

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

In the Matter of )

BASIC RESEARCH, LLC )

A.G. WATERHOUSE, LLC )

KLEIN-BECKER USA, LLC )

NUTRASPORT, LLC )

SOVAGE DERMALOGIC LABORATORIES, LLC )

BAN, LLC d/b/a BASIC RESEARCH, LLC )

OLD BASIC RESEARCH, LLC, )

BASIC RESEARCH, A.G. WATERHOUSE, )

KLEIN-BECKER USA, NUTRA SPORT, and )

SOVAGE DERMALOGIC LABORATORIES )

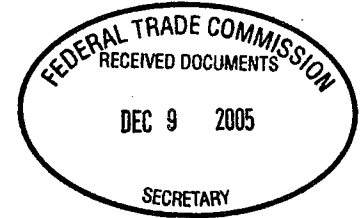
DENNIS GAY )

DANIEL B. MOWREY d/b/a AMERICAN )

PHYTOTHERAPY RESEARCH LABORATORY, and )

MITCHELL K. FRIEDLANDER, )

Respondents. )



Docket No. 9318

**ORDER REVISING DECEMBER 7, 2005 ORDER  
ON COMPLAINT COUNSEL'S MOTION TO STRIKE**

On December 7, 2005, the Order on Complaint Counsel's Motion to Strike was issued. *Sua sponte*, the Court has determined to correct an ambiguity in the December 7, 2005 Order.

Section III.D is revised as follows:

**D. Irrelevant or Cumulative witnesses**

Complaint Counsel also moves to strike Bodee Gay, BPI Labs, DermTech International, and George Bybee from testifying at trial on grounds that their proposed testimony is either irrelevant or duplicative of other witnesses' proposed testimony.

Respondents do not address this argument. However, Respondents do explicitly state that they agree to withdraw from their Final Witness List: BPI Labs, Frank Greenway, Livieri, Bodee Gay, Bybee, and Millard, provided that the Court allow Respondents to call the other witnesses listed on their Final Witness List. Such an offer may be appropriately extended by Respondents'

counsel in negotiations with Complaint Counsel. It is not appropriate to make such an offer to the Court. The Court's ruling on certain witnesses listed on Respondents' Final Witness List rests on the merits of each witness or category, discussed above.

As determined in previous sections, the following witness is stricken: BPI Labs. With respect to BPI Labs, Complaint Counsel's motion to strike is **GRANTED**.

Respondents may call Lehman on behalf of DermTech International. Whether the testimony of Bodee Gay and Bybee would be irrelevant or cumulative cannot be determined at this stage in the litigation. With respect to Lehman, Bodee Gay, and Bybee, Complaint Counsel's motion to strike is **DENIED**.

ORDERED:



Stephen J. McGuire  
Chief Administrative Law Judge

Date: December 9, 2005