

IN THE CIRCUIT COURT
TWENTY SECOND JUDICIAL CIRCUIT
CITY OF SAINT LOUIS, MISSOURI

CHRISTINA SWIATEK,)	
)	
Plaintiff,)	Cause No.
)	
v.)	Div. No.
)	
NERIUM INTERNATIONAL, LLC)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	
Serve Defendant at:)	
Nerium International, LLC)	
4006 Belt Line Road)	
Addison, TX 75001)	

PETITION FOR DAMAGES

COUNT I

COMES NOW, the plaintiff, Christina Swiatek, by and through her undersigned counsel, and for her cause of action against the defendant, Nerium International, LLC ("Nerium") states as follows:

1. That at all times relevant hereto the Plaintiff was and remains a resident and citizen of Madison County, Illinois. The injuries in issue were sustained in Madison County, Illinois, from a product supplied in Missouri.
2. That the Defendant, Nerium, is a corporation with its principal place of business in Texas. Nerium does business in St. Louis City. Nerium does not have a registered agent in Missouri and, therefore, venue is proper in St Louis City where Defendant does business and has sales representatives.
3. That defendant, Nerium, supplied, distributed and placed into the stream of commerce for profit or other benefit a product known and labeled as "Nerium AD." Defendant

supplied said product as an “age defying treatment” for use as a “night cream.” The product was supplied to Plaintiff in the same condition as when it left Defendant’s control.

4. That Defendant’s aforesaid product was distributed to Plaintiff by an agent or employee of Defendant while acting the scope of the agency or employee relationship. Said employees and agents of Defendant are also known as “Brand Partners”.

5. That Plaintiff used the aforesaid product as directed and intended.

6. That based upon the above, Defendant owed a duty and to all other similarly situated users of its product to supply a product that was not unsafe, not unreasonably dangerous and not defective.

7. That in violation of the aforesaid duty, Defendant supplied a product that was unsafe, unreasonably dangerous and/or defective in one or more of the following respects:

- a) the product was unduly susceptible to cause chemical burns, irritation, and permanent skin damage when used as directed, intended, and/or in a reasonably foreseeable fashion; or
- b) the product was not supplied with adequate warnings of health consequences or instructions to advise against using as directed and/or to suggest spot testing prior to use.

8. That as direct and proximate result of the aforesaid breach by Defendant, Plaintiff has suffered painful, severe and permanent injuries to her face and neck, has incurred medical bills for treatment, is likely to incur further medical bills for treatment of her injuries, has been disfigured, has experienced and will continue to experience pain and mental anguish and has expended funds for additional ameliorative ointments, creams, and lotions. Plaintiff further suffered a loss of normal life which will continue into the future.

WHEREFORE, Plaintiff prays for a judgement in her favor for an amount in excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) and for costs of this action.

COUNT II

COMES NOW, the plaintiff, Christina Swiatek, by and through her undersigned counsel, and for her cause of action against the defendant, Nerium International, LLC (“Nerium”) states as follows:

1-5. Plaintiff repeats, realleges, and incorporates herein paragraphs 1-5 of Count I as paragraphs 1-5 of this Count.

6. That based upon the above, Defendant owed a duty to Plaintiff and to all other similarly situated users of its products to test the product prior to sale, to properly train its sales personnel, to supply proper warnings with its products, and/or to supply proper instructions for use with its products.

7. That in violation of the above duties, Defendant:

- a) failed to properly test its product to determine if it was unduly likely to cause damage to the skin of users;
- b) failed to properly train its sales personnel to require such persons provide full and complete warnings and instructions;
- c) failed to supply instructions with its product to advise users they should spot test and/or use initially for a limited duration rather than over-night; and/or
- d) failed to supply warnings with its product to advise users that the product could cause chemical burns, skin damage, and/or other adverse reactions.

8. That as direct and proximate result of the aforesaid breach by Defendant, Plaintiff has suffered painful, severe and permanent injuries to her face and neck, has incurred medical bills for treatment, is likely to incur further medical bills for treatment of her injuries, has been disfigured, has experienced and will continue to experience pain and mental anguish and has expended funds for additional ameliorative ointments, creams, and lotions. Plaintiff further suffered a loss of normal life which will continue into the future.

WHEREFORE, Plaintiff prays for a judgement in her favor for an amount in excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) and for costs of this action.

COUNT III

COMES NOW, the plaintiff, Christina Swiatek, by and through her undersigned counsel, and for her cause of action against the defendant, Nerium International, LLC ("Nerium") states as follows:

1-8. Plaintiff repeats, realleges, and incorporates herein paragraphs 1-8 of Count I as paragraphs 1-8 of this Count.

9-11. Plaintiff repeats, realleges, and incorporates herein paragraphs 6-8 of Count II as paragraphs 9-11 of this Count.

11. That at all times relevant hereto, Defendant was aware that users of its product had reported adverse and severe reactions to the product in question. Defendant failed to inform its consumers of such prior reported events and failed to notify its sales representatives of same. Defendant further encouraged its sales representatives to continue supplying the product while Defendant suppressed and/or withheld the adverse reaction reports. Defendant additionally trained or encouraged its sales representatives, a/k/a Brand Partners, to attempt to persuade consumers who experienced adverse reactions to remain silent about such reactions. Defendant did all of the above in conscious disregard for the safety, comfort, and wellbeing of its customers, so that Defendant could continue reaping financial benefits from the sale and distribution of the product. Defendant placed profits above safety.

12. That, based upon the above, punitive or aggravated damages are warranted.

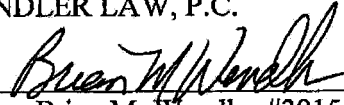
WHEREFORE, Plaintiff prays for a judgment for an amount in excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) in compensatory damages and for an amount in

excess of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS) in aggravated or punitive damages, for her costs, and for such other or further relief deemed just.

PLAINTIFF PRAYS FOR TRIAL BY JURY.

Respectfully Submitted,

WENDLER LAW, P.C.

By: 

Brian M. Wendler #39151
900 Hillsboro Ave., Suite 10
Edwardsville, IL 62025
Ph: (618) 692-0011
Fx: (618) 692-0022
Attorney for Plaintiff



IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI


Judge or Division: BRYAN L HETTENBACH	Case Number: 1622-CC11482	
Plaintiff/Petitioner: CHRISTINA SWIATEK	Plaintiff's/Petitioner's Attorney/Address: BRIAN M. WENDLER 900 HILLSBORO SUITE 10 vs. EDWARDSVILLE, IL 62025	Process Server 1
Defendant/Respondent: NERIUM INTERNATIONAL LLC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Process Server 2
Nature of Suit: CC Pers Injury-Prod Liab		Process Server 3
		(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)**

The State of Missouri to: **NERIUM INTERNATIONAL LLC**
Alias:

4006 BELT LINE ROAD
ADDISON, TX 75001

DALLAS COUNTY

COURT SEAL OF

CITY OF ST LOUIS

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the Plaintiff/Petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

December 7, 2016
Date

Thomas Kloepfinger
Thomas Kloepfinger
Circuit Clerk

Further Information:

Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is _____ of _____ County, _____ (state).
- I have served the above summons by: (check one)
 - delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
 - leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____, a person of the Defendant's/Respondent's family over the age of 15 years.
 - (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).
 - other (describe) _____

Served at _____ (address)
in _____ County, _____ (state), on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn To me before this _____ (day) _____ (month) _____ (year)

I am: (check one) the clerk of the court of which affiant is an officer.
 the judge of the court of which affiant is an officer.
 authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
 authorized to administer oaths. (use for court-appointed server)

(Seal) _____
Signature and Title

Service Fees, if applicable

Summons \$ _____
 Non Est \$ _____
 Mileage \$ _____ (_____ miles @ \$ _____ per mile)
 Total \$ _____

See the following page for directions to clerk and to officer making return on service of summons.

Directions to Clerk

Personal service outside the State of Missouri is permitted only upon certain conditions set forth in Rule 54. The clerk should insert in the summons the names of only the Defendant/Respondent or Defendants/Respondents who are to be personally served by the officer to whom the summons is delivered. The summons should be signed by the clerk or deputy clerk under the seal of the court and a copy of the summons and a copy of the petition for each Defendant/Respondent should be mailed along with the original summons to the officer who is to make service. The copy of the summons may be a carbon or other copy and should be signed and sealed in the same manner as the original but it is unnecessary to certify that the copy is a true copy. The copy of the motion may be a carbon or other copy and should be securely attached to the copy of the summons but need not be certified a true copy. If the Plaintiff's/Petitioner has no attorney, the Plaintiff's/Petitioner's address and telephone number should be stated in the appropriate square on the summons. This form is not for use in attachment actions. (See Rule 54.06, 54.07 and 54.14)

Directions to Officer Making Return on Service of Summons

A copy of the summons and a copy of the motion must be served on each Defendant/Respondent. If any Defendant/Respondent refuses to receive the copy of the summons and motion when offered, the return shall be prepared accordingly so as to show the offer of the officer to deliver the summons and motion and the Defendant's/Respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

The office making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must not be made less than ten days nor more than 30 days from the date the Defendant/Respondent is to appear in court. The return should be made promptly and in any event so that it will reach the Missouri Court within 30 days after service.



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12/17

BEN ADAMCIK
CONSTABLE PCT. 3,
DALLAS COUNTY

PAID
793411

11:43A

IN THE 22ND JUDICIAL CIRCUIT COURT OF CITY OF ST LOUIS, MISSOURI

James Mosley Mang.

Judge or Division: BRYAN L HETTENBACH	Case Number: 1622-CC11482	
Plaintiff/Petitioner: CHRISTINA SWIATEK	Plaintiff's/Petitioner's Attorney/Address: BRIAN M. WENDLER 900 HILLSBORO SUITE 10 EDWARDSVILLE, IL 62025	Process Server 1
Defendant/Respondent: NERIUM INTERNATIONAL LLC	Court Address: CIVIL COURTS BUILDING 10 N TUCKER BLVD SAINT LOUIS, MO 63101	Process Server 2
Nature of Suit: CC Pers Injury-Prod Liab		Process Server 3
		(Date File Stamp)

Summons for Personal Service Outside the State of Missouri
(Except Attachment Action)

14A/321

The State of Missouri to: **NERIUM INTERNATIONAL LLC**
Alias:
4006 BELT LINE ROAD
ADDISON, TX 75001

DALLAS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, copy of which is attached, and to serve a copy of your pleading upon the attorney for the Plaintiff/Petitioner at the above address all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to file your pleading, judgment by default will be taken against you for the relief demanded in this action.

December 7, 2016
Date

Thomas Kloepfinger
Thomas Kloepfinger
Circuit Clerk



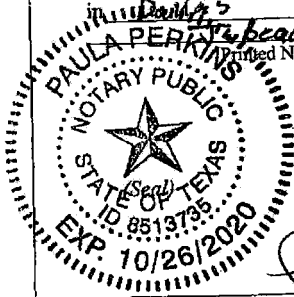
Further Information:
Officer's or Server's Affidavit of Service

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is Deputy Constable of Dallas County, Texas (state).
- I have served the above summons by: (check one)
 - delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
 - leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with a person of the Defendant's/Respondent's family over the age of 15 years.
 - (for service on a corporation) delivering a copy of the summons and a copy of the petition to Nerium International LLC (name) James Mosley Manager (title).
 - other (describe)

Served at 4006 Beltline Rd. Addison TX 75001 (address)
in Dallas County, Texas (state), on 12/22/2016 (date) at 11:43A (time).

Paula Perkins (Printed Name of Officer or Server) Signature of Sheriff or Server



Subscribed and Sworn To me before this 22 (day) Dec (month) 2016 (year)

I am: (check one) the clerk of the court of which affiant is an officer.
 the judge of the court of which affiant is an officer.
 authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
 authorized to administer oaths. (use for court-appointed server)

Service Fees, if applicable

Summons	\$	
Non Est	\$	
Mileage	\$	<u>480.00</u>
Total	\$	

BEN ADAMCIK
CONSTABLE PCT. 3,
DALLAS COUNTY

Paula Perkins
Signature and Title
Deputy Constable Pct 3
Dallas County
Texas

See the following page for directions to clerk and to officer making return on service of summons.

Electronically Filed - City of St. Louis - January 06, 2017 - 10:04 AM

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Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion to the individual personally or by leaving a copy of the summons and motion at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. Upon a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

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Service may be made in any state or territory of the United States. If served in a territory, substitute the word "territory" for the word "state."

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