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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Modern Vascular, LLC, an Arizona LLC,

Plaintiff,

Case No.:

COMPLAINT

vs.

Nazar Golewale and Jane Doe Golewale, an
Indiana marital community and Modern
Vascular and Vein Center, LLC, an Indiana
LLC,

Defendants,

For its complaint, Plaintiff alleges as follows:

PARTIES

1. Plaintiff is a limited liability company organized and conducting business in the State of Arizona.
2. Upon information and belief, Defendants Nazar Golewale and Jane Doe Golewale are an Indiana marital community.
3. Upon information and belief, Defendant Modern Vascular and Vein Center, LLC is a limited liability company organized under the laws of the State of Indiana. Defendant is formerly known as “Modern Vascular, LLC.”

1 California, Colorado, Washington D.C., Idaho, Illinois, Kansas, Michigan, New Mexico,
2 Nevada, New York, Oregon, South Dakota, Texas, Virginia, Washington, West Virginia, and
3 Wisconsin.

4 13. Through Plaintiff's extensive use, the Modern Vascular name and mark have
5 become famous, and Modern Vascular has become a trusted brand for medical services.

6 14. Plaintiff has not authorized any of the Defendants to use Plaintiff's trademark.

7 15. Plaintiff has not sponsored or approved any of Defendants' actions.

8 16. Defendants operate a company that uses Plaintiff's trademark.

9 17. Defendants provide medical services substantially identical to Plaintiff's.

10 18. Defendants advertised services using Plaintiff's trademark in interstate
11 commerce.

12 19. Defendants entered into agreements using Plaintiff's trademark with Plaintiff's
13 vendors, Plaintiff's potential business partners, and members of the general public.

14 20. Defendants' actions cause actual confusion among vendors, Plaintiff's potential
15 business partners, and, upon information and belief, members of the general public.

16 21. The vendors have confused Defendants with Plaintiff because Defendants are
17 using Plaintiff's name and marks so as to cause confusion.

18 22. Upon learning of Defendants' infringement, Plaintiff informed Defendant of the
19 infringement and offered to work with them to stop the infringement.

20 23. Defendants refused and continued to operate with Plaintiff's protected name and
21 marks.

1 superior rights, and with full knowledge that their infringing use of Plaintiff's marks was
2 intended to cause confusion, mistake, and/or deception.

3 31. Defendants offer their goods and services under the infringing marks in the same
4 channels of trade as those in which Plaintiff's legitimate goods and services are offered.

5 32. Defendants' infringing use of Plaintiff's name and marks is likely to cause, and
6 has caused, confusion, mistake, or deception as to their affiliation and/or connection Plaintiff
7 in violation of 15 USC § 1114.

8 33. Defendants' actions constitute knowing, deliberate, and willful infringement of
9 Plaintiff's federally registered marks. The knowing and intentional nature of the acts set forth
10 herein renders this an exceptional case under 15 USC § 1117(a).

11 34. As a result of Defendants' infringement, Plaintiff has suffered substantial
12 damages, as well as the continuing loss of the goodwill and reputation established by Plaintiff
13 in its federally registered marks. This continuing loss of goodwill cannot be properly
14 calculated and thus constitutes irreparable harm and an injury for which Plaintiff has no
15 adequate remedy at law. Plaintiff has no adequate remedy at law. Plaintiff will continue to
16 suffer irreparable harm unless this Court enjoins Defendants' conduct.

17
18 **COUNT II—Federal Unfair Competition and False Designation of Origin 15 USC §**
19 **1125(a)**

20 35. Plaintiff realleges and incorporates each and every allegation contained in the
21 paragraphs above with the same force and effect as if said allegations were fully set forth
22 herein.

23 36. Defendants have deliberately and willfully attempted to trade on Plaintiff's long-
24 standing and hard-earned goodwill in its name and marks and the reputation established by
25

1 Plaintiff in connection with its products and services, as well as in order to confuse consumers
2 as to the origin and sponsorship of Defendants' goods and to pass off their products and
3 services in commerce as those of Plaintiff.

4 37. Defendants' unauthorized and tortious conduct has also deprived and will
5 continue to deprive Plaintiff of the ability to control the consumer perception of its products
6 and services offered under Plaintiff's marks, placing the valuable reputation and goodwill of
7 Plaintiff in the hands of Defendants.

8 38. Defendants' conduct is likely to cause confusion, mistake, or deception as to the
9 affiliation, connection, or association of Defendants with Plaintiff, and as to the origin,
10 sponsorship, or approval of Defendants and their products and services, in violation of Section
11 43 of the Lanham Act, 15 USC § 1125(a)(1).

12 39. Upon information and belief, Defendants had direct and full knowledge of
13 Plaintiff's prior use of and rights in its marks before the acts complained of herein. The
14 knowing, intentional, and willful nature of the acts set forth herein renders this an exceptional
15 case under 15 USC § 1117(a).

16 40. As a result of Defendants' aforesaid conduct, Plaintiff has suffered commercial
17 damage, as well as the continuing loss of the goodwill and reputation established by Plaintiff
18 in its marks. This continuing loss of goodwill cannot be properly calculated and thus
19 constitutes irreparable harm and an injury for which Plaintiff has no adequate remedy at law.
20 Plaintiff will continue to suffer irreparable harm unless this Court enjoins Defendants'
21 conduct.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. For damages in an amount to be proven at trial for trademark infringement under 15 USC § 1114;

B. For damages in an amount to be proven at trial for trademark dilution under 15 USC § 1125(c);

C. For damages to be proven at trial for unfair competition;

D. For an injunction by this Court prohibiting Defendants from engaging or continuing to engage in the unlawful, unfair, or fraudulent business acts or practices described herein;

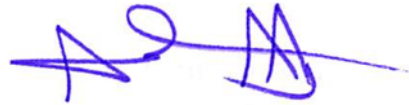
E. For Plaintiff's reasonable attorneys' fees;

F. For all costs of suit; and

G. For such other and further relief as the Court may deem just, proper, and/or equitable.

DATED this 13th day of January, 2020.

ANDERSON BANTA CLARKSON PLLC



By _____

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