

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the Matter of )  
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BASIC RESEARCH, LLC  
A G WATERHOUSE LLC  
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NUTRASPORT, LLC )  
SOVAGE DERMALOGIC LABORATORIES, LLC )  
BAN, LLC d/b/a BASIC RESEARCH, LLC )  
OLD BASIC RESEARCH, LLC, )  
BASIC RESEARCH A G WATERHOUSE \_\_\_\_\_ )  
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Docket No. 9318  
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KLEIN-BECKER USA, NUTRA SPORT, and )  
SOVAGE DERMALOGIC LABORATORIES )  
DENNIS GAY )  
DANIEL B. MOWREY d/b/a AMERICAN )  
PHYTOTHERAPY RESEARCH LABORATORY, and )  
MITCHELL K. FRIEDLANDER, )  
Respondents. )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

**II. POSITIONS OF THE PARTIES**

In its motion, Complaint Counsel asserts that Respondents engaged in acts affecting commerce as alleged in the Complaint; Respondents operated a common business enterprise as alleged in the Complaint; Respondents made the claims challenged in the Complaint; and Respondents' claims are material to consumers. Motion 4-77. In their oppositions, Respondents assert that disputed issues of material facts preclude granting Complaint Counsel's motion. Opposition at 2-84; Friedlander Opposition at 4-20.

**III. SUMMARY DECISION STANDARD**



Supp. 613, 618 (D.D.C. 1984).

**IV. GENUINE ISSUES OF MATERIAL FACT EXIST**

Complaint Counsel moves for summary judgment on the basis of the following:

V. CONCLUSION AND ORDER

As described above, the genuine issues of fact raised by the pleadings can only be  
properly determined through a trial. Therefore, the moving party is not entitled to a

summary decision, as a matter of law, at this stage of the proceeding. For the above-stated reasons, Complaint Counsel, the moving party, is not entitled to partial summary decision as a matter of law. Complaint Counsel's motion for partial summary decision is **DENIED**.

ORDERED:



Date: June 27, 2005

Chief Administrative Law Judge