

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Opinion Corp. and  
Consumer Opinion Corp.,

Case No: 9:15-cv-80051

Plaintiffs,

v.

**MOTION TO SUPPLEMENT THE RECORD  
IN SUPPORT OF MOTION TO DEEM  
DEFENDANT SERVED (ECF 8)**

Roca Labs, Inc.,  
Defendant.

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On January 14, 2015, Plaintiffs filed its Motion to Deem Roca Labs as being served in the instant action. ECF 8. The basis for the Motion is that counsel for Roca Labs relied upon the Complaint filed in this action in support of its motion seeking leave to amend Roca Labs' complaint in the *Roca Labs, Inc. v. Opinion Corp. and Consumer Opinion Corp.* matter. See *Roca Labs, Inc v. Opinion Corp. and Consumer Opinion Corp.* (Case No.: 8:14-cv- 02096).

Such a Motion has the potential to violate the Defendant's rights, should the Defendant not have actual notice of the motion and an opportunity to respond. On January 29, 2015 Roca Labs filed the Motion to Deem Served as an exhibit in another case. The Motion and its Exhibit 12 are attached here as Exhibit 1.<sup>1 2</sup> At this point, Roca Labs has cited to and attached two separate

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<sup>1</sup> In that case, Roca Labs filed the Motion to Deem Served (ECF 8) in support of its claim that the Motion in this case contained false statements regarding the Roca Labs product. In the Motion, counsel for Plaintiffs made the statement that "On information and belief, Roca Labs imports its questionable product from an unknown location in Mexico." ECF 8 at 8. Meanwhile, the FDA refused to permit Roca's product to be imported into the USA. See Exhibit 2. An Import Refusal issued by the FDA occurs when a company is importing a product into the United States, the product is seized by Customs, and if it is determined that the product fails to comply with FDA requirements. See Exhibit 3. Additionally in looking at the packaging on the Roca Labs product, it appears that the lot number and expiration date are also in Spanish. See Exhibit 4. Perhaps the product did not come from Mexico, but some other Latin American country.

pleadings from this case, by two of its attorneys, in two of its other cases, while still evading actual service in this matter. There can be no clearer evidence that Roca Labs is aware of the case, **and** is aware of the Motion to Deem Served. Accordingly, Roca Labs should have no justification to claim that it requires any additional notice, or that its due process rights have not been fully respected, should the Court grant the instant motion.

Based on the foregoing, Plaintiffs Opinion Corp. and Consumer Opinion Corp. respectfully request this Court deem Roca Labs as served. In the alternative, Plaintiffs request this Court allow for alternate service upon counsel for Roca Labs. Or, as a final alternative, Plaintiffs request that this Court authorize it to begin taking discovery to determine the whereabouts of Roca Labs' operations, employees, and principals.

DATED: this 30th day of January 2015.

Respectfully Submitted,

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*Attorneys for Plaintiffs*

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<sup>2</sup> Omitting selections of the additional 198 pages of exhibits due to filing size constraints.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 30th of January 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served upon: Paul Berger, Esq., Independent General Counsel for Roca Labs, via e-mail and US Mail to:

Paul Berger, Esq.  
PO. Box 7898  
Delray Beach, FL 33483

Legal5@rocalabs.com

*T. Kaan*

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An employee / agent of  
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