

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION

OSMOSE, INC.,

Plaintiff,

v.

VIANCE, LLC, ROCKWOOD
HOLDINGS, INC., STEPHEN B.
AINSCOUGH, SEIFOLLAH E.
GHASEMI, and CHRISTOPHER R.
SHADDAY,

Defendants.

CIVIL CASE NO.
3:09-CV-23-JTC

ORDER

This matter is currently before the Court on Defendants' emergency motion for clarification [#44]. The purpose of the TRO entered by this Court on March 20, 2009 is to maintain the status quo pending a full evidentiary hearing on Plaintiff's request for a preliminary injunction, which has been set for May 19, 2009. The Court's decision was based on the papers before the Court when it considered the request, supported by the relevant legal principles.

The Court found that Defendant had published false and unsupported claims about Plaintiff's MCQ product and micronized copper preservatives in general. The false claims were based on the Timber Products studies, and Timber Products later specifically disavowed Defendants' conclusions.

The Court further found that Plaintiff was irreparably damaged as a result of Defendants' false statements. The impression made by the false claims about the safety of products built with micronized copper-treated wood could not be cured by future statements or compensated by monetary damages. The Court also found that the damage to Plaintiff far outweighed any temporary damage to Defendants by not being able to publish these damaging claims pending the preliminary injunction hearing.

Given these findings, and based on the record before the Court, any further opinions of the type described in the Court's order are enjoined pending further order of this Court. If Defendant wishes to publish factual results of independent third party studies, it is not prevented from doing so. But Defendants may not attribute conclusions to those third party studies that are not explicitly stated in the studies themselves. Such an injunction protects the public's interest in being informed, while it also allows the public to reach its own conclusions about micronized copper-treated wood in the meantime.

The Court is of the opinion that Defendants and Defendants' counsel should be able to recognize the type of advertising temporarily enjoined. The Court is also confident that the Court will know the enjoined advertising when it sees it and be able to punish with its contempt power any intentional

violation. Defendants are cautioned not to attempt to walk the line in this regard. For these reasons, the Court **DENIES** Defendant's emergency motion for clarification [#44] .

SO ORDERED, this 6th day of April, 2009.

A handwritten signature in blue ink, reading "Jack Camp", written over a horizontal line.

JACK T. CAMP
UNITED STATES DISTRICT JUDGE