

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-4387

IN RE: NUTRAQUEST, INC.,
Debtor

Civil Action No. 03-cv-05869

LINDA WILL; GEORGE WHEELER, JR.,
as Independent Co-Administrators of
the Estate of RASHIDI WHEELER, deceased

v.

NORTHWESTERN UNIVERSITY; CHARLES TAYLOR;
RANDALL WALKER; JERRY BROWN; TERRENCE AGGELER,
LARRY LILJA; THOMAS CHRISTIAN;
JUSTIN CHABOT; MICHAEL ROSE; MARK GARDNER, M.D.

v.

*NEXT PROTEINS, INC., f/k/a Next Nutrition, Inc.,
d/b/a Next Proteins International ;
THE ULTIMATE ORANGE ENERGY CO. LLC;
ULTIMATE ENERGY CO.; PHOENIX LABORATORIES, INC.;
GENERAL NUTRITION CORPORATION,
d/b/a General Nutrition Companies, Inc.,
a wholly owned subsidiary of ROYALO NUMICO NV,
CYTODYNE TECHNOLOGIES, INC., n/k/a NUTRAQUEST, INC.,
Third Party Defendants

Adversary Proceeding No. 04-cv-01275

Northwestern University, Charles Taylor, Randolph Walker,
Jerry Brown, Terence Aggeler, Larry Lijla, Thomas Christian,
Justin Chabot and Michael Rose,
Appellants

*(Amended Per the Clerk's Order dated 6/24/05)

Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 03-cv-05869)
District Judge: Honorable Garrett E. Brown, Jr.

Submitted Under Third Circuit LAR 34.1(a)
November 15, 2005

Before: BARRY, and AMBRO, Circuit Judges
POLLAK*, District Judge

(Opinion filed January 20, 2006)

ORDER AMENDING PUBLISHED OPINION

AMBRO, *Circuit Judge*

IT IS NOW ORDERED that the published Opinion in the above case filed January 20, 2006, be amended as follows:

On page 3, fifth line in the paragraph, replace “these products” with “those products”.

On page 10, bottom paragraph, first line, replace “Moreover, there are many cases that have applied” with “Moreover, many cases have applied”.

On page 14, fourth line on the page, replace “No. 03-5869 (GEB)” with “No. 04-1275 (GEB)”.

On page 14, full paragraph, thirteenth line, insert “had” after “appeared to have” and before “a low probability”.

On page 16, note 4, first paragraph, ninth line, remove “, *Inc.*” after “*Hathaway Mach. Co.*” so that it reads “*Hathaway Mach. Co.*, 796 F.2d 553”.

On page 17, note 4, last paragraph, fourth line, insert a comma after “that” and before “[b]y settling”, so the line will read:
point that, “[b]y settling, Nutraquest can focus its resources

On page 17, second paragraph, third line, remove the quotation mark in front of “engaged” and insert it in front of “the”, so the line will read:
in good faith if “the settling parties engaged in wrongful

On page 20, eighth line on the page, replace “824–25” with “825”.

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: March 13, 2006