


Roca Labs, Inc.

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September 30, 2014

Michael Masnick


and

Tech Dirt
Floor 64, Inc.
370 Convention Way
Redwood City, CA 94063

Dear Mr. Masnick and TechDirt % Floor64, Inc.:

This letter is in response to a series of articles that were written by you about Roca Labs on TechDirt. It appears that you had multiple conversations with Marc Randazza attorney for Opinion Corp. and Consumer Opinion Corp. and received copies of the pleadings in the case directly from Mr. Randazza. This letter is intended to comply with Florida Statutes Sec. 770.02, and I respectfully request that you retract the articles and your defamatory statements.

As you are aware, Roca Labs is in Litigation against Pissed Consumer. You have published pleadings on Techdirt.com and spoken to attorney Marc Randazza about the case. In publishing the articles without attempting to verify the alleged facts in the pleadings you may have acted in a grossly irresponsible manner without due consideration for the standard of information gathering and dissemination ordinarily followed by responsible journalists.

For example, on September 29, 2014 you published an article *Roca Labs Threatens To Sue All Three Former Customers Who Provided Evidence Against Roca In PissedConsumer Case* from the ~~the-ultimate-in-sleazy~~ dept. This article contains numerous false, defamatory and malicious statements about Roca Labs. It appears that these statements were made for no other purpose than to harass and defame Roca Labs. Perhaps the true indication of your yellow journalism is that you fail to indicate that Mr. Randazza made a similar motion to the Court on September 22, 2014, which was denied by the Court on September 23, 2014.

In your September 22, 2014 article *PissedConsumer Fights Back Against Roca Labs' Attempt To Silence Customer Complaints* you quoted part of the pleadings which provide "Roca Labs is desperately trying to force a cone of silence over each and every customer that discovers that Roca Labs' product is not only a specious remedy for their weight issues, but a potential cause of additional health problems. Plaintiff, desperate to sell as many of its tubs of goo to the public as it can before regulatory agencies come knocking does its best to bully its former

customers into silence.” Please provide us with an independent verification of this factual statement or retract the statement.

It appears that TechDirt may be on a mission to harm Roca Labs and is acting a public mouthpiece for Mr. Randazza Pissed Consumer. Apparently you believe that there is absolute immunity for statements made in court pleadings. Numerous courts have held that absolute privilege is waived when pleadings are supplied by an attorney to a member of the media (Mr. Randazza can confirm this with you). As a reminder as the California Court of Appeals held in *Rothman v. Jackson* “The litigation privilege exists so that persons who have been harmed or have other grievances calling for redress through the judicial processes can and will use the courts, rather than self-help, to obtain the relief. . . . Public mud-slinging, while a less physically destructive form of self-help than a public brawl, is nevertheless of the kinds of unregulated and harmful feuding that courts and their processes exist to prevent.” We believe that neither TechDirt or Mr. Masnick as an individual are protected from defamation and ask that you retract statements that cannot be factually substantiated.

Please retract the following articles in full as they contain numerous defamatory statements, rely upon false and misleading facts and the articles as a whole are defamatory.

1. September 29, 2014 *Roca Labs Threatens To Sue All Three Former Customers Who Provided Evidence Against Roca In PissedConsumer Case*
2. September 25, 2014 *Roca Labs Sues Customer For Posting A Negative Review*
3. September 22, 2014 *PissedConsumer Fights Back Against Roca Labs' Attempt To Silence Customer Complaints*
4. September 8, 2014 *Dietary Supplement' Company Tries Suing PissedConsumer, Citing Buyer's Agreement To Never Say Anything Negative*

Please notify us when the articles are removed and when an apology is issued. I would be happy to discuss this letter with you in greater detail and answer any of your questions. I trust that you will take appropriate steps to resolve this matter by retracting the defamatory articles and issuing an apology. Please govern yourself accordingly.

Very truly yours,

Paul Berger, Esq

Paul Berger, Esq.
Independent General Counsel
Roca Labs