.C. § 1117, the Copyright Act, 17 U.S.C. § 505, the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS § 510/3, and New York General Business Law § 349(h).

Granting such other and further relief as this Court may deem just and proper. H.

New York, New York Dated: August 18, 2009

DAVIS & GILBERT LLP

By:

Marc Rachman/(mrachman@dglaw.com) Shirin Keen (skeen@dglaw.com) Sean Cameron (scameron@dglaw.com) 1740 Broadway New York, New York 10019 (212) 468-4853

Attorneys for Plaintiffs

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EXHIBIT 1

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Perfection		www.drozacai.com
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Distribution		www.Dr-oz-resveratrol-alert.com
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	Most Popular Supplements Dr. Oz sent Liss to ma six weeks ago for treatment of her severa, long-standing Fibromyalgia pain I treated her (with the help of Dr. Andre Garabedian) at the Fibromyalgia and www.endfatigue.com/web-newsletters/Newsletter_vitality101_no_3 html <u>Cached page</u>	599 <u>yeur messaur heir</u>
	Total Clearise <u>Body Detox : Total Clearise Free</u> Trial Total Clearise Body Detox There's a good reason the Total Clearise Body Detoxification Program has received amazing reviews from Oprah, Dr. Oz, CBS News, WebMD and MSNBC total/clearise.net · <u>Cached page</u>	
	Dr. Oz Diet Plan – Dr. Oz and Dr. Roizen Put You on a Diet – Try these tasty dinner racipes from the authors of the best-selling You: On a Diet, www.goodhousekaeping.com/hea/th/die//dr-oz-dist-sepI0S-2 - <u>Cached Pope</u>	
	Dr. Oz Recommended Acall Health IS Life. Okay for those of you who are Oprah lovers, you would know Dr. Oz. Hove Dr. Oz he atways has so much good health information to share. He is appearing more realthistic info/2008/02/06/dr-oz-recommended-acal <u>Cached cage</u>	
	What is an Omentum? For her television viewers, Dr. Oz Introduced the concept of the omentum, even showing both a healthy and an overly fat omentum to people to showcase the biological importance of www.wsegeek.com/what-is-en-omenium htm <u>Cached pago</u>	
	Raw Food, Right New! The raw food blog about the Raw Food World Since Dr. Oz does not give specific amounts, here is a free green juice recipe! This is just an example of what you could do with Dr. Oz's ingredients to make your own green drink rawfoodrightnow blogsoot com/2007/13/green-drinks dr.oz-and-burah himi. <u>Casted usge</u>	
	On Oprah - Dr. Oz's Green Drink, Daylime Talk - Daylime Taik - from There gotten so many requests for the recipe for Dr. Oz 's 'green drink' from the 'How to Turn Back Time' episodes. Here's the recipe from Opran com: deytme\zik com/2007/11/15/on-opran-dr-ozs-green-drink/#comment-29394 <u>Cephen zage</u>	
	Dr. Oz. Resveratrol Warning - www.Resveratrol Alert net Sponsored atlas Thinking About Trying Resveratrol? Check This Important Message First	
	<u>Dr. Oz's #1 Acai Diet</u> - DrOzDiet The-Acai8erry-Diet com Featured By Dr. Oz A s The #1 Diet For 2009. Now A Risk-Free Thall	
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SEARCH HISTORY "Dr. Oz" <u>See 48</u>	<u>Welcome to my Web site</u> Thera is nothing here, look at my other pages; www.cruncingear.com/2007/11/19/help-key-how-to- ja@break-your-lpod-touch-with-112/ from here download 1.1,2 firmware chrisdraz.com - <u>Capitert page</u>	"2009 Rachael Ray's Diet" I followed Rachael Ray's advice and tost över 22 pounds in a month! www.hopesDiet.com
<u>Clear al: I Turn of</u>	Dr. Oz's Food Hall of Shame - 1 - MSN Health & Fitness - Nutrition Find health information and news on diet, fitness, meal planning, pregnancy, sex, drugs, alzheimer's, adhd, asthma, allergies, cancer, heart problems, mental health, depression, nealth.men.com/nubilion/slideshow.aspx?cp-obcumentid=100170901 _ <u>Cached page</u>	<u>290 Joh ubseate unto</u>
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	The Vice Busting Diet Plans Weight Loss Made Easy Oprah & Friends XM Radio, guest with Dr. Oz, Oprah & Friends XM Radio, guest with Bob Greene; eDiets.com's Master Motivator, 1999-2006, Motivational Speaker, 1999-Present www.vicehosungdiet.com <u>Carried page</u>	
	Oz Sarcia, - Home Page Oz Sarcia, Ph.D., a highly regarded nutritional counselor and life extension specialist, is also the best selling author of The Balance and Look and Feel Fabulous Forever www.hzgarcia.com <u>Cashod Datie</u>	
	The Great and Powerful Dr. Oz On a steamy Sunday in early August, at an hour known as church-time across certain swaths of the U.S., the fained heart surgeon and health guru, Dr. Mehmet Oz. strutted about a www.cbserver.com/2007/gieac-and-powerful-dr-oz - <u>Cached pace</u>	
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My name is Stand Johnson and fm is mother of three beaulitul children. I have been trying to lose weight for a long time and noting over worked for maximum wire. Comfatenap html: Cached page Amazon.com: dr oz name i and discover new products. Share your images and discuss your questions with for oz eventet. A community about dr oz segent. www amazon com/lagd/%20or - Cached page Home Velocine to Droz & Associates. Romald T. Droz, Psy.D., Clinical Psychologet. Blake D. Batton, M.D., Psychiathett, OFFICE LOCATION: 4707 Contral Avenue drozendossochiles com Cached age HealthCorps Dr. Oz Welcome Message By giving students, parents, and community members the nacessary tools to surround. www healthcorps net: Cached agge Dr. Oz Kesveratrol Warming - www.Resveratroe Avent net: Throking About Trying Resverator? Check This Important Message First. Dr. Oz Kesterator Vitage 1: Porzone The Acelement Trail Prev: 3 4 5 6 17 8 9 10 11 Next		First I just want to say I love Dr Oz. He rocks! However, I just heard Dr Oz, a frequent contributor on Oprah, give some pretty dubious advice on weight loss.	
A commonly about dr oz, Tag and discover new products. Share your images and discuss your questions with dr oz experts. www.emarce.com/lag/df/820oz - Coched page Home Welcome to Droz & Associates. Ronald T. Droz, Psy.D., Clinical Psychologet. Blake D. Barton, M.D., Psychiahrat. (DFFICE LOCATION: 4707 Central Avenue drozandossouhles upm. <u>Capital page</u>) HealthCorps Dr. Oz Welcome Message By giving students, parents, and community members like nacessary tools to surround www.readfile.orgs net. <u>Capital page</u> Dr. Oz Welcome Message By giving students, parents, and community members like nacessary tools to surround www.readfile.orgs net. <u>Capital page</u> Dr. Oz Welcome Message By giving students, parents, and community members like nacessary tools to surround www.readfile.orgs net. <u>Capital page</u> Proz.Resveration? Check This important Missage First. Dr. Oz 'S #1 Acai Diet - Droz Diet The-AcaiBeny-Diet com: Featured By Dr. Oz As The #1 Diet For 2009 Now A Risk-Free Trial! Prev. 3 4 5 6 [7] 8 9 10 11 Next		My name is Sarah Johnson and I'm a mother of three beautiful children. I have been trying to lose weight for a long time and nothing ever worked for ma.	
Welcome to Droz & Associates. Ronald T. Droz, Psy.D., Clinical Psychologist. Blake D. Barton, M.D. Psychiatrist, OFFICE LOCATION: 4707 Central Avenue drozdaridossoukles com Cachest gage Healt/Corps Dr. Oz Welcome Message By giving students, parents, and community members the nacessary tools to surround www.healthcorps net Dr. Oz Resveratroi Warning - www.Resveratrok Alert net Trinking About Trying Resveratro? Check This Important Message First. Dr. Oz's #1.Acaj Diet - DroZober The-AcajBerry-Diet corr: Featured By Dr. Oz As The #1 Diet For 2009 Now A Risk-Free Trial!		A community about drioz. Tag and discover new products. Share your images and discuss your questions with drioz experts,	
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	Dr. Oz FOR IMMEDIATE RELEASE HARPO PRODUCTIONS AND SONY PICTURES TELEVISION ANNOUNCE AGREEMENT TO LAUNCH DR. OZ Much-anticipated new syndicated series to debut Fall 2009 drozty.com <u>Cached page</u>	
	<u>Amazon.com: YOU: Being Beautiful: The Owner's Manual to Inner and</u> Dr. Roizen and Dr. Oz act as tour guides navigating the tricky but exciting terrain of today's beauty industry. YOU: Being Beautiful is your all-inclusive ticket into the world www.amazon.com/YOU-Beautiful Owners-Manual-Beauty/do/1416572341 - <u>Cached page</u>	
	Surgeons In the News, "Second Opinion with Dr. Oz" Premieres on Dr. Oz gives the facts about key-areas of sexuality and reproduction, including sexual desire and dysfunction, contraception, intortility and differences between man and women. www.columbiasurgery.org/newsfitewamakars/2003_discovery_ep.html#Sex - <u>Cacitad page</u>	
	Dr. Oz and Acai Acai Berry Acai Fruit Aqai Antioxidants News Nationally renowned surgeon and award-winning author, Dr. Oz, says people should eat about five servings of antioxidant-rich foods a day. www.acainewsenting.com/dr.oz-ond aca: <u>Cached pege</u>	
	Dr. Oz & Oprah Winfrey & Pheromones I Pheromones Information On Monday, January 8, 2007, the Oprah Winfrey Show aired a segment littled, Dr. Oz Answers Your Most Embarrassing Questions, During the show questions about www.attractromance.com/blog/archives/20 <u>Oached page</u>	
	Dr. Oz Diet, Health and Weight Loss He's America's favorite doctor, and a regular on the Oprah show - Dr. Oz is helping people be more conscious about their overall health. His book, YOU' On a Diet, is a www.distsiureview.com/topics/dr-oz <u>Cached page</u>	
	Oprah & Dr. Oz Did anyona else sae the Oprah show with Dr. Oz? It aired last week. For those of you who missed it, Dr. Oz seid that walking 10,000 steps a day, cutting 100 calories out of our _ catorlecount shout com/oprah-dr-oz-617975 <u>Cached page</u>	
	Jezebel - Dreams Do Come True: Dr. Oz Explains Acne On Oprah - dr Remember how earlier today we were obsessing about pimples and we wordered why Dr. Oz and Oprah haven't covered it yet? Woll, right as we were posting that, today's episode of rezebet nom/5083623/dreems-do-come-true-dr-oz-explans-acrus-on-oprah	
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	<u>Dr Oz's #1 Diet∼ Acai</u> - www.DrOz 4-Desing In/a Acai Berry Review, What Worka? Plus A Tip To Lose 23% More Weight.	Uitra, Free Trial Offer! Try It www.Resveratro/Top3.com/Dr-Oz
Or Oz Vitamińs: Dr Öz Green Drink Or Oz Exercise	Optah's poop report PoopReport.com Dr. Oz gave answers to those questions in easy-to-understand language and also used several animations in order to help viewers "see" how poop is made and how things are supposed www.poopreport.com/BMnewswire/op:shs_poop_report.html <u>Cached pase</u>	Dr. Oz's Colon Cleanse Colon Cleansing 100% FREE (Not Even S&H)(30 Day FREE Trial [®] NO REBLL, www.UltimateColonCleanse.com
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	<u>Colon Cleanse Parasites and F</u> ecal Matter According to Dr OZ on the Oprah Whrtey show, Parasites are incredibly common, and are NOT just found in children Dr. OZ who regularly appear on the Oprah Winfrey show says." 90 www.coloncleanse.ws	<u>See your messaes here</u>
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	WikiAnswers. <u>- How did Dr OZ deaned sinus cavities</u> Health question: How did Dr OZ deaned sinus cavities? Mr. Nettr Pot Can Cleanse Sinuses Good 'ol Dr. Dz.,. I was unable to find the episode about sinuses on Oprah's site, but did wiki answers com#Q/How_did_Dr_OZ_deaned_sinus_cavites <u>Cacheo page</u>	
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r Oz Vitamins r Oz Green Drink r Oz Exercise	What men should eat.every day - C Dr. Oz suggests 24 ounces of coffee a day milk is obviously good for bones - any man www.cnn.com/2007/LIMNG/personal/08/23/	is a rational amount for one person, 11. The calcium in with a mother has heard that one.	Barbará Walters Special Barbara Walters talks about Resveratrol for health & long life fiveun01125.com
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Dr Oz. Recommended Resveratrol Slow aging with Resveratrol Ultra. Harness the power of red wine. Resveratrol Ultra.com	Dr. Oz & Acai Berry Diet See Why Dr Oz Recommends Acai Berry Diet for Quick & Easy Weight
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Mehmet Oz - Wikipedia, the free encyclopedia Biography Criticism Author Books and publications Mehmet C. Oz is a Turkish-American cardiothoracic surgeon, and author. He has made frequent appearances on The Oprah Winfrey Show, as well as appearances on Larry King, CNN, and other networks,	MRSA Warning from Dr Oz Prevent spread of staph infection. StaphAseptic kills MRSA Super Bug. StaphAseptic.com
en.wikipedia.org/wiki/Mehmet_Oz - <u>Cached</u>	See your message here
Dr. Oz Reveals the Ultimate Checklist for Great Aging - Oprah Show Recap Dr. Oz joined Oprah to share his anti-aging checklist with tips that will help everyone look and feel younger Dr. Oz's Anti-Aging List for the Fridge and Pantry: oprah.about.com/od/february2008/p/agingchecklist.htm - <u>Cached</u>	
Dr Oz - Dr <u>Roizen - YOU ON A DIET</u>	

Dr Oz seems to stay away from explaining how the digestive tract works. ... DR OZ -reduce daily intake calories by no more than 100 calories a day ... healthread.net/oz-you-on-a-diet.htm - Cached

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Live Life to the Youngest with RealAge Take the RealAge Test for a personalized plan to help you eat ... THE YOU DOCS. Hear **Dr. Oz** on Oprah & Friends. Check show times. Tune in to Dr. Roizen's ... www.realage.com - 71k - <u>Cached</u>

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<u>Cleansing</u> ... If you had **Dr. Oz**, one of the world's foremost doctors cornered at a party, what would you ask him? ... HOME " Features " Ask **Dr. Oz** ... www.esquire.com/features/ask-dr-oz/droz1007 - 55k - <u>Cached</u>

Dr Oz Puts "YOU: On a Diet"

Oprah's got a new diet plan. Does the **Dr Oz** plan for "waist management" work? ... Never heard of **Dr. Oz** or watch Oprah, but actually, this is the basic way to ... hubpages.com/hub/**Dr_Oz_Diet** - <u>Cached</u>

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Dr. Oz & Acai Berry Diet See Why Dr Oz Recommends Acai Berry Diet for Quick & Easy Weight Loss. wwwAcaiBerryDiet.com

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Dr Oz on Vitamins - Ask Dr Oz Health Questions - Esquire	2 Rules For A Flat Stomach t Followed 2 Rules & Lost My Belly
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Dr. Mehmet Oz explains the more sex you have, the longer your life expectancy. www.comedycentral.com/colbertreport/videos.jhtml?videold=167614	· · · · · · · · · · · · · · · · · · ·
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The oldest English language Turkish publication in the United States since 1989 By any	
standard, Dr. Oz leads a very busy and productive life www.theturkishtimes.com/archive/03/0503/f-oz.html - Cached	

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Dr. Mehmet Oz: Global Medicine - 2 - Life Extension

As one of the world's most accomplished cardiac surgeons, Dr. Oz is taking his visionary medical knowledge to teach people how to use natural methods to live ... www.lef.org/magazine/mag2008/sep2008_Dr-Mehmet-Oz_02.htm - 51k - <u>Gached</u>

How to Ban Prohibited Foods for Dr Oz's You on A Diet How to article - how to ban prohibited foods for dr. oz's you on a diet. Dr. Oz's You on a Diet is a bestselling diet plan focused on natural, wholesome and... www.ehow.com/how_2288071_ban-prohibited-foods-dr-ozs.html

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Mehmet Oz - Mahalo Beginning in September 2009, Dr. Oz will host a... The New York Observer: The Great and Powerful Dr. Ozcom: Oprah Favorite Dr. Oz Offers 10 Healthy ... www.mahalo.com/Mehmet_Oz - 178k - Cached

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Dr. Oz: "Sweating an hour a week by the way, I'm not talking www.cnbc.com/id/28693547 - 79k - <u>Cached</u>	RezVMax.com
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Most recently popularized by Oprah, the Dr. Oz Diet has hit the mainstream hard	
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Dr. Oz's Diet " iFitandHealthy.com	
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Dr Oz & Resveratrol

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ago. Dr. Oz answers: how to get pep in your step	Prevent spread of staph infection.			
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Celebrity surgeon's endorsement of a longevity pill has sparked a rag-tag industry of sellers				
using fake news sites and phony health claimsstarring Dr. Oz.				
forbes.com/2009/06/15/ Cached				
Pot Health				
Pet Health Dr. Oz recommends that Ben eat more foods with antioxidants Bright colored fruits, like				
goji berries, are also great, Dr. Oz says				
www.goji-passion.com/gpage2.html - Cached				

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The Dr Oz Resveratrol Recommendation Dr Oz said in order to get the benefits without taking the ... Dr Oz states that when the body does not have an excess of calories, our energy ... www.squidoo.com/dr_oz_resveratrol - <u>Cached</u>

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Cached	www.AcaiBerryDetox.com
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www.broadcastingcable.com/article/CA6549369.html - 85k

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Dr. Oz Explores Past Life Regressions - Show Recap					

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Tuesday, May 13, 2008 Oprah Show Recap - Dr. Brian Weiss guided **Dr. Oz** and viewers through an exploration into the concept of past life regression. Ask yourself the ... oprah.about.com/od/oprahshowrecaps/p/pastliferegress.htm - <u>Cached</u>

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Dr. Oz was interviewed on the February 24, 2008 "Oprah" regarding the medical ... Dr. Oz hosts a daily, caller-driven program about health and wellness on "Oprah ... www.columbiasurgery.org/news/oz.html - <u>Cached</u>

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Dystonia Awareness - Care4Dystonia, Inc. " On the Air with Dr. Oz, M.D Luckily, Dr. Oz knew about Bekas' struggles with dystonia and having read both Please visit our Dr. Oz webpage to learn more about the Interview,	See your message here
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<u>Dr. Mehmet Oz, A Great Presenter</u> For those not familiar with him, Dr. O z is a heart surgeon, book author, Aside from eliciting a chuckle, Dr. Oz's humor also relieved tension inherent in	

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EXHIBIT 3

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Website URL Containing Dr. Oz

1 <u>www.Drozadvice.com</u> 2 <u>www.dr-oz-resv.net</u>
3 <u>www.dr-oz-resv.com</u> - 4 <u>www.Dr-oz-coloncleanse.com</u>
5 <u>www.Ozresvtrial.com</u> 6 <u>www.dr-oz-resveratral-alert.net</u>
7 <u>www.drozrezv.com</u> 8 <u>www.Drozteethwhitening.com</u>
9 <u>www.Oz-loves-resveratrol.com</u>

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Website URL Containing Dr. Oz

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Website URL Containing Dr. Oz

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87 www.Dr-oz-acai-trial.com

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90 www.DF.OzDiet-AcaiBerry.com

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- 94 Www.Dr-oz-resveratrol-alert.com
 - 95 www.Dr-oz-resvera-trol-trials.com

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105 www.dr-oz-resveratrol.net

107 www.drozweightloss.net

108 www.drozstore.com

109 www.dr-oz-recommends.com

110 www.dr-oz-approved.com

111 <u>www.dr-oz-approves.com</u>

112 www.drozmiraclediet.com

Website URL Containing Dr. Oz

113 <u>http://dr.oz.resveratrol-truth.net</u>

114 www.oztwitter.com

115 <u>www.ozdiet-acaiberry.com</u>

116 www.doctorozdlet.net

117 <u>www.ozrestrial.com</u>

118 www.personaldiets.net/results/dr-oz-diet-plan

- 119 www.health.discovery.com/fansites/dr-oz/dr-oz.html
- 120 http://hubpages.com/hub/Dr-Oz-Resveratrol-Ultra
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122 www.Dr-oz-acai-diet.com

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EXHIBIT 4

Website URL Containing Oprah

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1 www.oprahsdietplan.com

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2. www.ograbs.best-acal.com

3 www.oprahsacaiberrydiet.com

4 www.cprahresveratrol.blogspot.com

5 www.acalberry-oprah.com

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7 <u>www.oprahsdietworks.com</u>

8 www.oprahsecretrevealed.com

9 www.oprahsexclusivedlet.com

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12 www.oprabdletsecret.com

13 www.oprahdietsecrets.com

14 www.opransnewdiet.com

15 <u>www.oprahsmiraclediet.com</u>

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17 www.oprahsfavoritediet.com

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38 www.Oprab-on-resvera-trol.com

39 www.Oprahreview.com

40 www.Acalberryoprah.com

41 <u>www.Oprah-acai-berry.com</u>

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43 www.favorite-things-oprah.com

44 <u>Www-oprahsfatloss.com</u>

45 <u>www.oprahwinfrevshow.com</u> 46 <u>www.oprahshow.com</u>

47 www.oprahsdietblog.com

48 www.oprahsfavorite.com

49 www.medifastoprah.com

50 <u>www.oprahdlet.org</u>

51 www.acai-berry-oprah.info

52 www.fastfatburningdiet.com/oprah2.php

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- 56 www.oprahsfans.com
- 57 www.oprahshowinfo.com

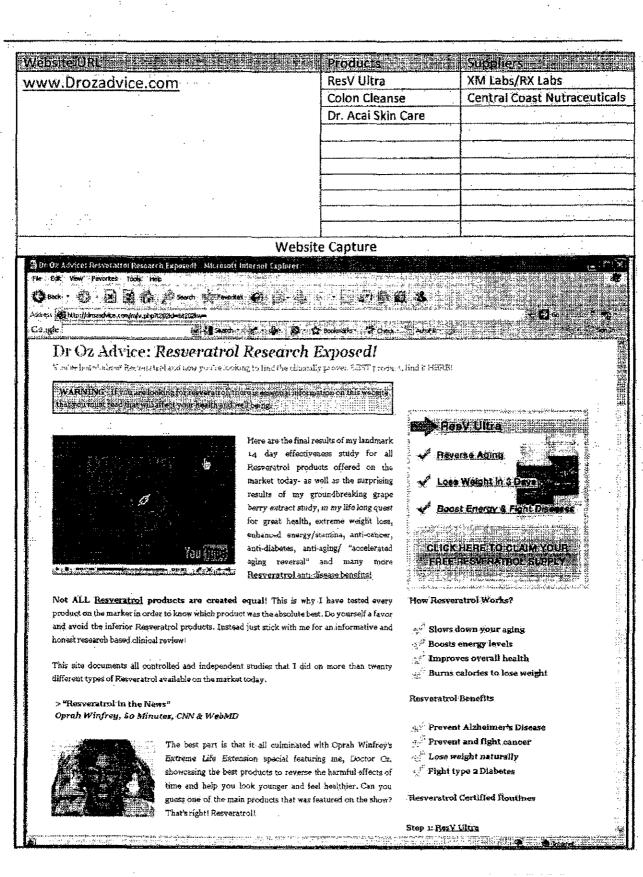
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- 63 www.oprahwinfry.com
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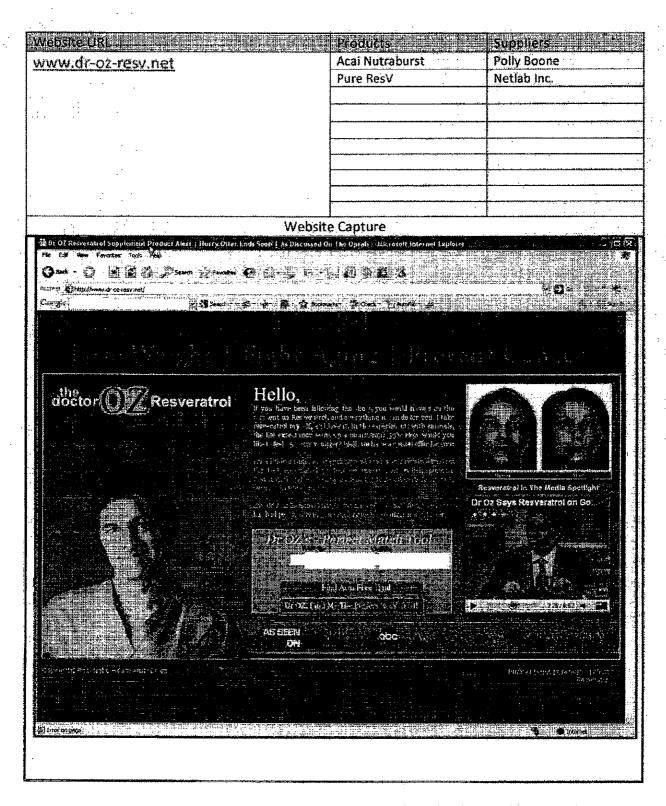
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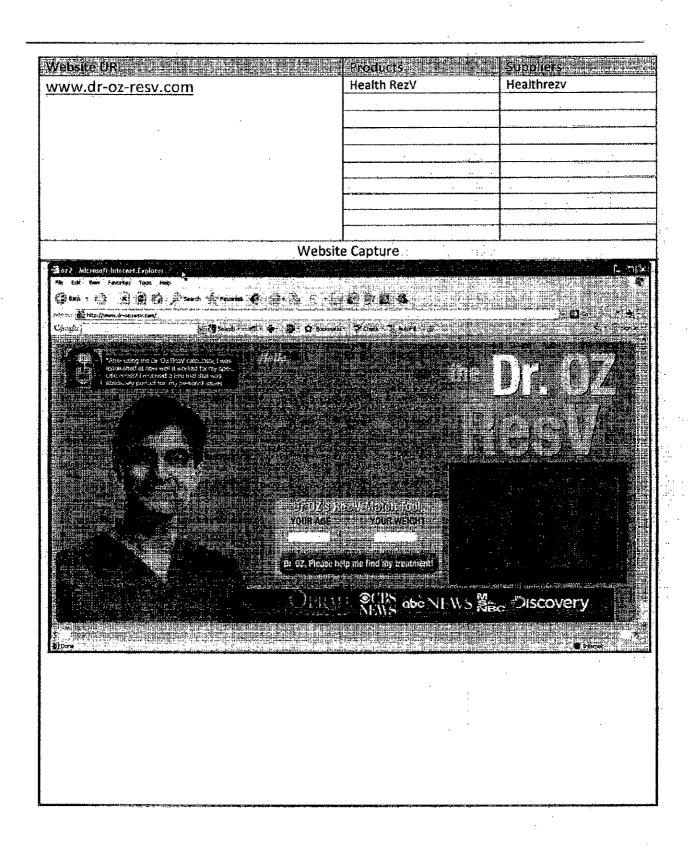


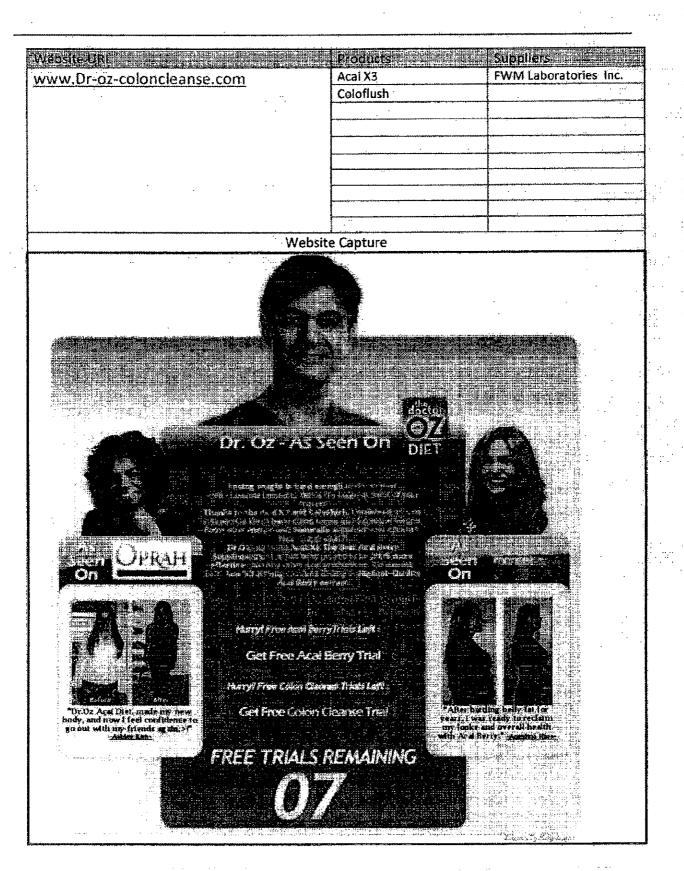
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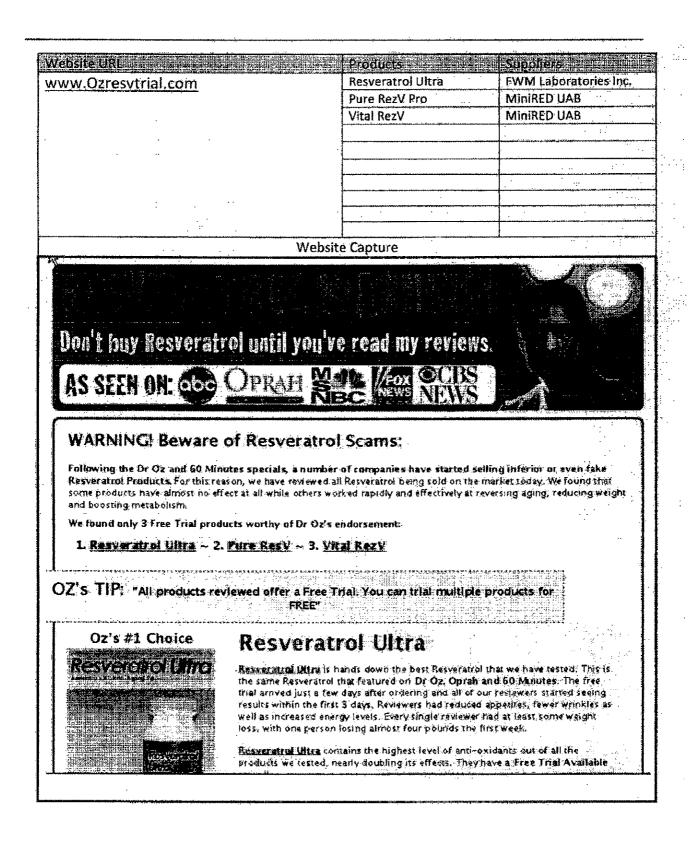
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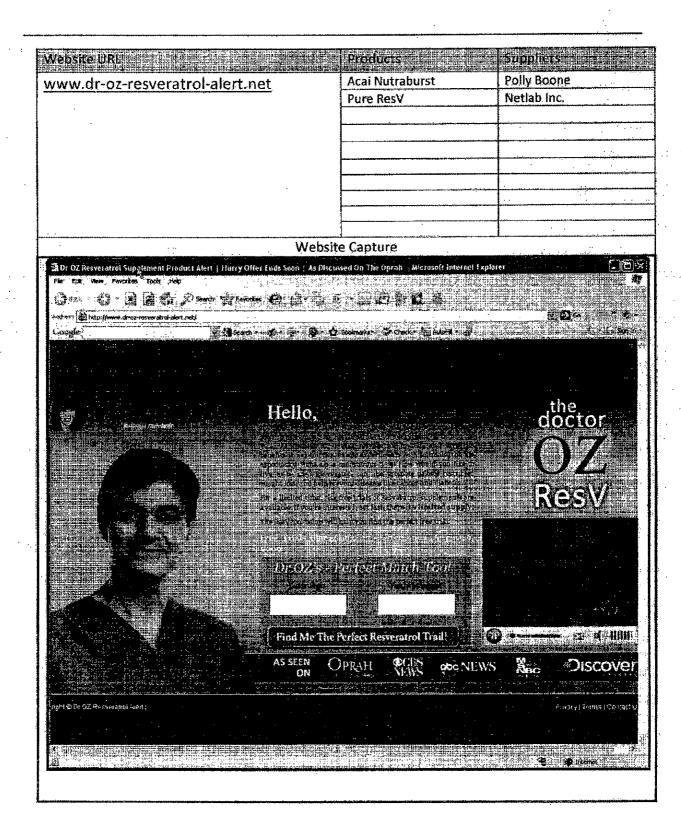


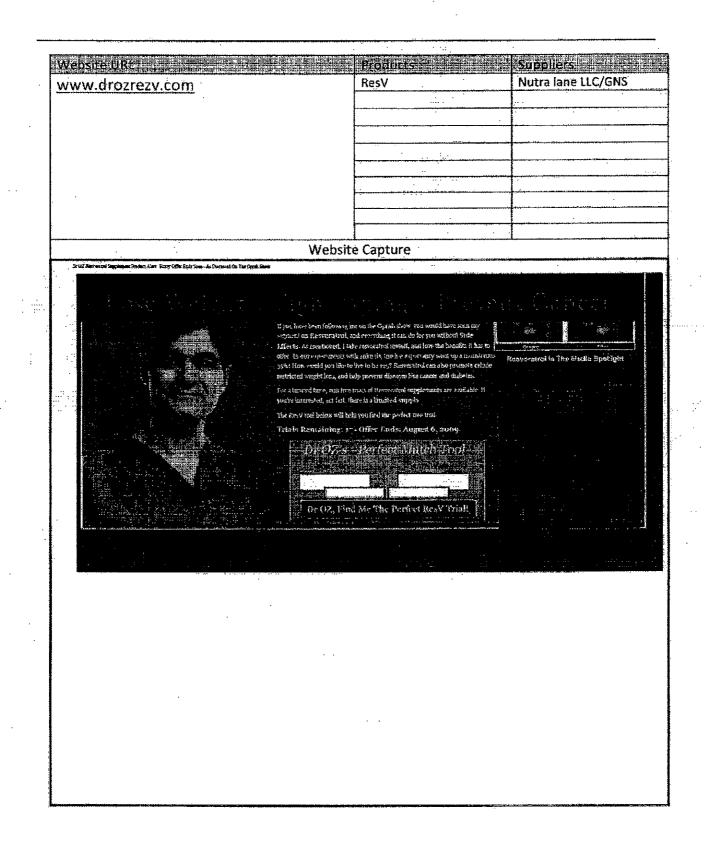
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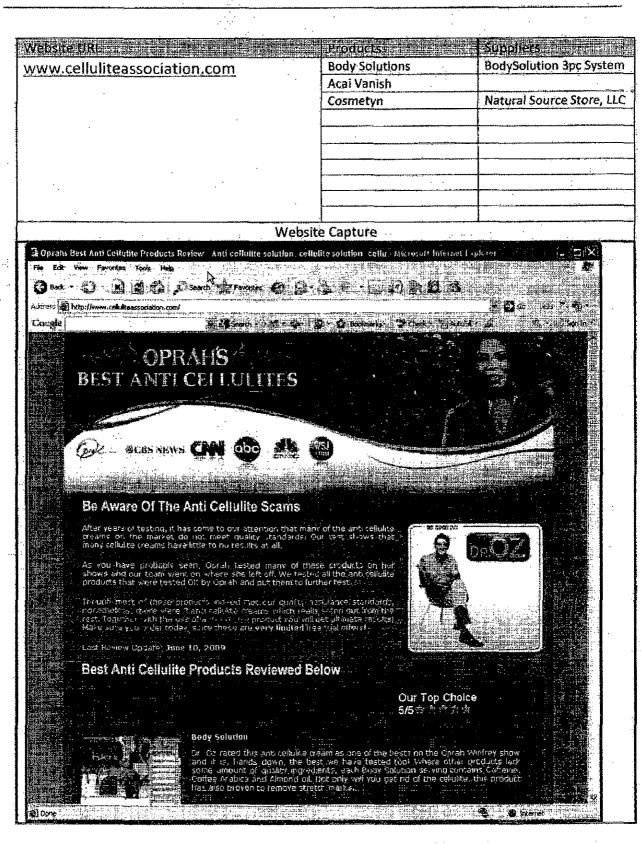






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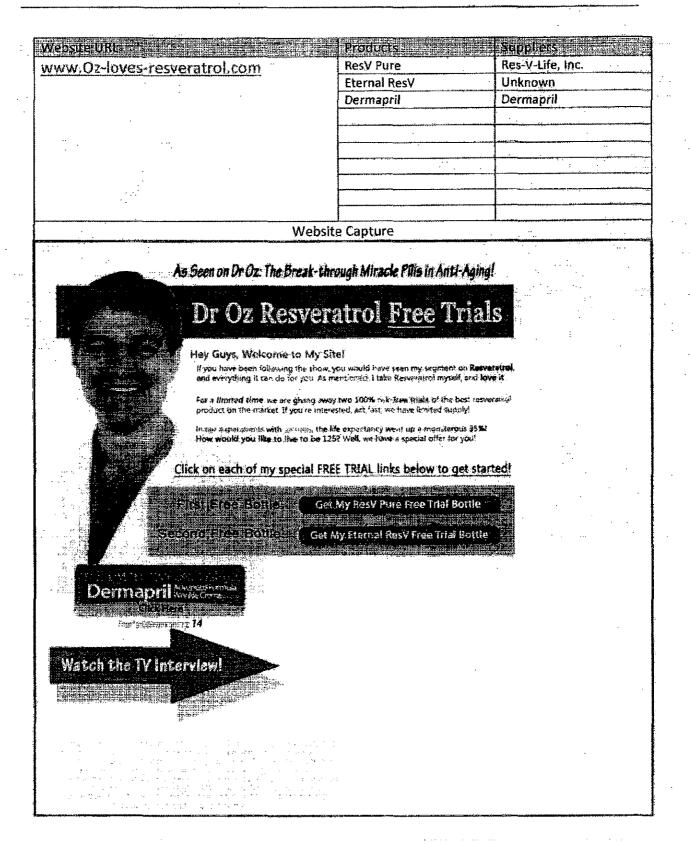


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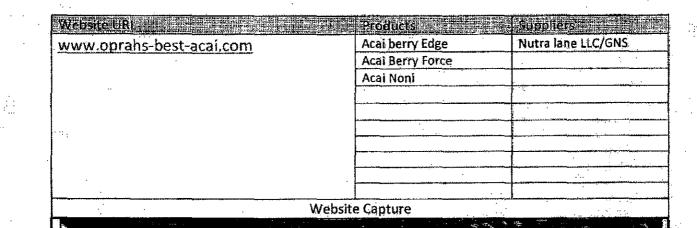
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Be Aware Of The Acai Berry Scams

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OPRAHS BEST ACAI PRODUCTS

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Altough much of these products indeed met our quality assurance standards. There were 3 Acai products which really stand our from the rest. Together with the use of a colon deance product you will have amazing results within a very short time!

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Best Acai Berry Products Reviewed Below

acai Edge

Our Top Choice 5/5 寄会背貌堂

Dr. Oz rated this broduct and of the bests on the Gorah Winfrov show and the hands down the best we have tested that Where other products lack the amount of guality ingredients, each Acal Barry Edge serving contains 250mg of toolquety scale berry extract, Not only will your flush the pounds eway; this products has aso

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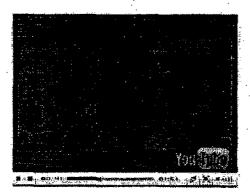
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Dr Oz Advace: Resveratrol Research Exposed		Page 1 of 10		

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Dr Oz Advice: Resveratrol Research Exposed!

You've heard about Resveratrol and now you're looking to find the clinically proven BEST product, find it HERE!

WARNING - If you are looking for resveratiol, there is essential information on this website that you must read that will affect your health and well being.



Here are the final results of my landmark 14 day effectiveness study for all Reaveratrol products offered on the market roday- as well as the surprising results of my groundbreaking grapeberry extract study, in my life long quest for greathealth, extreme weight loss, enhanced, energy/stamina, anti-cancer, anti-diabetes, antiaging "accelerated aging reversal" and many more **Retveratrol anti-disease benefits**!

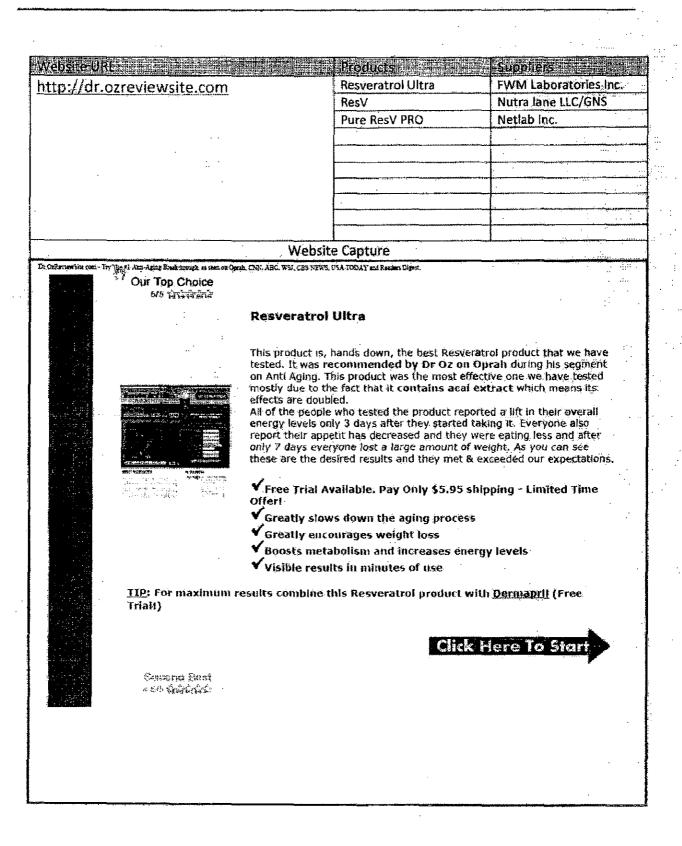
Not ALL <u>Resveration</u> products are created equal! This is why I have tested every product on the market in order to know which product was the

absolute best. Do yourself a favor and avoid the inferior Resveratrol products. Instead just stick with mefor an informative and honest research based clinical review!

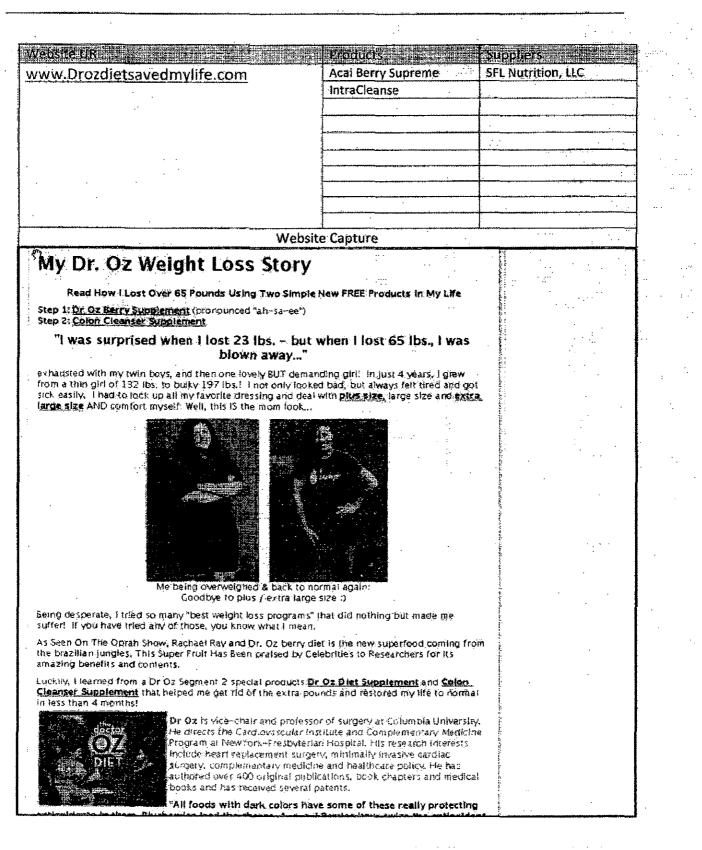
This site documents all controlled and independent studies that I did on more than twenty different types of Resveratrol available on the market today.

> "Resveratrol in the News" Oprah Winfrey, 60 Minutes, CNN & WebMD

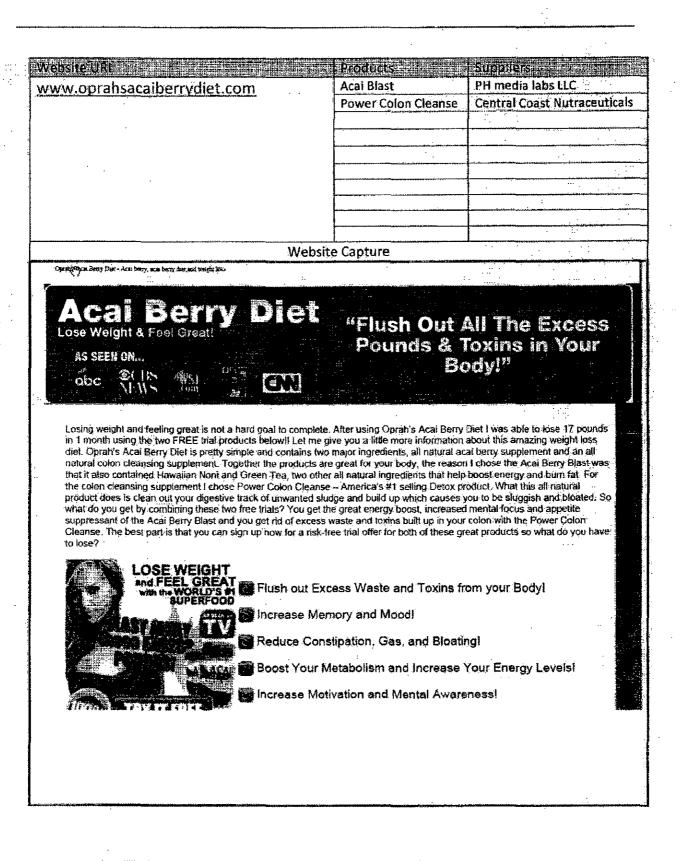
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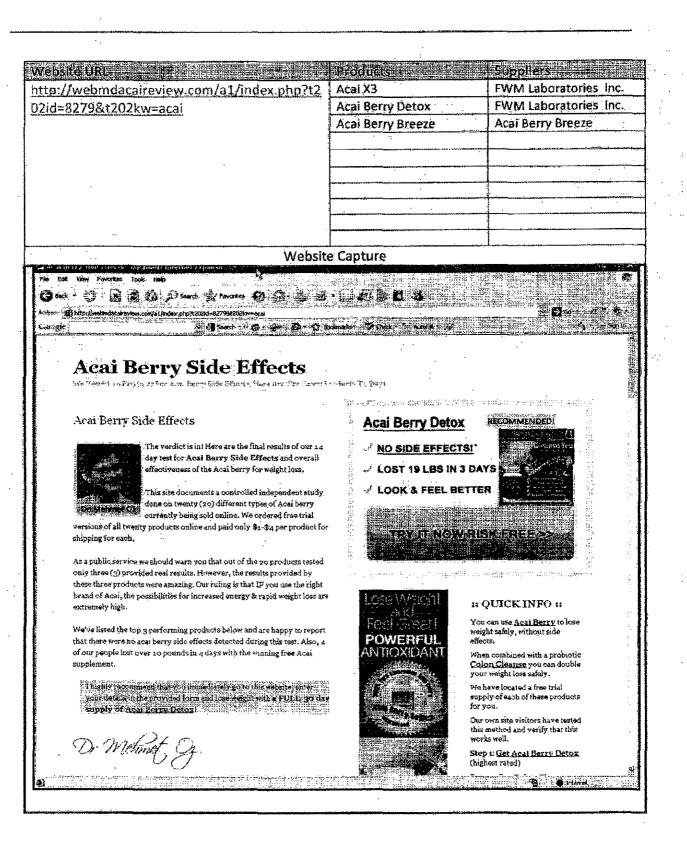
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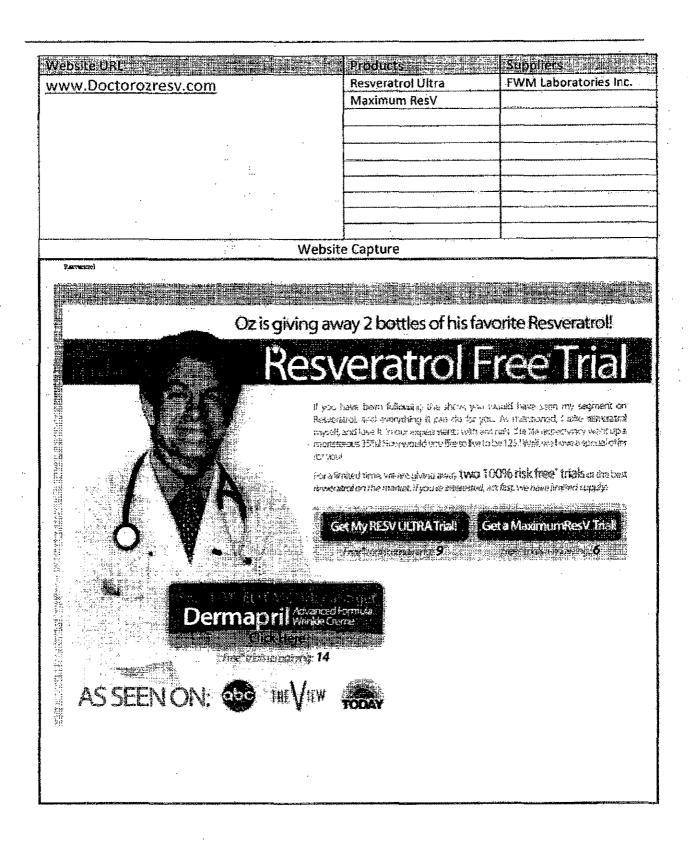


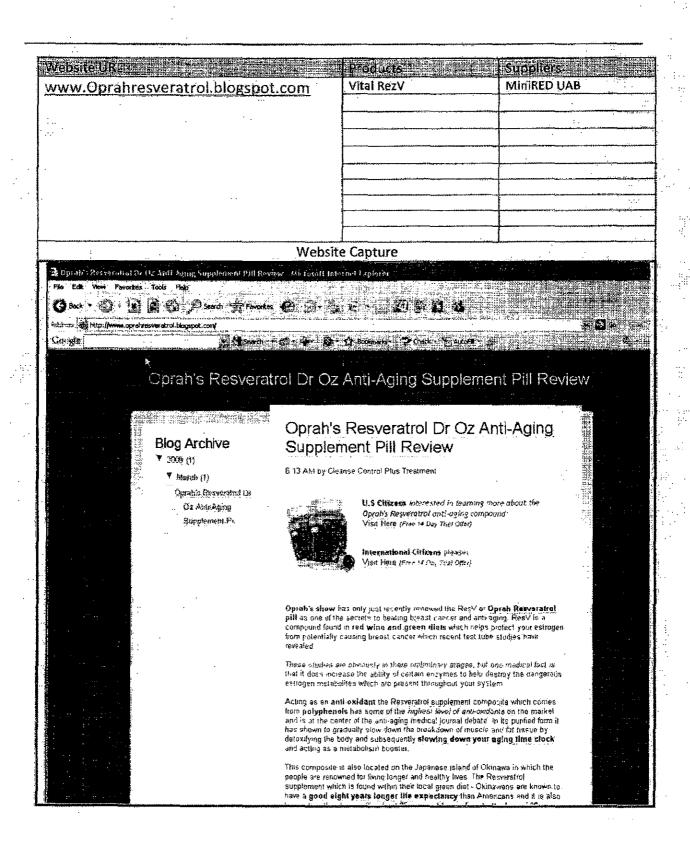
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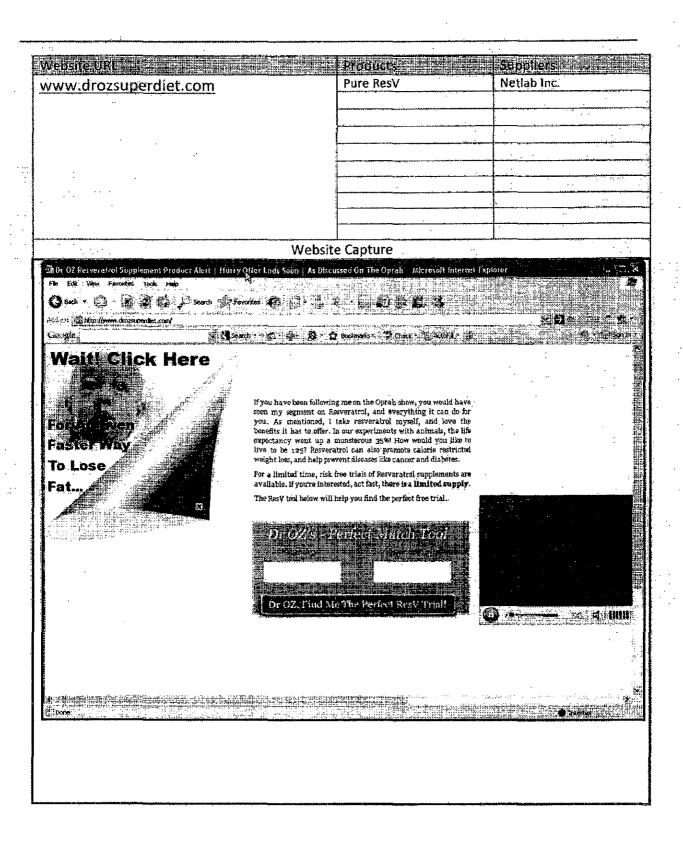


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EXHIBIT 6

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Health Specialist Cathy Diaz Reports On Her **Experience Using Resveratrol** Cathy Diaz



Monday, June 15, 2009

NEW YORK - I'm a 35-year-old news veteran, who's been covering health and wellness news for more than a decade. I admit I can sometimes be jaded and skeptical with an 'I've seen it all attitude.'

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substitute to red wine called Resveratrol that they believe might do more than just protect the heart but could, in

very high concentration, significantly extend life by preventing a number of age-related illnesses."

Birth of a Story

When the news director John Beamer asked me to do an investigative report on the nutritional supplement Resverated when combined with Dermand, I had no idea that I would end up as the star of my own story. But I did!

John had seen Resveratrol all over the news and media lately and wanted to get to the bottom of this new 'miracle product', so he gave me the task to do a story on it.

Rich in antioxidants and believed to promote healthy, younger looking skin as well as increasing energy levels, it has gotten a lot of attention in the national media. When I dug further, the real secret was adding it to a product called Dermapril as well. Here's why:

"Scientists have identified a substitute to red wine called Resveratrol that they believe might do more than just protect the heart but could, significantly extend life by preventing a number of age-related illnesses."

Oprah, Barbara Walters, CNN, and 60 Minutes were my sources

Resveratrol has been 'in the news' for nearly two decades. For example, 17 years ago, CBS News and Morely Safer did a story on Europeans who tend to eat a high fat diet, but drink a lot of wine and have lower levels of fet and cholesterol than Americans.

abc

Those benefits were not the wine, per se, but the Resveratrol in the skin of the grapes used to make the wine.

I learned more about Resveratrol's benefits from Dr. David Sinclair, Associate Professor of Pathology at Harvard University Medical School. In an interview for ABC News, Sinclair told Barbara Walters that study trial participants who used Resveratrol "had improved skin, increased energy and lived 30% longer."

One of our loyal viewers sent these photos in recently, Marie combined a free Trial of Dormapril Skin Creme with Resveratrol Ultra and saw a much

younger appearance. Dermapril is offering our viewers the same free* trial!! I recommend combining the two products as she did.



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Even Oprah Winfrey's favorite medical man - Dr. Oz says, 'I take Resveratrol myself, and love it.' Dr. OZ goes on to say 'It turns on a system in your body that prevents your cells from aging'.

Bottles of Resveratrol have been selling like wildfire ever since Dr. Oz's appearance. But were 'good sales' an indication that Resveratrol was a good product? I wasn't convinced yet. I decided to try Resveratrol while using Dermapril at the same time for myself ...

Like I said ... I'm in news, and I don't take anything at face value. So I decided to put these two products.

<u>Resveratrol</u> & <u>Dermapril</u> to the test myself and monitor the results i achieved. I asked two colleagues – my editor David and my photographer Vivien – to take the challenge, too. They're skeptics like me, but they had become somewhat unhealthy over the years due to a hectic lifestyle and caring for their children and decided to give it a try.

So the three of us made a pact to take Resveratrol & Dermapril for 30 days and document our findings. We found the most reputable Resveratrol product, and skin cream product on the market (Resveratrol Ultra & Dermapril) and ordered the free trials. We received our order 3 days later and Cathy's 30-Day Resveratrol Challenge was officially 'on.'

Usually as a reporter I find products that are "too good to be true" and report on how they didn't live up to their claims. I can say with the utmost certainty that this is a feel good story for the "ages"!

"The results were so dramatic we started to look and feel younger within 24hrs of taking Resveratrol & Dermapril"

"Vivian combined a Free Triat of <u>Dermapril Skin Cream</u> with Resv Ultra and her results were astonishing. We took before and after photos! Dermapril is offering our readers the same free triat! I recommend combining the two products."

As the month wore on we gained a tramendous amount of energy from Resveratrol's antioxidant properties that helped to improve our overall health, while our wrinkles started disappearing from Dermapril.

We were all sleeping better and we looked way better, too. David became aware of how much his 'color' had improved. He looked healthy and literally 'in the pink.' His crows feat even started fading.

Vivien and I noticed that our skin seemed brighter and healthier. Both of us agreed that there were fewer visible wrinkles when we looked in the mirror. Our hair was also noticeably softer and had more volume to it.

We all experienced tremendous energy boosts all day long. All three of us had energy after a hard days work to spend time with the kids playing instead of in front of the TV as we used to do because of exhaustion.

John really liked the story we did. He was so impressed with the research I'd done and the information I'd uncovered, that he decided to give Resveratrol & Dermapril a try himself; maybe I'll do a follow-up report on HIMI

<u>Besveratrol Ultra is trying to spread the word on the miracle powers of Resveratrol. I suggest checking out their</u> site for a Free Trial, and don't forget to pair it up with a Free Trial from <u>Dermapril</u> for the ultimate results.

How I got a Six Month Supply Using Risk-Free Trials!

Digging a little deeper, I found that the 3 largest sellers of Resveratrol were essentially using the same amount of the supplement per pill. Seeing as how they were all offering free trials, I decided to order all 3 to save a little bit of money on my and. I recommend you do the same. With the shipping and handling it all comes out to \$18. If you take half the recommended dosage it will last an entire year! The products are listed below.

Resveratrol Ultra - Shipped in 3 Days

- Currently offering a free trial as of June 15, 2009

Maximum ResV

- Shipped in 4 Days - Currently offering a free trial as of June 15, 2009

ResVer XP

- Shipped in 3 Days

- Currently offering a free trial as of June 15, 2009

DermaPril Wrinkle Creme

- use coupon code SAVE to reduce shoping to only 99 cents!!!

- Shipped in 2 Days

- Another very good product I have been using at the recommendation of one of my readers. I was able to get this for free too with their trial program.

At the time this story goes to print, there are still Free Trials available.

Top News Stories

	Budget drills show why California needs reform (source: bignewsnetwork.com)	-
	Tue, 30 Jun 2009 06:05:59 -0400	H
	While waiting for the state Senate to convene Monday, the California Channel, a public affairs television service, filled in by broadcasting a recent conference on the burgeoning movement to fundament	: r
	(source: bignewsnetwork.com) - <u>RSS</u> and <u>News widget</u> on <u>Feedzilla.com</u>	r
	Title battle moves to California (source: Big News Network)	
-	Tue, 30 Jun 2009 06:55:05 -0400	
	Valentino Rossi will have little time to celebrate his 100th success in the elite class, with just an eight-	
	day turnaround between his success at Assen and this weekend's US Moto GP at Laguna Seca. The	:
	(source: Big News Network) - News widgets and RSS feeds on Feedzilla.com	ŀ
	Title battle moves to California (source: Los Angeles News)	
	Tue, 30 Jun 2009 06:55:05 -0400	
	Valentino Rossi will have little time to celebrate his 100th success in the elite class, with just an eight-	(
	day turnaround between his success at Assen and this weekend's US Moto GP at Laguna Seca. The	i.
-	(source: Los Angeles News) - <u>RSS</u> and <u>News widget on Feedzilla.com</u> Prospective river quide drowns in El Dorado County rapids (source: bignewsnetwork.com)	i
-	Tue, 30 Jun 2009 06:06:01 -0400	
	A man drowned Monday afternoon while rafting near Coloma State Park, California Department of	i •
	Forestry and Fire Protection officials said. About 4:30 p.m., rescuers from CalFire and the El Dorado	ł
	Count (source: bignewsnetwork.com) - RSS widgets and RSS feeds on Feedzilla.com	
	Title battle moves to California (source: bignewsnetwork.com)	į
	Tượ, 30 Jun 2009 06:55:05 -0400	Į
	Valentino Rossi will have little time to celebrate his 100th success in the elite class, with just an eight-	Į
	day turnaround between his success at Assen and this weekend's US Moto GP at Laguna Seca. The	ł
	(source: bignewsnetwork.com) - RSS and News widget on Feedzilla.com	1
· 🖷	California to issue IOUs to vendors, local governments (source; bignewsnetwork.com) Tue, 30 Jun 2009 06:06:03 -0400	
	With the state polsed to issue billions in IOUs in lieu of cash this week, California's budget crisis could	
	create serious headaches for some private vendors and local governments. The deciding factor	1
	(source: bignewsnetwork.com) - RSS widgets and RSS feeds on Feedzilla.com.	
	Company threatens legal action on China Web fil (source: bignewsnetwork.com)	
	Tue, 30 Jun 2009 05:55:53 -0400	ı
	AP Business Writer BEIJING (AP) - A California company that says its software was illegally used in	ι. /
	Beijing's new internet filter threatened unspecified legal action as PC makers faced a Wednesday de	í
	(source: bignewsnetwork.com) - RSS widgets and RSS feeds on Feedzilla.com	:
	Scientists zero in on genes responsible for changing flower color (source: bignewsnetwork.com)	
	Tue, 30 Jun 2009 05:50:04 -0400 Washington, June 30 : Scientists at UC (University of California) Santa Barbara have zeroed in on the	
	genes responsible for changing flower color. (source: bignewsnetwork.com) - <u>RSS feeds</u> and Feed	į
	widget on Feedzilla.com	i.
	California Insurance Commissioner Steve Poizner orders insurors to raveal Iran investments (source)	
	Los Angeles News)	ĺ
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,	Poizner says he wants to identify whether any insurance company doing business in the state is	i i
	furineling money into a nation 'that poses a serious national security threat.' (source: Los Angeles	ţ
	News) - RSS feeds and Feed widget on Feedzilla.com	ſ
	California Insurance Commissioner Steve Poizner orders insurers to reveal Iran Investments (source:	
	bignewsnetwork.com) Tue, 30 Jun 2009 04:09:21 -0400	
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	Medical Mariluana, Inc Captures Market Share in 3 More Counties in California (source:	
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	tax remittance card, Dianna Kaplan, the marketing consultant assisting MMI says, "The additio"	5 ac
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	tate's most conservative county uses much cash (source: bignewsnetwork.com)
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	6-30) 04:00 PDT Likely, Modoc County - Sprawling across the northeastern corner of California, this
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Contact

Terms and Conditions

Offer Details: Start your RISK-FREE Trial now to receive a full one-month supply of ResveratrolUltra (retail price for \$109.95) and enrollment in autoship program. You'll have 15 days from the date your order ships to evaluate the product and see the results for yourself. If you enjoy our product, simply do nothing. The card you provide today will be automatically charged the super low price of \$87.13 at the end of your 15-day trial period ... a 21% savings! If, for ANY reason, you decide that ResveratrolUltra is not for you, simply call 1-866-949-0138 before the end of the 15 day trial period and return the unused portion. You will not be billed further. Unless you call to cancel, beginning 30 days after your order date, you'll continue to get a fresh one-month supply of ResveratrolUltra every 30 days for the low price of \$87.13 (+\$3.95 shipping)... a 21% discount! charged to your card, Cancel anytime.

ResveratrolUitra.com 3007 Greene St Hollywood, Fl. 33020 Customer Service: 866-949-0138

* Start your RISK-FREE Trial today and we will send you a full 30-day supply of the Dermapril-SP Anti-Aging System. Just pay \$5.95 In shipping and processing. You will have 14 days to try the Dermapril-SP Anti-Aging System and discover why it is the perfect skincare system far you. If you like how our system reduces the visible signs of skin aging, do nothing - at the end of your free-trial period you will be charged the discounted price of \$79.95. If for any reason the system is not for you, call Dermapril-SP Customer Care toll-free at 888-727-4445 within your 14-day free-trial period to cancel. Then simply return the product (even if it is empty!) and you will NEVER be billed. No commitments, no hassles.

Plus, if you decide to keep the Dermapril-SP Anti-Aging System, you will receive FREE acceptance in Dermapril-SP Elité and will receive a fresh supply of the Dermapril-SP Anti-Aging System approximately every 30 days at the same low price of \$79.95, a 22% discount. You can cancel anytime by calling Dermapril-SP Customer Care. No risk, no obligation, cancel any time!

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Shipping and processing fees are non-refundable. All sales after the free-trial period are final.

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Please note that we cannot process packages marked "Return to Sender". Returned packages require a Return Merchandise Authorization (RMA) number to ensure accurate processing. RMA numbers can be obtained by calling Dermapril Customer Care at 888-727-4445.

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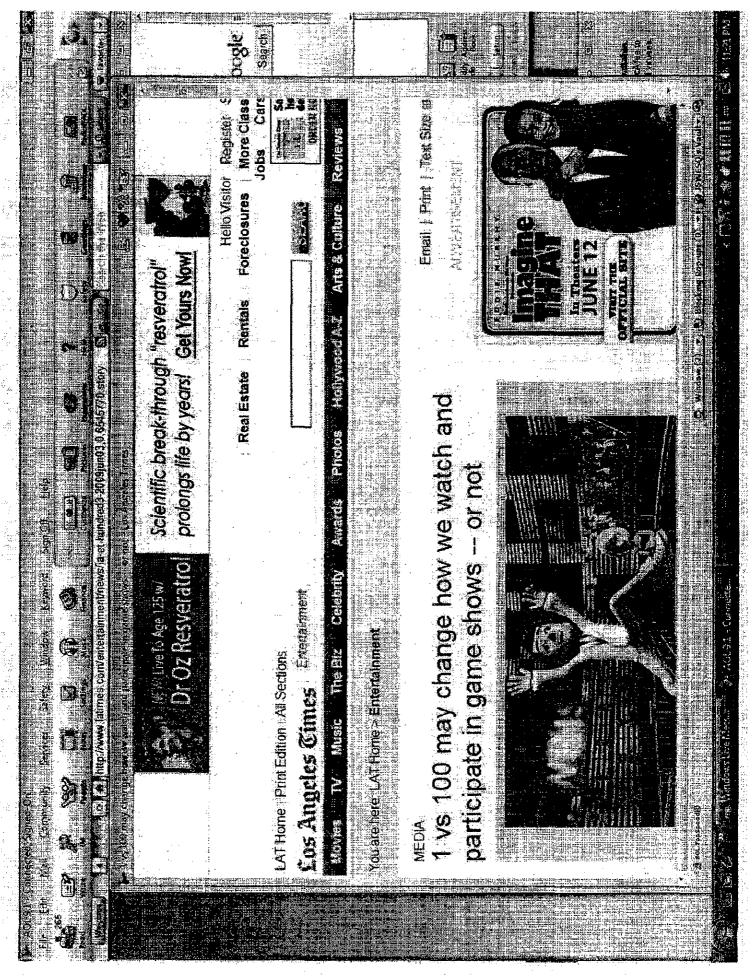
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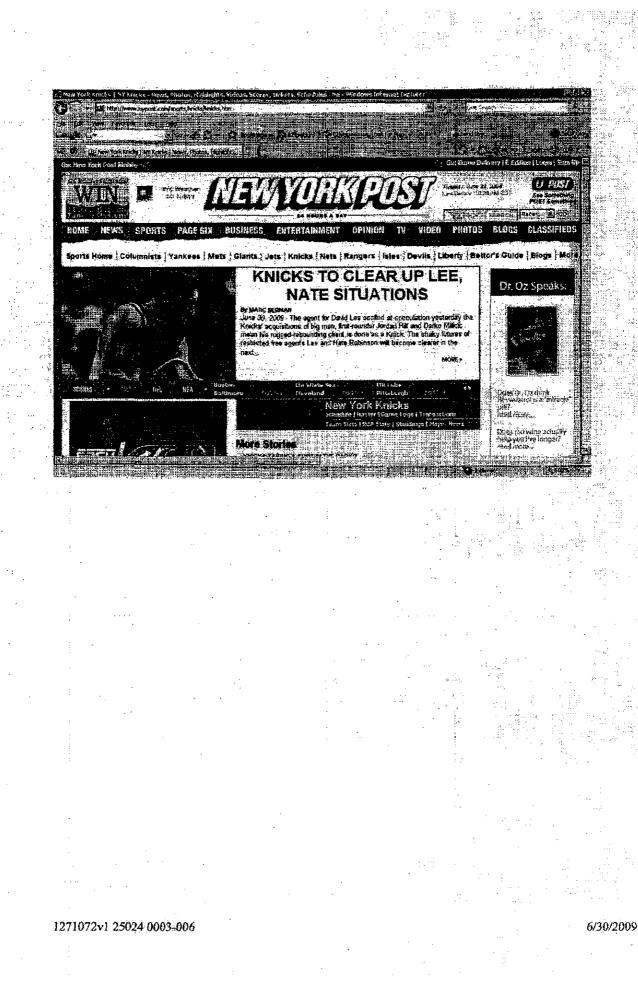
EXHIBIT 7

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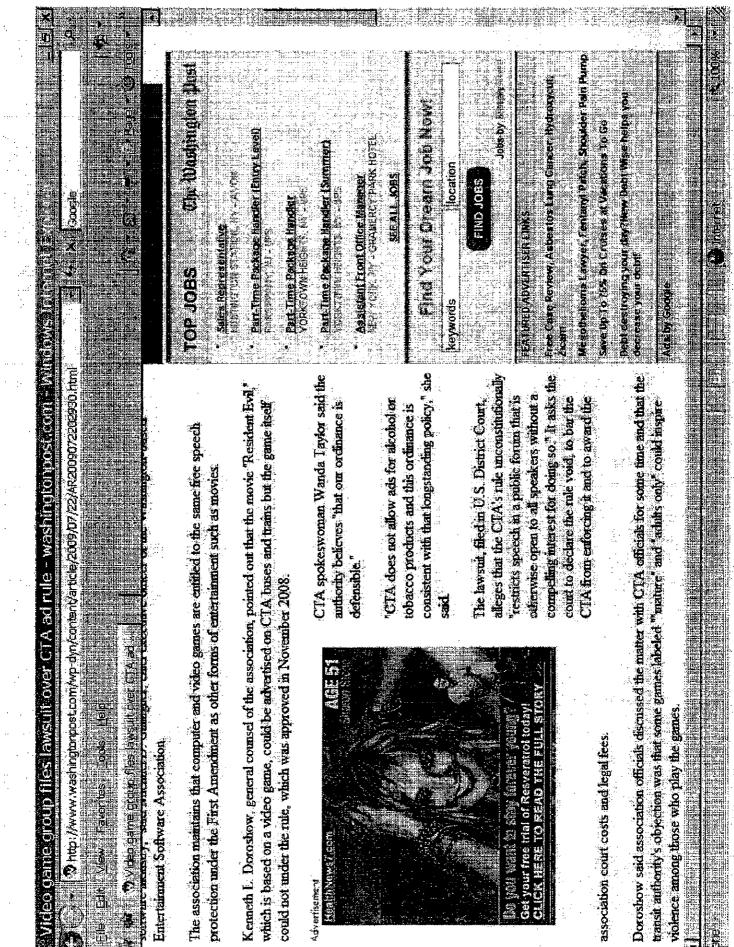
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EXHIBIT 8

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From: mrk006nn@dglaw.com [mailto:mrk006nn@dglaw.com] Sent: Tuesday, June 30, 2009 12:25 PM To: mrk006nn@dglaw.com Subject: Acal Berry is good for the mind and soul sign up now for your free trial

Oprah Is an Acai Berry Success story.

Fast And effective weight loss solutuion, Acai diet available now !

Weight loss solution of this century Acai Berry, get your trial now.

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Take a step to enter

best regards Guiseppe Campbell

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From: Oprah.Acai.Berry.Giveaway <Oprah.Acai.Berry.Giveaway@mp.clklist.net> To: casbrynn@aol.com

Sent: Thu, 11 Jun 2009 4:04 pm .

Subject: Acal Resolution - Flush Out 30 Pounds Fast - Rated #1 SuperFood by Oprab

If you can't view the message below, please Go Here

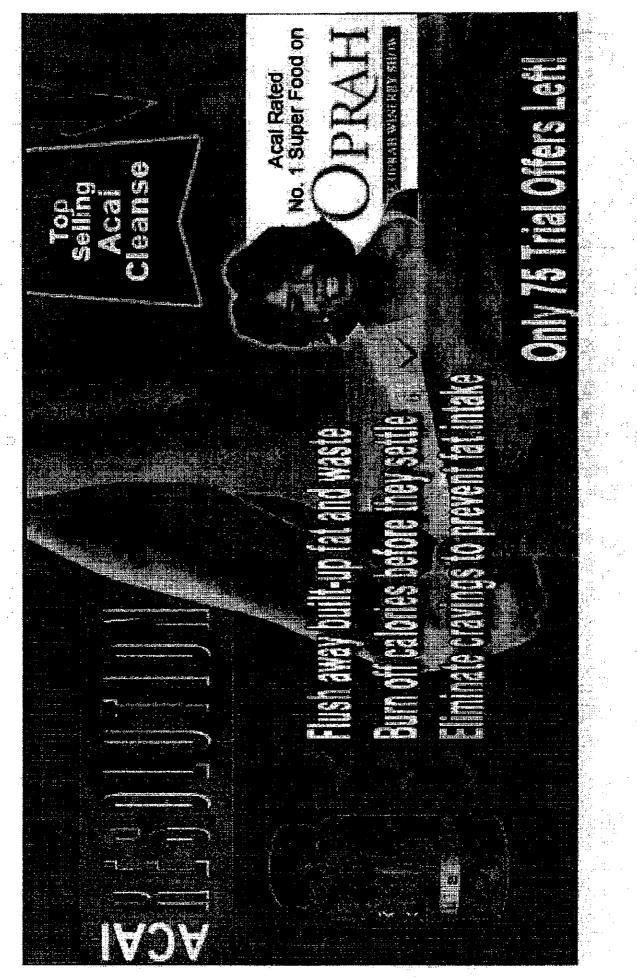
(Embedded image moved to file: pic10293 jpg)Acai Resolution - Flush Out 30 Pounds Fast - Rated #1 SuperFood by Oprah

> To unsubscribe go here Or write to us at 110 West 9th Street #665, Wilmington, DE 19801

14781 Memorial Dr., Box #938, Houston, TX 77079 To stop receiving newsletter: this link

Dell Deals: Don't miss huge summer savings on popular laptops starting at \$449.

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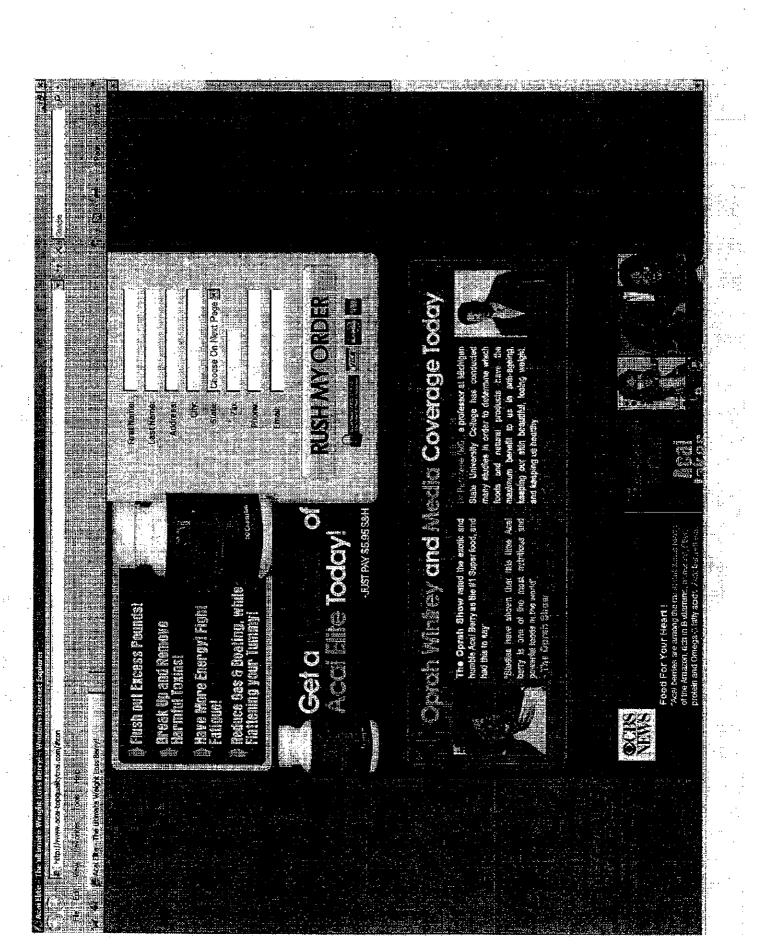
From: Sent: To: Subject: Importance: Dartley, David 7/14/2009 12:40:53 PM Dartley, David Acai Berry , lose unwanted weight fast. Normal

Boost energy levels by adding Acai berry to your diet.

Acai berry , do yourself the favor. <u>Take a step to visit</u>

best regards Leandra Dale



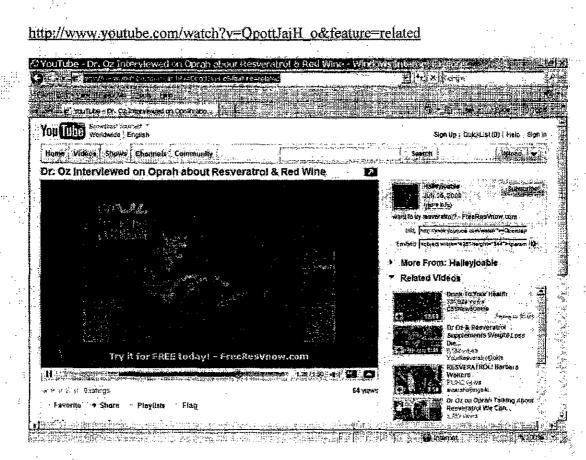


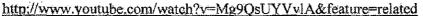
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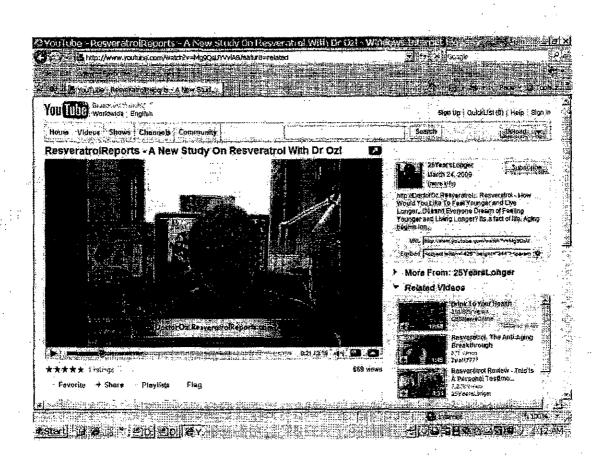
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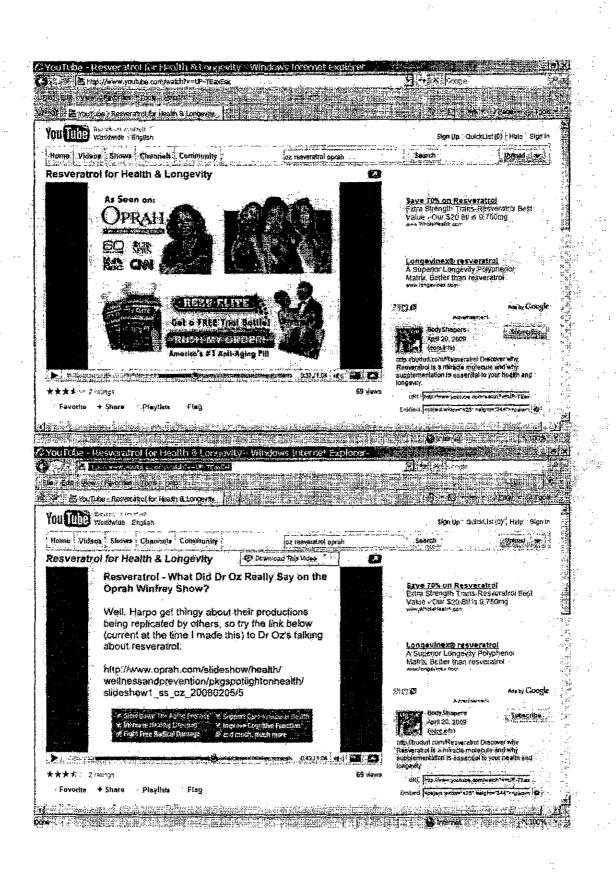


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http://www.youtube.com/watch?v=tJP-TEaxEek

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EXHIBIT 10

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Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with litle 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

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Register of Copyrights, United States of America

Registration Number: VA 1-674-164 Effective date of registration: July 24, 2009

Title						
Title of Work Previous or Alternative Title:	Cover, November 2007 Oprah Winfrey in Gold	Dress Photo		· · ·		
Nature of Work: Completion/ Publication •		**			· · · · · · · · · · · · · · · · · · ·	
Year of Completion:			· · ·			
Date of 1st Publication:	November 1, 2007	Nation of 1s	t Publication:	United Stat	es	、.
Author					nganta minang manjang manjan	
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Author Created:	Photograph		, ,	, v •		
Work made for hire:	Yes			1 A J	•	
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Copyright Claimant:	Harpo, Inc. 110 North Carpenter Str	eet, Chicago, IL 6	6607 19607	9.4 -	•	
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Registration #: VA0001674164

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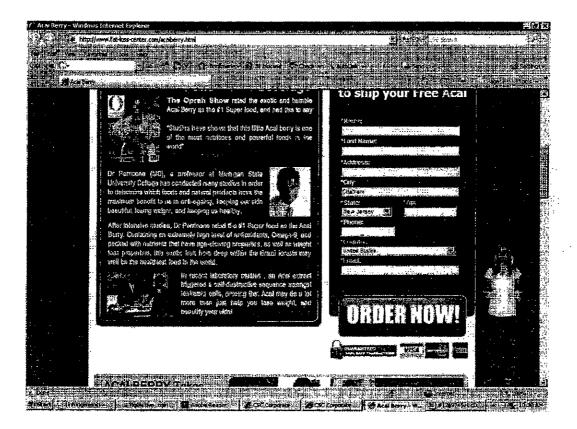
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Davis & Gilbert LLP Atth: Brooke Erdos Singer, Esq. 1740 Broadway New York, NY 10019





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Nov. 2007 Rolston Mathew Rolston

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Marybeth Peters

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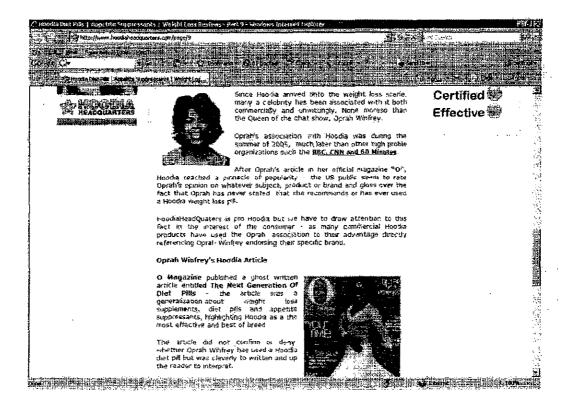
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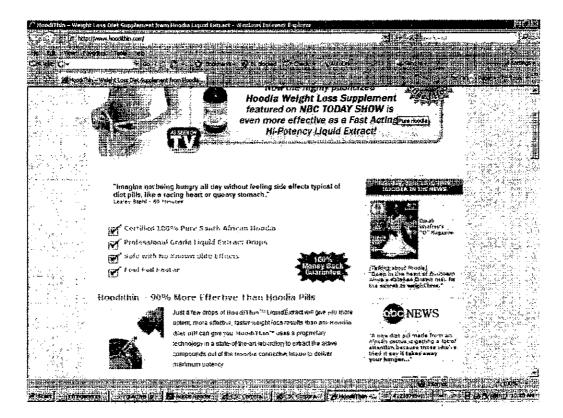
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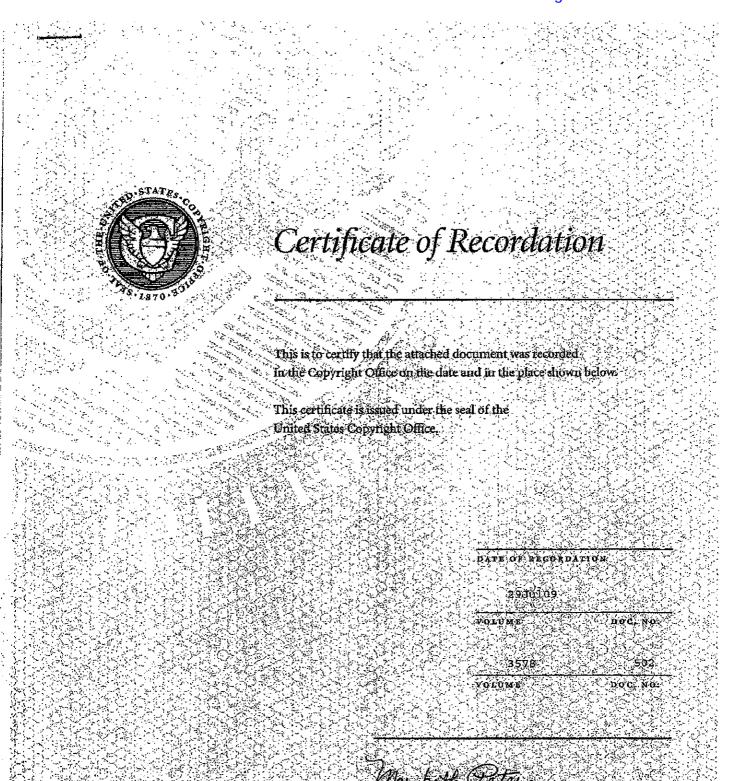
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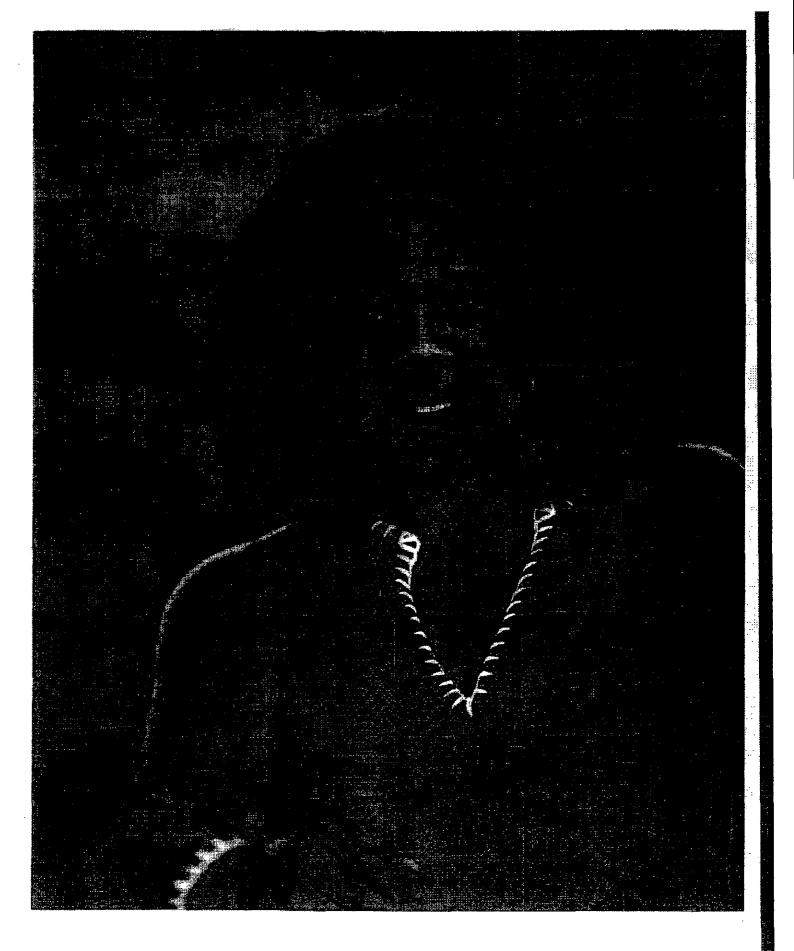
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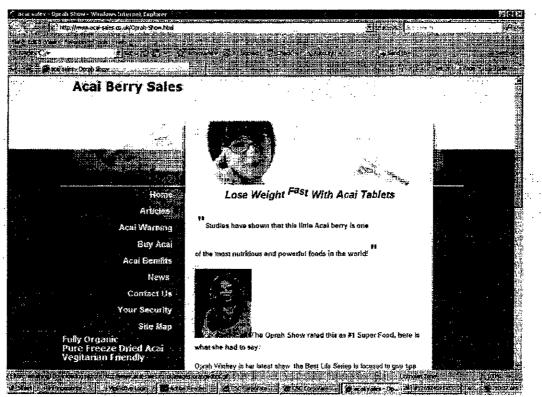
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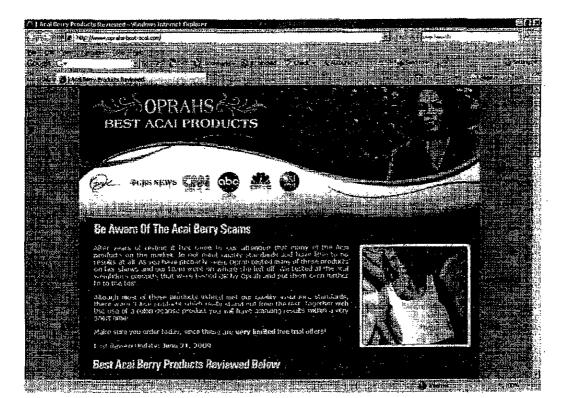


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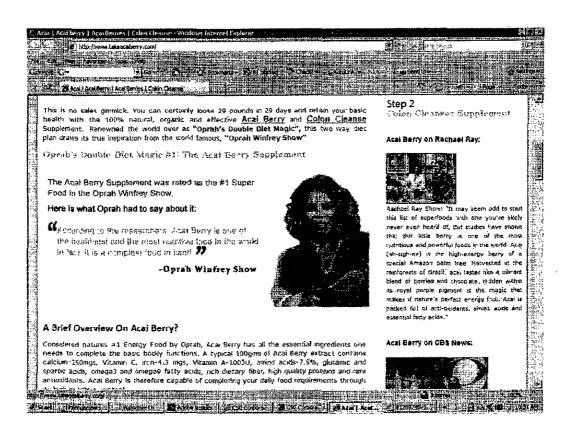
Also included in Oprah Orange Sweater doc – color of sweater is green instead of orange, but appears to be the same image

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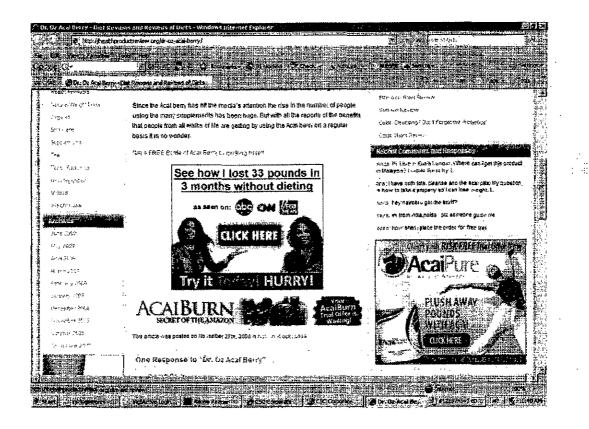


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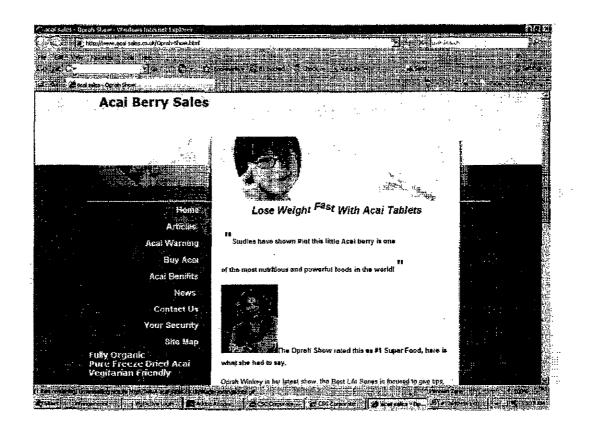


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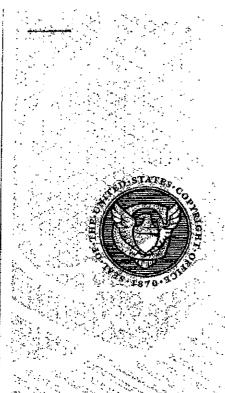


Seems to be same image with the color changed from orange to green:

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Certificate of Recordation

This is to certify that the attached document was recorded In the Copyright Office on the date and in the place shown below.

This certificate is issued under the seal of the United States Copyright Office.

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Marybeth Peters

Register of Copyrights and Associate Librarian for Copyright Services

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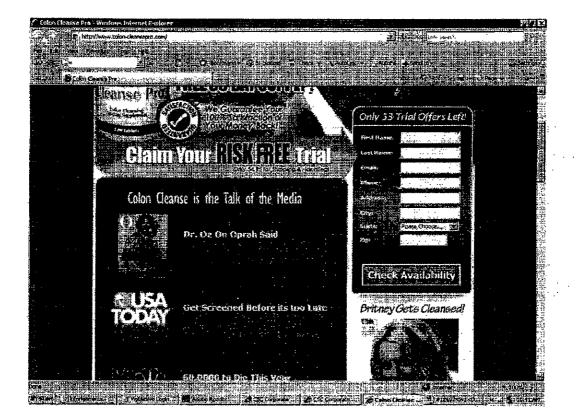
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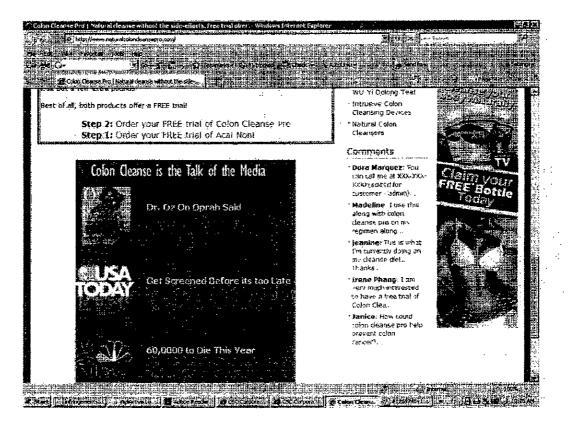


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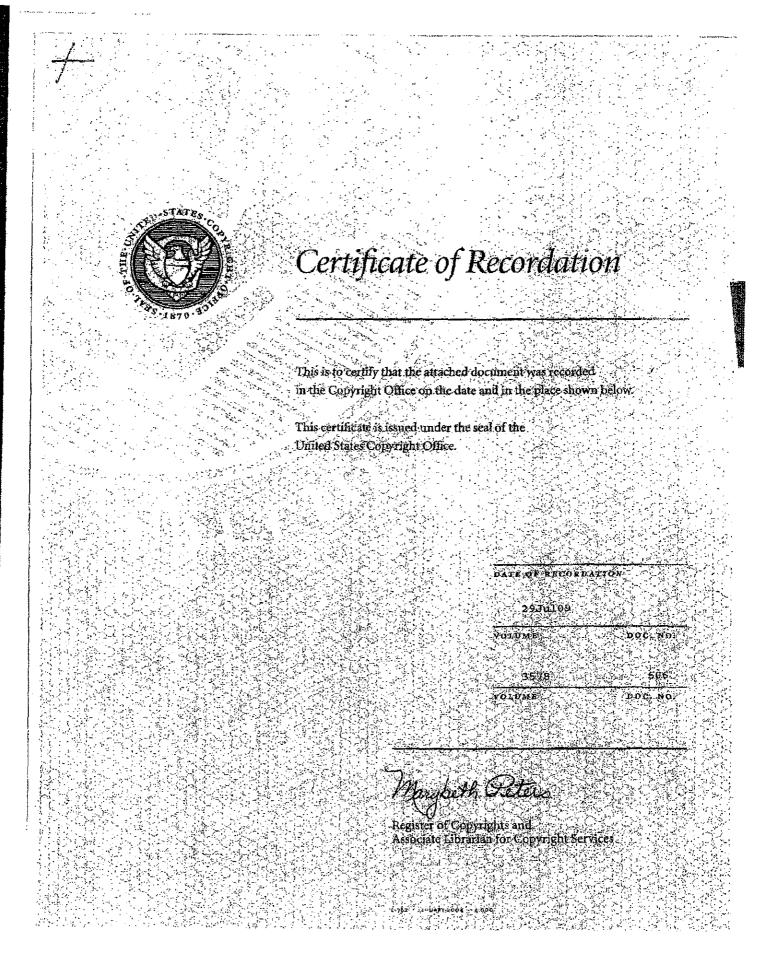


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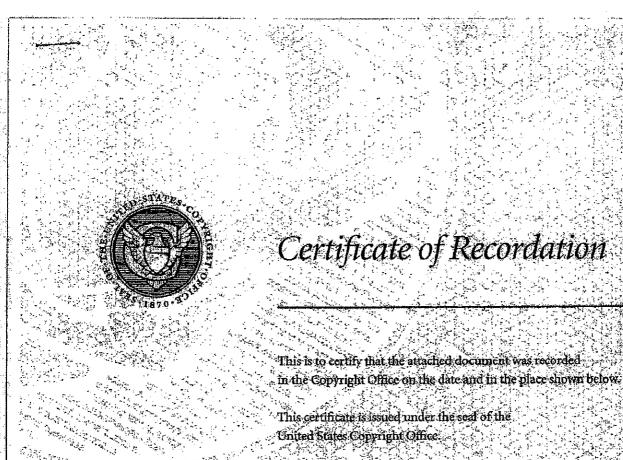
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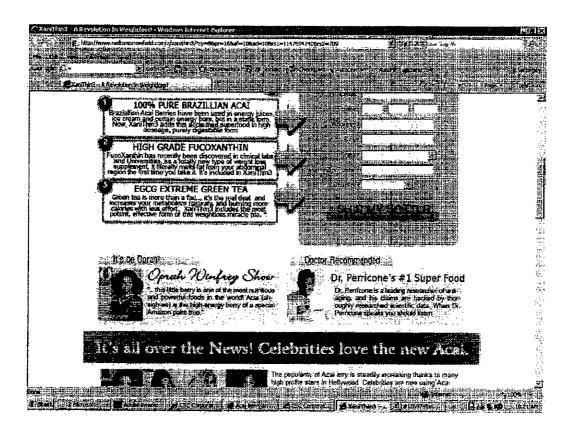
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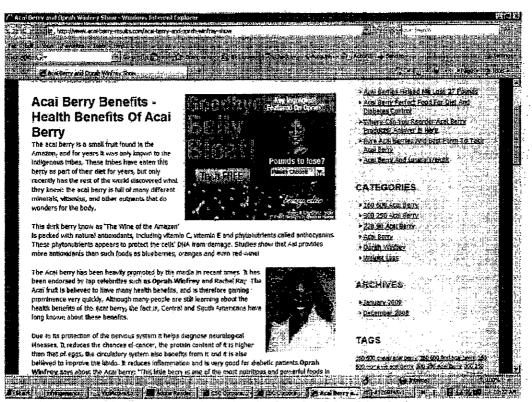


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First image only (second image included in Oprah white shirt doc).

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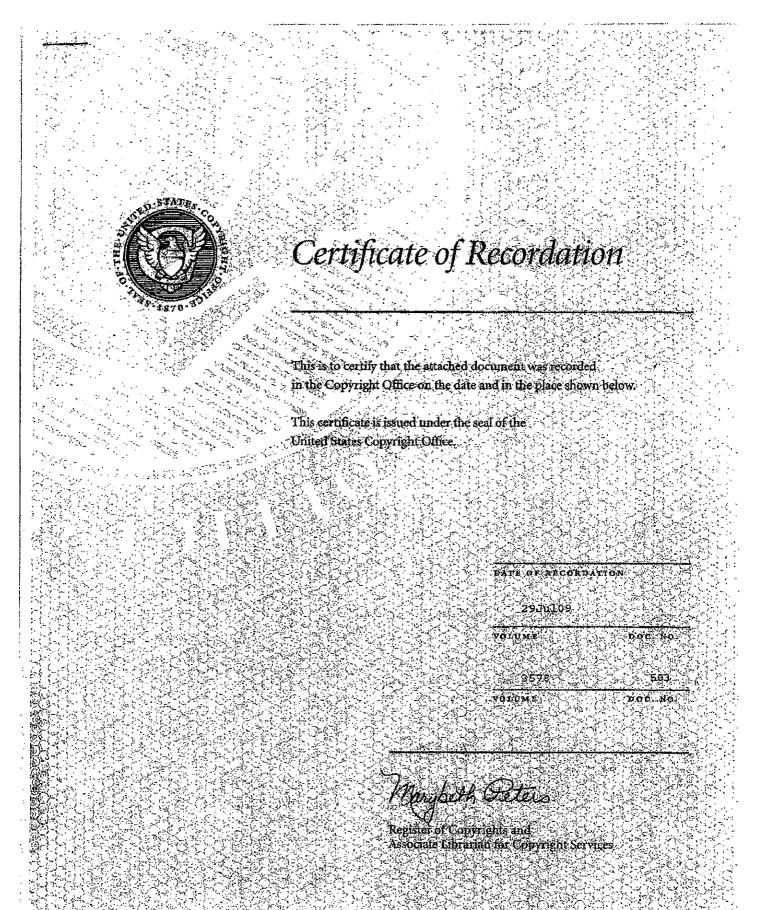
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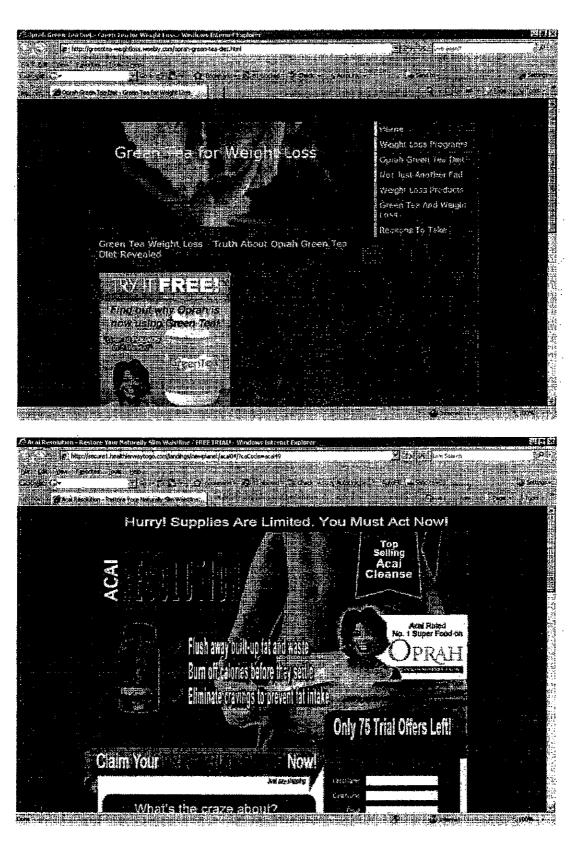


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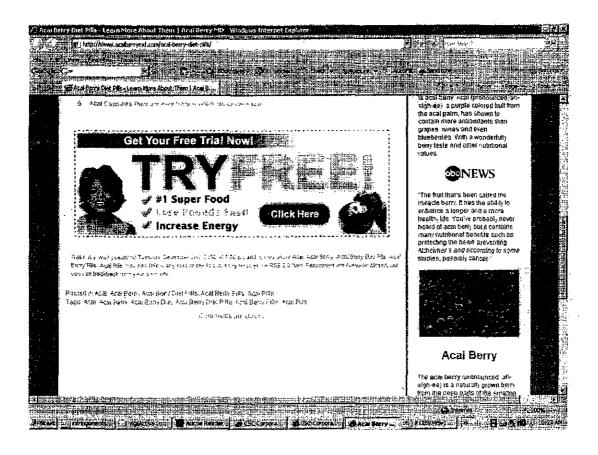


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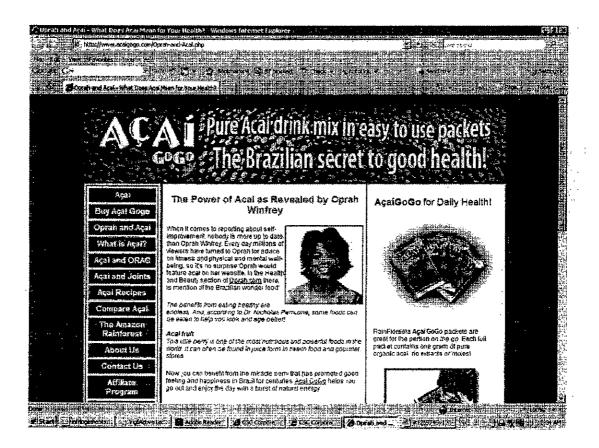




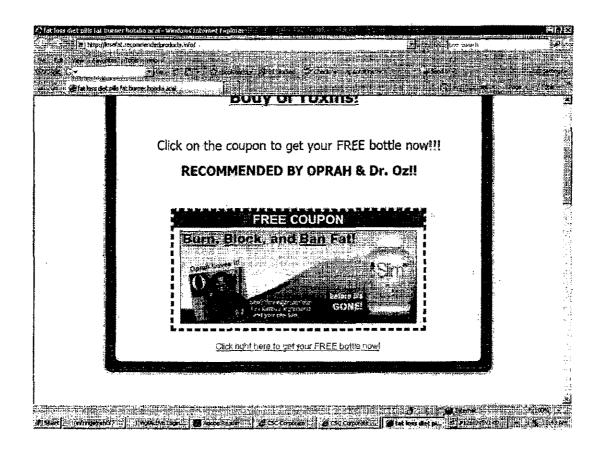
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EXHIBIT 11

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Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

rubeth Geter

Register of Copyrights, United States of America

Registration Number:

PA 1-633-07

Effective date of registration:

June 15, 2009

Title Title of Work: The Oprah Winfrey Show: Dr. Oz Extreme Life Extension Nature of Work: Audiovisual work Completion/Publication Year of Completion: 2009 Nation of 1st Publication: United States Date of 1st Publication: March 24, 2009 Author Author: Harpo, Inc. Author Created: Entire work except for previously published material Work made for hire: Yes Domiciled in: United States Anonymous: No Fseudosymous: No Copyright claimant -

Copyright Claimant: Harpo, Inc.

110 North Carpenter Street, Chicago, IL 60607

Limitation of copyright claim

Material excluded from this claim: Previously published material licensed from third parties, specifically, photos of David Murdoch, smart toilet; photos and footage of fruit/vegetables, Dole plant; footage of Four Seasons Hotel, tissue regeneration, rat heart, third party news programs; footage and animation "When Surgical Tools Get Left Behind"; masthead and logos; DNA animation.

Previously registered: No

New material included in claim: All other audiovisual material

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Registration #: PA0001633071

Service Request #: 1-205410561

Davis & Gilbert LLP Brooke Singer, Esq. 1740 Broadway

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Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

ister of Copyrights, United States of America

2000

Registration Number:

PA 1-633-068

Effective date of registration:

June 15, 2009

Title

Title of Work: The Oprah Winfrey Show: Insider's Secrets to Make You Younger and Healthier Nature of Work: Audiovisual work

Completion/Publication

	Vear of Completion: Date of 1st Publication:	2005 May 5, 2005	Nation of 1st Publication:	United States
Author	• Author:	Harpo, Inc.	<u> </u>	<u></u>
•	Author Created:	Entire work except for pre	viously published material	
	Work made for blre:	Yes	· · · ·	
	Domiciled in:	United States	х 	
	Anonymous:	No	Pseudonymous:	No

Copyright claimant

Copyright Claimant: Harpo, Inc.

110 North Carpenter Street, Chicago, IL 60607

Limitation of copyright claim

Material excluded from this claim: Previously published animation and footage licensed from third parties, specifically, organ function animation (bowel movement and cancer animation); footage of President Clinton walking his dog, after a jog, walking with President Bush; footage of whole grains manufacturing, production, packaging; footage of whole grains; footage of colonoscopy.

Previously registered: No

New material included in claim: All other audiovisual material

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Certification Name: Brooke Singer Date: June 12, 2009 Correspondence: Yes

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Registration #: PA0001633070

Service Request #: 1-205410470

Davis & Gilbert LLP Brooke Singer, Esq. 1740 Broadway New York, NY 10019

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Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

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Register of Copyrights, United States of America

Registration Number: PA 1-633-070

Effective date of registration:

June 15, 2009

Page 1 of 2

Title Title of Work: The Oprah Winfrey Show: Dr. Oz Reveals the Ultimate Checklist for Great Aging. Nature of Work: Audiovisual work **Completion/Publication** Year of Completion: 2008 Date of 1st Publication: February 5, 2008 Nation of 1st Publication: United States Author Author: Harpo, Inc. Author Created: Entire work except for previously published material Work made for hire: Yes Domiciled in: United States Anonymous: No Pseudonymous: No Copyright claimant Copyright Claimant: Harpo, Inc.

110 North Carpenter Street, Chicago, IL 60607

Limitation of copyright claim

Material excluded from this claim: Previously published photo of an acai plant licensed from a third party.

Previously registered: No

New material included in claim: All other audiovisual material

Certification

Name: Brooke Singer Date: June 12, 2009

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. مى مىسمى سى مى م Correspondence: Yes Page 2 of 2

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Register of Copyrights, United States of America

Registration Number: PA 1-635-926

Effective date of registrations July 17, 2009

Nature of Work:	The Oprah Winfrey Show: Ask Dr. Óz Audiovisual work
Completion/ Publication - Year of Completion: Date of 1st Publication:	
	Harpo, Inc. Entire work except for previously published material
Work made for hire: Domiciled in: Anonymous:	Yes United States
Copyright claimant Copyright Claimant:	Harpo, Inc. 110 North Carpenter Street, Chicago, 1L 60607
Limitation of copyright cla Material excluded from this claim:	Aim Previously published material licensed from third parties, specifically, skin animation and photo of female legs depicting varicose/spider veins.
Previously registered: New material included in claim:	
Certification	Brooke Singer
Date:	July 16, 2009

Correspondence: Yes		· · · · · · · · · · · · · · · · · · ·					<u> </u>	<u>.</u> • • •		
Correspondence: Yes						*	· · · ·	· /*		
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Registration #: PA0001635926

Service Request #: 1-217473278

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> Davis & Gilbert LLP Attn: Brooke Singer, Esq. 1740 Broadway New York, NY 10019

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rubeth Teters

Register of Copyrights, United States of America

Reg	istr	ation	Nu	umbe	r:
PA	1-	-63	5-	92	7

Effective date of registration: July 17, 2009

n: 2006 n: November 2, 2006 Nation of 1st Publication: United States
,
en e
er: Harpo, Inc.
d: Entire work except for previously published material
re: Yes
in: United States
is: No Pseudonymous: No
nt; Harpo, Inc.
110 North Carpenter Street, Chicago, IL 60607
claim
n: Previously published material licensed from third parties, specifically: footage from the Dr. Oz special "You: On A Diet"; stock footage; medical animation; v-8 trademark; Listerine breath mint trademark; 365 product line; Sweet & Low trademark.
ed: No
n: All other audiovisual material

Page 1 of 2

Case 1:09-cv-07297-LTS Document 1-9 Filed 08/19/09 Page 14 of 32

Name: Brooke Singer

Date: July 16, 2009

Correspondence: Yes

Page 2 of 2

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Registration #: PA0001635927

Service Request #: 1-217473345

Davis & Gilbert LLP Attn: Brooke Singer, Esq. 1740 Broadway New York, NY 10019

Case 1:09-cv-07297-LTS Document 1-9 Filed 08/19/09 Page 16 of 32

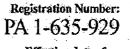
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Register of Copyrights, United States of America



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Effective date of registration: July 17, 2009

Title			· · · · · · · · · · · · · · · · · · ·	<u></u>
Complet	Nature of Work:	Audiovisual work	Show: Dr. Oz 90 Day Live Longer, I	Feel Younger Plan
complet	ion/ Publication Year of Completion: Date of 1st Publication:	2006	Nation of 1st Publication:	United States
A	· · · · ·	many x, about		Chinos States.
Author	Author:	Harpo, Inc.		na se
	Author Created:	Entire work except 1	or previously published material	
	Work made for hire:	Yes		
	Domiciled in:	United States		
	Anonymous:	No	Pseudonymous:	No.
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	Copyright Claimant:	• • • • •		
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	Previously registered:	No		
New m	aterial included in claim:	All other audiovisua	† material	

Certification

Page 1 of 2

Case 1:09-cv-07297-LTS Document 1-9 Filed 08/19/09 Page 17 of 32

Name: Brooke Singer Date: July 16, 2009

Correspondence: Yes

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Page 2 of 2

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Registration #: PA0001635929

Service Request #: 1-217473382

Davis & Gilbert LLP Attn: Brooke Singer, Esq. 1740 Broadway New York, NY 10019

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Register of Copyrights, United States of America

Registration Number: PA 1-635-930

Effective date of registration: July 17, 2009

Title		anger on the state
Nature of Work:	The Oprah Winfrey Show: Look Ten Years Younger in 10 Days Audiovisual work	
Year of Completion:		
, • ⁻	November 10, 2004 Nation of 1st Publication: United States	· .
Author		
Author:	Harpo, Inc.	· .
Author Created:	Entire work except for previously published material	
Work made for hire:	Yes	·
Domiciled in:	United States	
Anonymous:	No Pseudónymous: No	
Copyright claimant	ter and the data with a construction of the second second second second second second second second second seco	<u> </u>
Copyright Claimant:	Harpo, Inc.	
	110 North Carpenter Street, Chicago, IL 60607	
Limitation of copyright cla	aim	<u>ti nin</u>
	Previously published material licensed from third parties, specifically, footage of TLC: Ten Years Younger, and photograph of hand and cane.	
Previously registered:	No	
New material included in claim:	All other audiovisual material	
Certification		
Name:	Brooke Singer	
Date:	July 16, 2009	•

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Case 1:09-cv-07297-LTS Document 1-9 Filed 08/19/09 Page 21 of 32

Registration #: PA0001635930

Service Request #: 1-217473429

Davis & Gilbert LLP

Attn: Brooke Singer, Esq. 1740 Broadway New York, NY 10019

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Register of Copyrights, United States of America

Registration Number: PA 1-636-640

Effective date of registration: July 27, 2009

Com aboti	Nature of Work:	Audiovisual	how: The Great Debate: Sh	ould You Replace Your Ho	rmone
completi	on/ Publication - Year of Completion:				
· .	Date of 1st Publication:		Nation of 1st Publi	cation: United States	
Author -	· · · · · · · · · · · · · · · · · · ·				
	Author:	Harpo, Inc.			
- :	Anthor Created:	Entire work except pr	eviously published material	l .	
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Limitatio	n of copyright cla	1m			
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	Previously registered:	No	· ·	, , ,	
New ma	terial included in claim:	All other audiovisual r	naterial		
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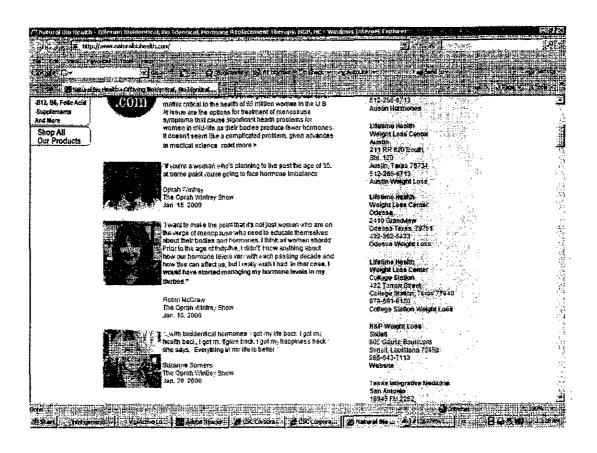
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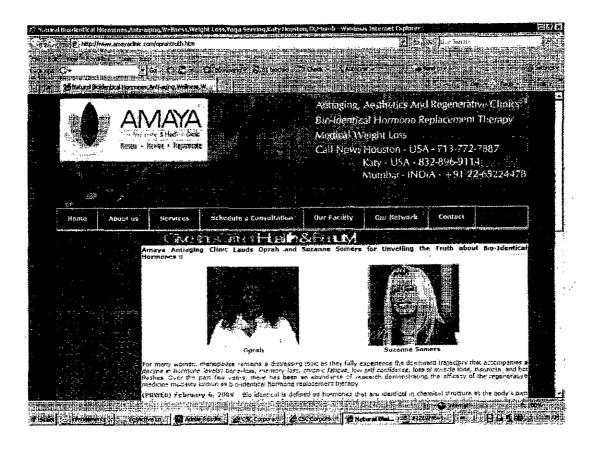
Davis & Gilbert LLP Brooke Singer, Esq. 1740 Broadway New York, NY 10019

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EXHIBIT 12

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Websites Containing Oz or Oprah Media Clips

- 1 www.Drozadvice.com
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- 3 www.dr-oz-tesv.com

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- 4 Www.enzadvice.com
- 5 www.Droz-resveratrol-alert.net
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Websites Containing Oz or Oprah Media Clips

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 - http://www.youtube.com/watch?v=JbYWQeW88gs 51 www.energal.com

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EXHIBIT 13

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TOP 20 HIGH-TECH INNOVATIONS

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Health A Headache For Dr. Oz

Dirk Smillie: 06.16.09, 6:00 AM ET:

Oprah Winfrey's latest protégé, Dr. Mehmet Oz, made some startling claims this spring in appearances on Oprah and Good Morning America. Dr. Oz, whom Winfrey calls "America's doctor," talked up the anti-aging properties of resveratrol, a substance found in red wine, Oprah looked a tad skeptical as Dr. Oz, sitting in hospital scrubs and holding a bowl of green pills, described his belief that drinking red wine could substantially slow aging. To get enough resveratrol, however, you'd have to drink 24 bottles of wine a day. Or, you could just take a resveratrol pill,

After appearing as Oprah's health expert for the past five years, the 49-year-old Oz, director of the Cardiovascular Institute at Columbia University Medical Center in New York, is preparing to host his own daytime show produced by Oprah this fail.

When Dr. Oz speaks, people listen. His glowing endorsements of resveratrol have spawned an overnight industry of shadowy peddlers of the stuff. Dozens of Web sites using his name or image have appeared, usually offering free trials of resveratrol. One of the biggest operators is a North Miami Beach, Fla.-based company called FWM Laboratories that runs phony local television news Web sites hawking its anti-aging pills.

At the top of the Drudge Report's homepage, pictures of Nicole Kidman, Jennifer Aniston and Marisa Tomer are captioned: "How does she look so young?" A photo of Dr. Oz appears alongside the actresses. Clicking Dr. Oz brings you to "News 3," supposedly a Web site for a local television news outfit in Sacramento. Calif., which carries an article titled "Health Specialist Jahice Wilson Reports on Her Experience Using Resveratrol." The same ads on other sites take users to sister pages with the same reports, like "News 9" (New Jersey) and "News 5" (Austin, Texas).

On each site, the reporter confides that her news director asked her to do an "investigative report" on resveratrol. So she challenged two colleagues, including an attractive photographer, Vivian, whose picture accompanies the story, to try it. After a 30-day trial, Wilson writes that they slept better, had fewer wrinkles and even noticed more volume in their hair. Apparently, resveratrol even gave one a new body (on the Sacramento page "Vivian" is a 30-something blue-eyed blonde, on the Austin page she is an auburn-haired woman in her 40s). In the middle of these news accounts, which sit next to real-time AccuWeather updates, is a link to "Resveratrol Ultra," which--surprise--is described as the most "reputable" resveratrol product on the market.

Click that link and you get to the offer: a free 30-day supply of resveratrol pills (pay only \$2.94 shipping and handling). At the bottom of the page, beneath a slew of news stories, is the clincher. The site states your credit card will be debited a recurring charge of \$85.26 a... month to keep your supply of pills current, unless you cancel in 10 days.

Last month, the Resveratrol Ultra site drew 833,000 unique visitors. It has also drawn the lion's share of postings from 285 angry buyers on ComplaintsBoard.com, many of whom contend they were ripped off by FWM Laboratories, which makes Resveratrol Ultra and other supplements. Many write that after they tried to cancel their free trials, the company made monthly charges to their credit cards anyway. One buyer contends the capsules he was sent do not contain Resveratrol, but Japanese knotweed.

The Better Business Bureau rates the company an "F" and lists 2,694 consumer complaints against FWM Labs. The Florida Attorney General's Office is unhappy with FWM, too. It is investigating similar unauthorized credit card charge complaints involving another product. Attempts by phone and e-mail to reach FWM or the company's only listed executive, Vice President Brian Weiss, were unsuccessful.

Other rag-tag sites peddle resveratrol using Dr. Oz's imprimatur far more aggressively. There's the incorrectly spelled "Dr. Os Resveratrol," fronted by a photo of a beaming Dr. Oz, stating, "How would you like to live to be 125?" There is "Dr. Oz Resveratrol," "Dr. Oz Anti-Aging Secrets" and "Dr. Oz Resveratrol Wrinkle Cream." Another says, "Click Here to Get Free Dr. Oz's Resveratrol Top Choice!" Many of these sites draw from 30,000 to 160,000 unique visitors a month--some more, according to Quantcast. These pages often display earlier reports on CBS' 60 Minutes and a Harvard study lauding the health benefits of resveratrol.

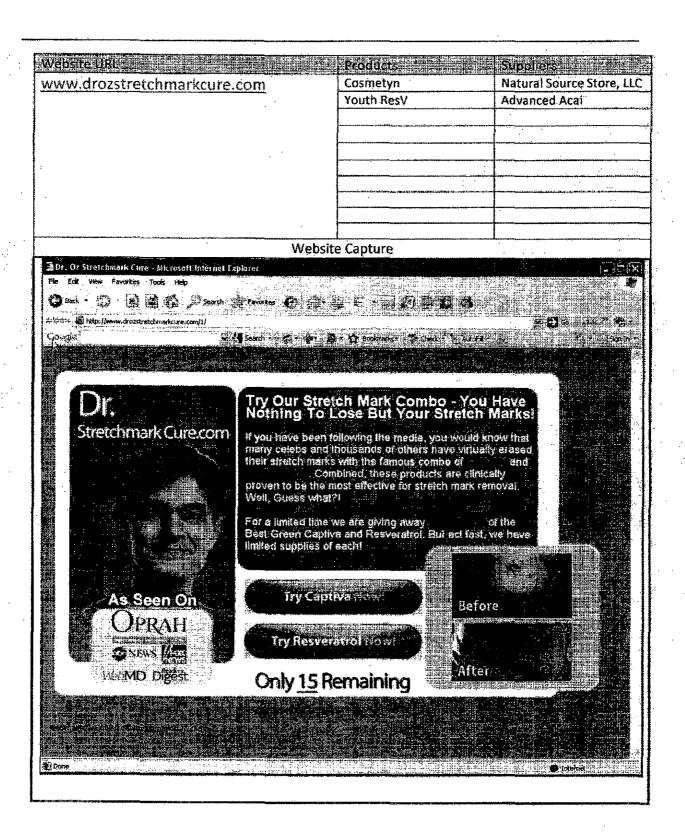
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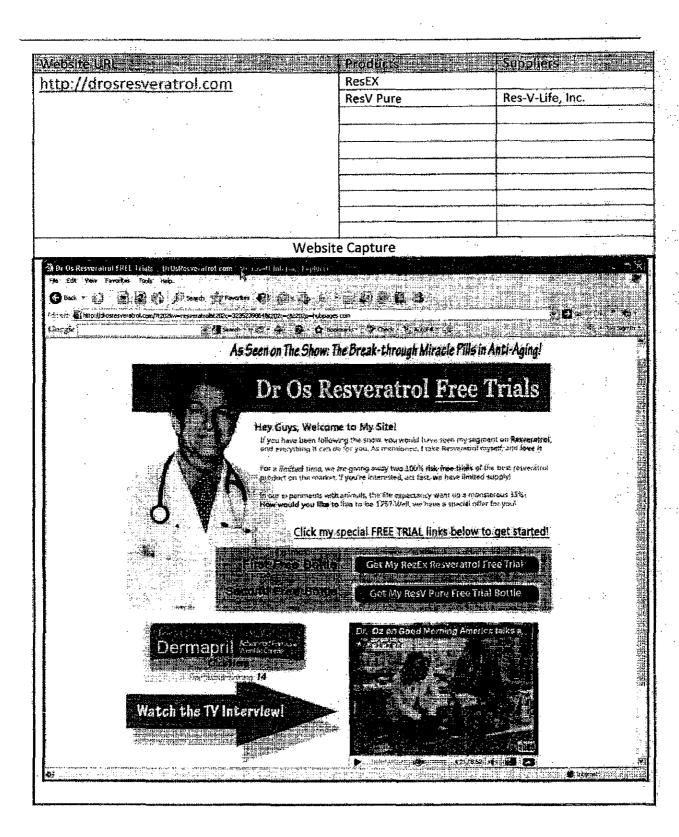
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What power does resveratrol really have? Found in the skin of red grapes, it is one of a key group of enzymes called sinuins. Worms, fruit flies, even yeast cells fed resveratrol in studies have lived longer. Resveratrol treatment helped fat mice live as long as healthy thin mice. But it didn't extend the lives of mice that were already healthy in one study. Researchers don't know what it will do in humans,

Dr. Oz says he does not endorse or profit from any resveratrol maker. He declined an interview with Forbes but said in a statement that he could not vouch for the "authenticity, safety or effectiveness" of any resveratrol seller. "Unfortunately, several companies are attempting to deceive consumers through the unauthorized use of my image or my name, and my attorneys are pursuing those making these false claims," he says.

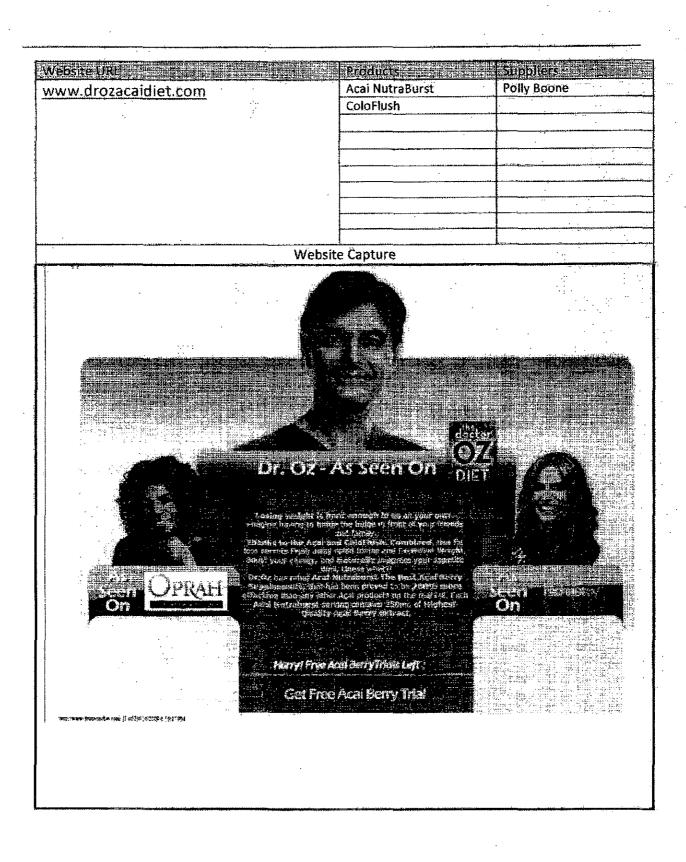
When Dr. Oz's show launches in September, chances are he'll think twice about such endorsements. Topics he's expected to discuss on the show include infrared sauna baths and the healing properties of hyperbaric oxygen. If you see a Dr. Oz-hosted site selling air, think twice.

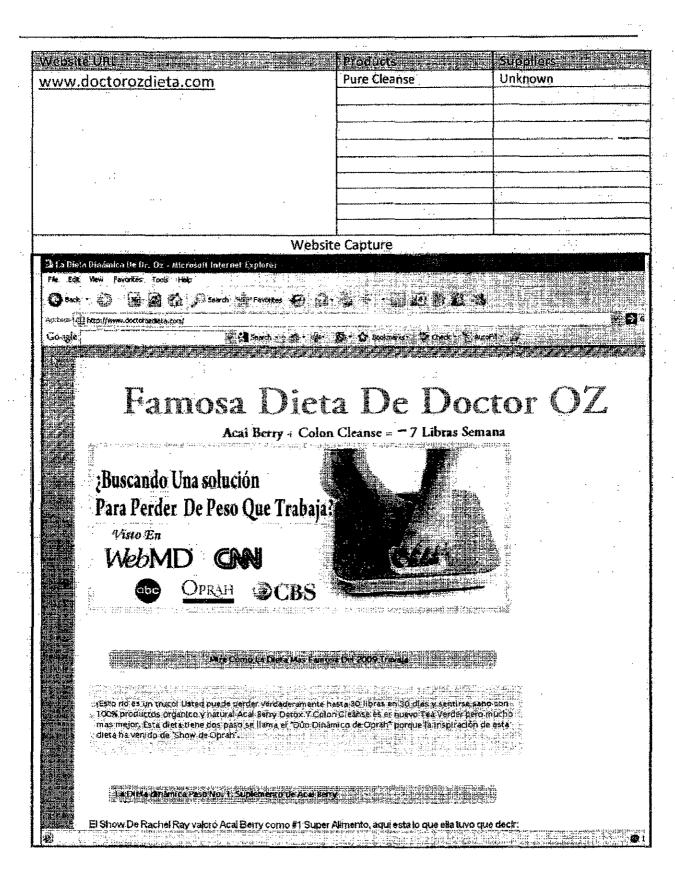


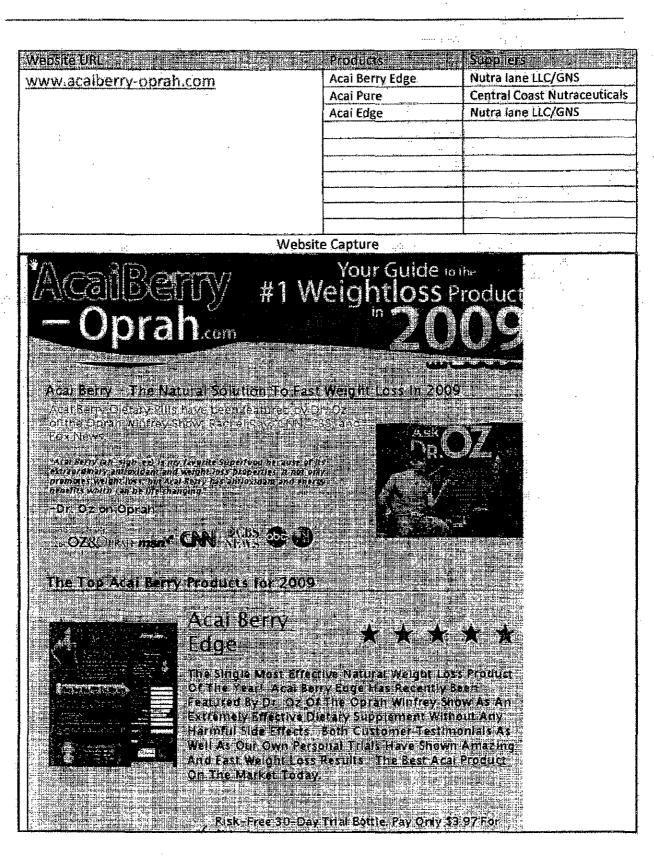


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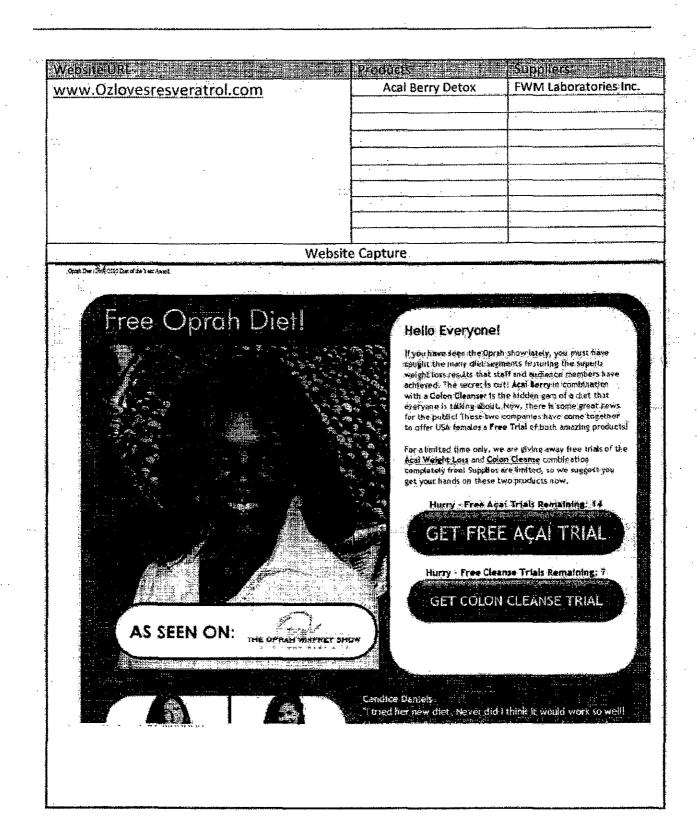
Case 1:09-cv-07297-LTS Document 1-10 Filed 08/19/09 Page 3 of 21



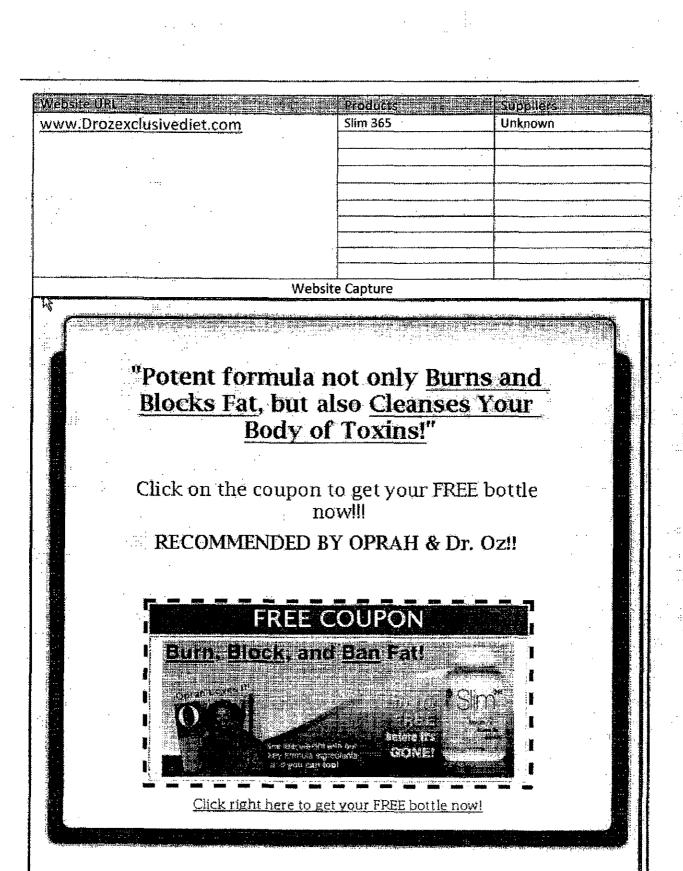




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Warning! Before Buying R	esveratrol, Dr. Oz Re	commends	
After trying almost all of the Resveratrol p	roducts on the market we've found	l big differences in	
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Resveratrol products from a variety of compar others seemed to work wonders. We've carefu market. These are tried and tested products	nies we found some barely had the d liv compiled a list of the top Resvera	esired effects on us, while that the	•
Reviews Last Ubdated: 4/20/09 - We are deli companies to provide free trials to our reader	ghted to announce that we have pari	thered with the top	
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"Resveratrol seeks out a gei	ne that controls the		
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Resveratrol As Seen On Oprah With Dr. C	17	
By Rezy March 25, 2009 On March 24, Oprah		
introduced a new An	· · ·	· · · · · · · · · · · · · · · · · · ·
called Rezy also known as Resveratrol. The guest on the Oprah sh		
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that Resveratrol is the active ingredient in red wine that can help	you look younger.	۵ ۲۰۰۰ ۲۰۰۰
The best thing about the new Resveratrol Anti-Aging medicine is t	hat there are more	·
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experienced a heightened sense of self when they started using t		· · ·
others felt younger just after a few days (Rezveratro) is metaboliz after its usage – Rezveratrol could really be the medicine of the c		·
On the Oprah show, Dr. Oz confirmed that calorie intake is the be		
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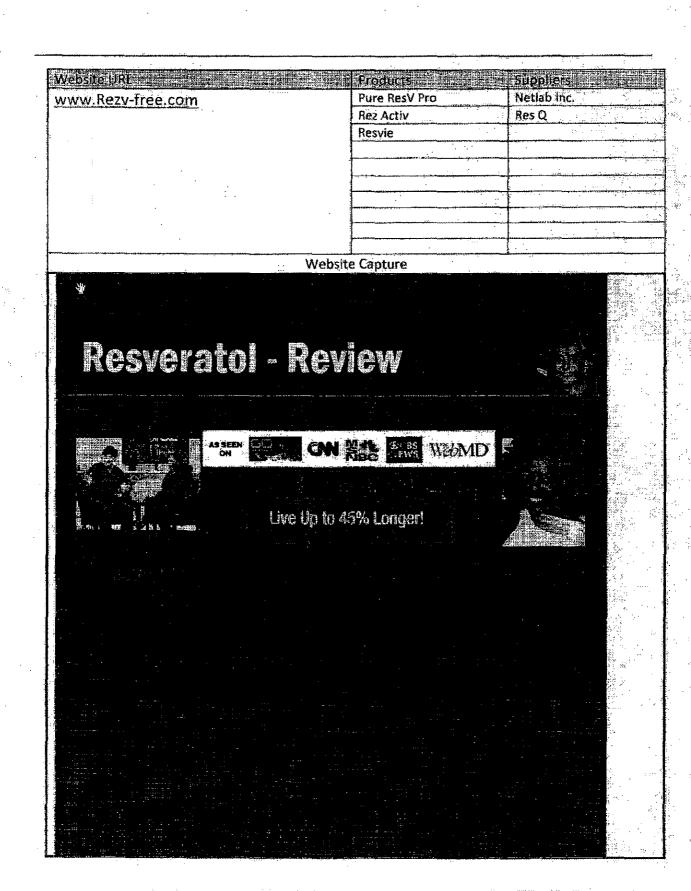
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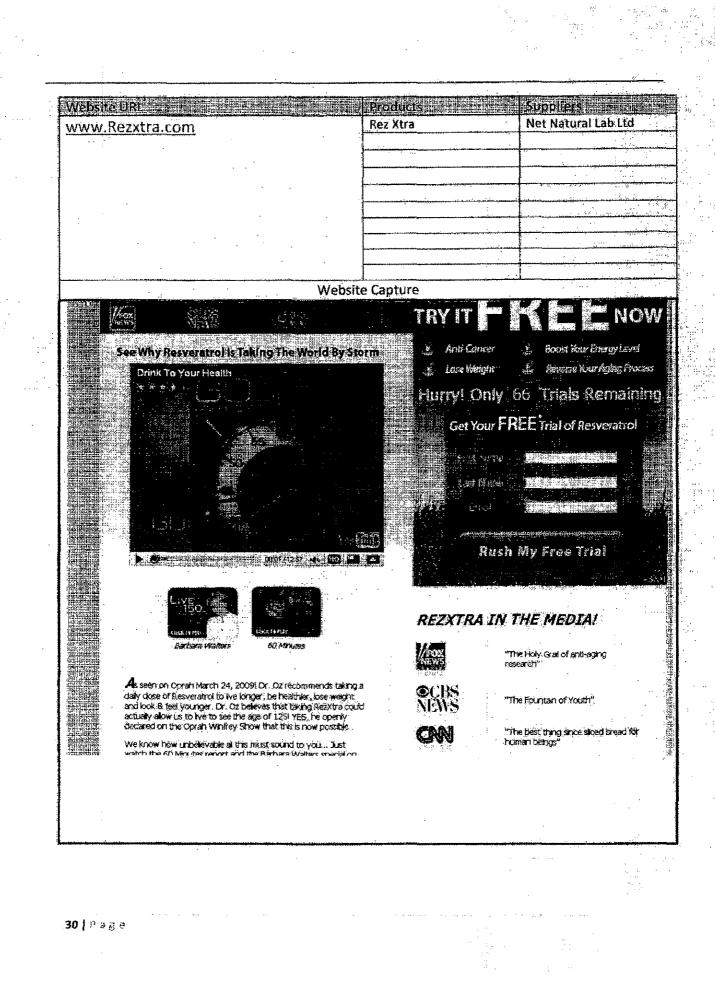
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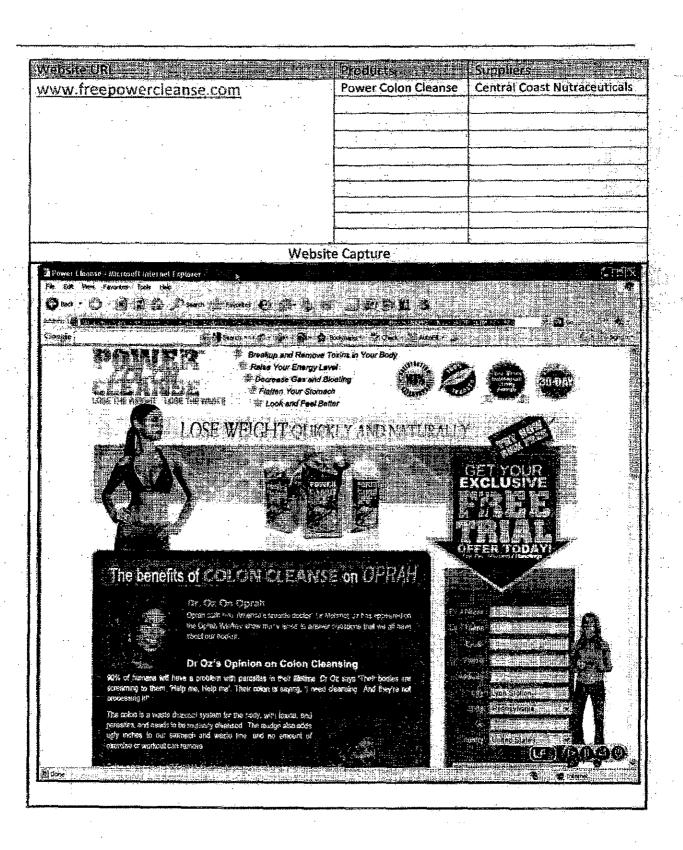
Case 1:09-cv-07297-LTS Document 1-10 Filed 08/19/09 Page 11 of 21



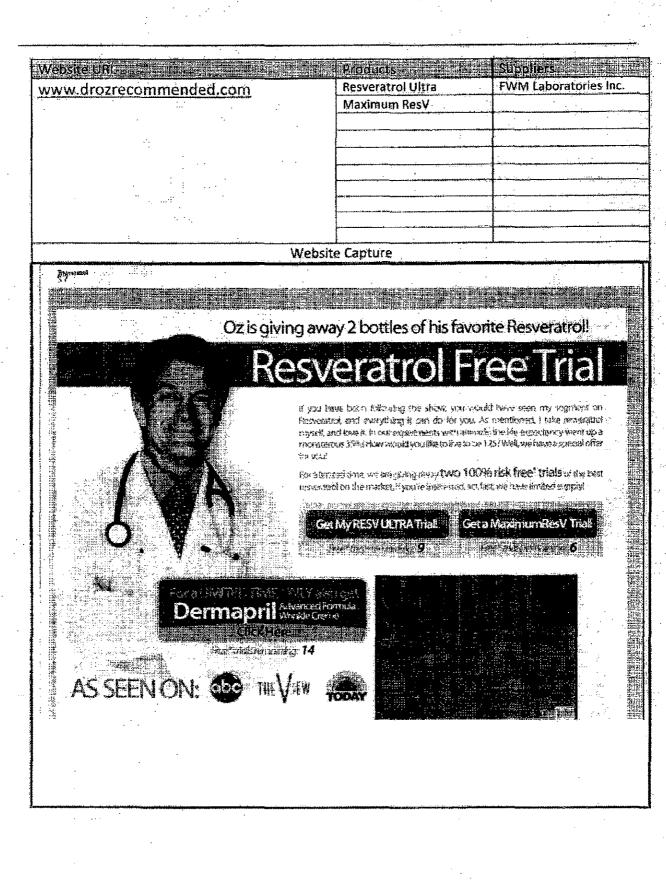
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Website URL Products Suppliers **Resveratrol Ultra** FWM Laboratories Inc. www.agingeffectsreversed.com **RezVer XP** FWM Laboratories linc. **Rez Melts** Website Capture A fighting State of Bernard I. Have been a finite ផ្លែងណាន់ទីមន Ores - D III & W Swedt Strates O State D' 1980 S ikes Depille 物要 Co. de AgingEffectsReversed.com NENBC Che New Hork Cimes Assense W msi Loss Weight With Resveratrol. Breakthrough Reverance is a minilativ journit in feed and white that hive annazing properities which enable you to lose weight and slew down aging making you doek younger. Resverance supplements have the ability to clear arteries by creating goad chelesterol and effinituating-more of the back bat cloge. Resverance can be sposed a streating the dig blood steam tendes the disk of obestry, diabetes and bear diseases. This is why Resverance like in the sublet the disk aging supplement. These are all coliditions that bear diseases more a reality for men and women as they begin to age. Research on Hawendow has continued that it increases life longevity, keeps subjects thin, and looking younger. B Is a high potency, all natural resvenation supplement that provides high levels of naturally occurring and exidants. Review Last Update: West Jun 10.2009 Double The Effect With Tripeptinon Resveraitht suppleinents will halp you time weight & live langer, and Tripenthion will BOUBLE the effect of hisving, a younger broking taos. Trippplinne is an interstve and aging reatment that produces stunning results in as kine as 3% works and is abmost like having a face lift. The palving of these two products is proven to diminish winkles, helps fam skin, teducise discolation, restores skin fame, bousts collegen production by 400%, AND increases skin hydration by 89%. We have compiled a list of the absolute BEST Resveration products currently on the market today. **Best Resvoratiol Products** Our TOP Choice RezV Lilipa -http://www.setth This product is, hands down, the best Resveration supplement on the market, it was recommended by DCO2 on Opical This product is the most bifficulte, due to the fact that it contains and patricitability means its stretch are foubled. People faving this product have applied weight frees and a this ta there over all advirgs there any sittays after begins and pro-program. In addition, they have also reported their appendes decreasing within the first 7-10 dayst. 32 | Pese



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Dr Oz Miracle - Dr Oz Secret Diet Works!

"I Lost 53 Lbs In 2 Months By Trying Out Dr Oz & Oprah Recommended Products"

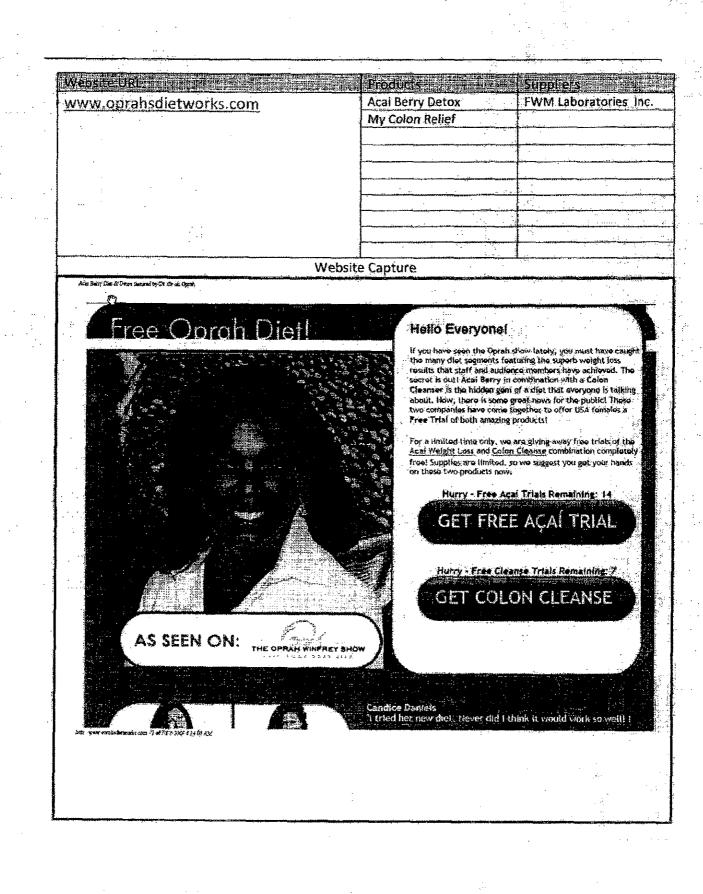
Now his Your Turn!

My Journey From 135 Lbs To 200 Lbs

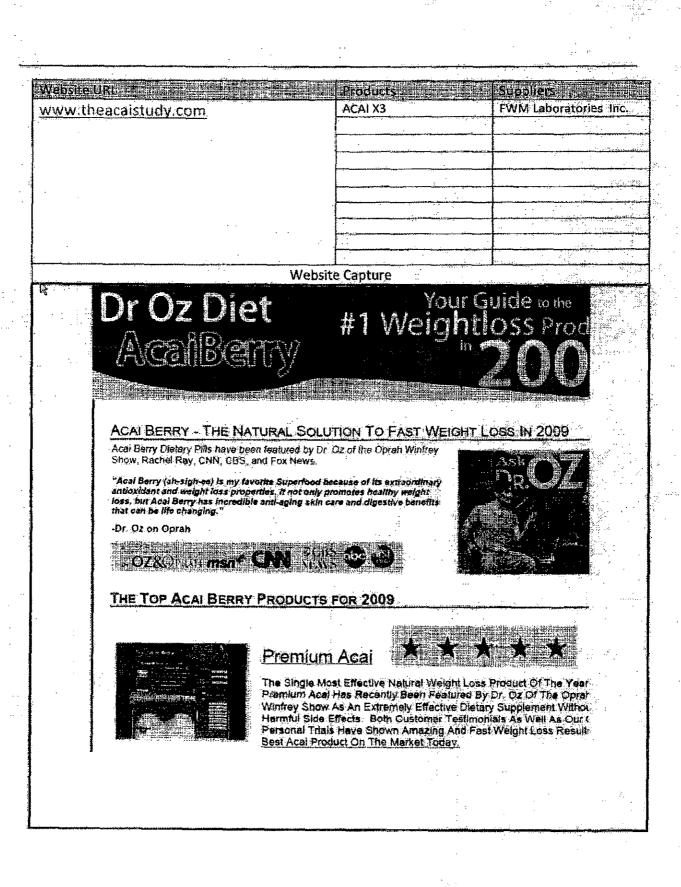
Howdy folks, I am Sarah Johnson and I am a fulltime homemaker and mom. Thave a very supportive husband and three angelic children. Before I had my first child I weighed a healthy 135 lbs. I never had the super model figure but I was very happy and confident, about my body. When I got pregnant with my first child I gained about 15 lbs and throughout my pregnancy I kept telling myself that right after the baby is born I am going to exercise like a madwoman and shed those pounds in a month. But I guess everybody knows that first time parenthood can be a daunting and overwhelming experience. I was so busy taking care of our little bundle of joy that I never got around to putting my weight loss plans into action.

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You can start now, with this FREE 30 c this website, completing the form as sh	day trial offer of ResV Ultra by si	imply going to

Luckily for you, I've helped to narrow down all of the different Resveratrol and other anti-wrinkle products available to the top three products currently on the market today! This isn't to say that any product not included in this wonderful trio is not worth purchasing – but these three are the best out of all of them. The cream of the crop!

Before I get started with the reviews, let's take a look at what I had to say during Oprah's Resveratiol special.

I told Oprah that to give your cells an extra energy boost to take a Resveratrol supplement, because when given to lab animals, actually increased their life expectancy and overall health!

* It's just been bought to our attention that you can now also look younger when combining ResV Lilits with Dr. Acal Skin Care (also FREE TRIAL).

I've listed the top three anti-aging and Resveratrol products below and I'm very happy to report that no negative side effects were reported during any of any of my tests. In fact, there's just a TON of positive effects,

Resveratcol Research Results

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Ratings for the 3 top Acai Berry products:

Acai Flush System

