

Heller Waldman Successfully Defends Multi-Million Dollar Claims for Intellectual Property Violations

On January 29, 2010, U.S. Federal District Court Judge William Dimitrouleas entered final judgment in the matter of *RGF Environmental Group, Inc. v. activTek, etl al.* and awarded Plaintiff less than \$34,000 for its claims. The judgment came six months after a four-day bench trial was completed on July 30, 2009. Plaintiff, RGF Environmental Group Inc., a Florida corporation based in West Palm Beach, sued Defendants ActivTek Environmental Corp., EcoQuest International, Inc., EcoQuest Printing and Graphics, Inc. and Michael Jackson, all Tennessee residents, in the Southern District of Florida in 2008. RGF's claims centered around allegations of copyright and trademark infringement relating to certain air purification products and the instructional course developed for representatives to sell such products. Plaintiff sought actual damages as well as a finding of willful conduct and violations which it expected would lead to the award of millions of dollars. Defendants argued that no willfulness existed and Plaintiff's damages were limited to no more than \$35,000.

The Court agreed with Defendants in full that despite RGF's claims of losses in the millions of dollars, RGF was only entitled to the minimal profits Defendants received on the allegedly infringing activities, totaling less than \$34,000. Heller Waldman was able to limit Defendants' exposure on the copyright claims and the trademark violations relating to one product, and also prevailed in defending against trademark and trade dress claims relating to a second product. Because of several pending motions and the applications of Offers of Judgment, it is likely that the final net judgment will be in favor of Defendants, and Plaintiff will take nothing.

Counsel for RGF: Temple F. Kearns of Shutts & Bowen

Counsel for Defendants: Glen H. Waldman and Eleanor T. Barnett of Heller Waldman