

FILED
4:46 O'Clock P.M.
AUG 09 2012

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

By: ADRA K. MARKHAM, Clerk

1 Sheila Sullivan Polk, in her capacity)
2 as Yavapai County Attorney,)
3)
4 Plaintiff,)
5 vs.)
6)
7 Hawaiian Honey Swimwear LLC dba)
8 Hawaiian Honey; Giannico Family Trust;)
9 Alphonso Giannico and Cynthia Giannico,)
10 Trustees of Giannico Family Trust; Steven)
11 Ogden dba Pipe Dreamz Smoke Shop;)
12 Munday Living Trust; David Munday and)
13 Lorraine Lovel, Trustees of the Munday)
14 Living Trust; A & N Arizona Enterprises,)
15 Inc. dba Prescott Quick Stop; Willis Family)
16 Trust; William Willis and Joanne Willis,)
17 Trustees of the Willis Family Trust; Hardip)
18 Singh; Lewman LLC dba Mike's Mini)
19 Market; The Island Store LLC dba The)
20 Island Store; Wes Lance dba Wes Lance)
21 Trading Co.; Coffey Commercial Center)
22 LLC; Paula Farley dba X-Hale Smoke Shop;)
23 Quesnell Property Management Grand)
24 Prairie LLC; Nabulsy, LLC dba Mario's PV)
25 Quick Stop; Fernando Gonzalez; Eyup)
26 Ozaltin dba Mike's Connection, LLC;)
B-Desh Enterprises, LLC dba Texaco;)
Texaco Refining and Marketing, Inc.;)
Daniel Wildes dba Hobby Glass; Charlene)
Karecki and Donald Karecki; Jeffrey Russell)
dba Smoke N Thingz; Maneely Family)
Irrevocable Trust; Jason Maneely and)
Cynthia Maneely, Trustees of the Maneely)
Family Irrevocable Trust; John and Jane)
Does I - X, and Doe Corporations I - X,)
Defendants.)

Case No. V1300CV2012 80342
Division Pro Tem A

TEMPORARY RESTRAINING ORDER

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Prescott, AZ 86301
Phone: (928) 771-3344 Facsimile: (928) 771-3110

Pits/Atty CA () Arb w/file
() Def/Atty _____ TOTAL HC
() _____ () Arbitr _____
() Dispo Clk _____ () Other _____
w/file

1 This matter having come before the Court on Plaintiff's Application for Temporary
2 Restraining Order Without Notice, and the Court having considered the allegations of Plaintiff's
3 Verified Complaint and the Affidavits in support thereof, and the written certification of Plaintiff
4 of the reasons supporting Plaintiff's claim that notice should not be required, the Court makes the
5 following findings:

6 **Irreparable Injury**

- 7
- 8 1. Defendants are selling, or allowing to be sold, dangerous synthetic cannabinoids and
9 cathinones, commonly called "Spice" and "Bath Salts" (hereinafter "dangerous synthetic
10 drugs") that present a serious and ongoing health hazard to the public, and are illegal
11 under the federal Controlled Substances Act, *21 U.S.C. §802(32)(A); 21 U.S.C. §813*. The
12 activities of the Defendants pose a serious threat to the health, safety, and welfare of a
13 substantial number, if not all, of the citizens of the County.
 - 14 2. The users have suffered and continue to suffer psychotic effects from these dangerous
15 synthetic drugs, such as overwhelming paranoia, agitation, hallucinations, psychotic
16 behavior, tachycardia, elevated temperatures, behavior such as stripping off clothing,
17 violent and aggressive behavior, depression, suicidal ideations, and long-lasting psychotic
18 effects, all of which can be life-threatening. The permanency of the organ damage caused
19 by the dangerous synthetic drugs is unknown but likely.
 - 20 3. While under the influence of these dangerous synthetic drugs, the users have exhibited
21 violent and aggressive behavior to emergency room staff, first responders, law
22 enforcement and members of the community.
 - 23 4. Users under the influence cause significant disruption in emergency rooms, requiring
24 multiple staff to physically restrain them, and diverting vital resources away from other
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patients. According to the Affidavit of Dr. Martin de Kort, Medical Director of the Emergency Room at Yavapai Regional Medical Center West Campus, the hospital is seeing approximately ten patients a week for effects associated with “spice” and/or “bath salts.” According to Dr. Kelly Robinson, Medical Director of the Emergency Departments of the Verde Valley Medical Center for both the Cottonwood and Sedona hospital campuses, the facilities are treating, on average, one to two patients per day in the Emergency Rooms who are under the influence of the dangerous synthetic drugs.

- 5. The Affidavits attached to Plaintiff’s Verified Complaint further detail significant and irreparable harm to the users, including loss of life; to their families; to substance addiction treatment efforts by the mental health treatment; to the schools; to first responders –both medical and law enforcement – presented by users who are under the influence; to efforts by the Juvenile Probation Department and the Adult Probation Department to successfully rehabilitate probationers; and to the public at large whether in the form of vehicular drivers under the influence or other public contact.
- 6. This Court further finds that the possibility of one more life lost is compelling irreparable injury.

Issuance of Temporary Restraining Order Without Notice

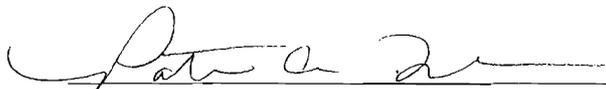
This Court grants the Plaintiff’s request and issues this Temporary Restraining Order without notice to the Defendants. This Court finds that notice to Defendants would allow these dangerous synthetic drugs to continue to be sold, causing possible irreparable injury, during the pendency of hearings on this matter. By granting the Plaintiff’s request for a Temporary Restraining Order without Notice, this Court finds that these dangerous synthetic drugs should not be sold even one more day by Defendants. This Court also finds that delay would allow

1 Defendants to transfer their inventory to other businesses not covered by the Complaint, also
2 causing injury.

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4 **IT IS HEREBY ORDERED** that a Temporary Restraining Order be issued immediately,
5 pursuant to Rule 65(d) of the Arizona Rules of Civil Procedure and A.R.S. §13-2917, restraining
6 Defendants, and any and all other persons in concert or participation with them, from acquiring,
7 possessing, selling or transferring any and all synthetic cannabinoids and cathinones (referred to
8 as “dangerous synthetic drugs” and known by street names such as, but not limited to: “Go Fast,”
9 “K2,” “Spice,” “Sprinklezz,” “Incense,” “Potpourri,” “Herbal Sachets,” “Glass Cleaner,” “Felt
10 Cleaner,” “Go Fast Carpet Cleaner,” “Exuberance Powder,” “Tickle Talc,” and “Bath Salts”), and
11 any substance that meets the definition of an Analogue drug pursuant to 21 U.S.C. §§ 802(32)(A)
12 and 813.
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14
15 IT IS FURTHER ORDERED that, unless further extended by Order of this Court, this
16 Temporary Restraining Order shall be in force and effect pending a hearing on and disposition of
17 Plaintiff’s Application for Preliminary Injunction and Trial on the Merits, but not longer than 10
18 days.

19 DONE IN OPEN COURT this 9th day of August, 2012.

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23 HONORABLE PATRICIA A. TREBESCH
24 JUDGE OF THE SUPERIOR COURT
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