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BURKE W. KAPPLER  
D.C. Bar No. 471936; bkappler@ftc.gov  
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Tel: 310-824-4343; Fax: 310-824-4380

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

|                     |   |                                     |
|---------------------|---|-------------------------------------|
|                     | ) | Case No. 2:17-cv-07921-SJO-PLA      |
| FEDERAL TRADE       | ) |                                     |
| COMMISSION,         | ) | FEDERAL TRADE COMMISSION’S          |
|                     | ) | APPLICATION FOR AN ORDER TO         |
| Petitioner,         | ) | SHOW CAUSE WHY REDWOOD              |
|                     | ) | SCIENTIFIC TECHNOLOGIES, INC.       |
| v.                  | ) | SHOULD NOT BE HELD IN               |
|                     | ) | CONTEMPT AND INCORPORATED           |
| REDWOOD SCIENTIFIC  | ) | MEMORANDUM OF LAW                   |
| TECHNOLOGIES, INC., | ) |                                     |
|                     | ) | E-filed on 3/5/2018 at 2:29 PM PST. |
| Respondent.         | ) |                                     |
|                     | ) |                                     |

The Federal Trade Commission (FTC or Commission) asks this Court to order Redwood Scientific Technologies, Inc. (Redwood) to show cause why it should not be held in civil contempt for disobeying the Court’s order of January 25, 2018, which directed Redwood to “comply in full” with an FTC Civil Investigative Demand (CID) on or before February 9, 2018. ECF #17. To date,

1 Redwood has not responded to any of the CID's 22 interrogatories or 16 document  
2 requests, nor has it provided any reasons it is unable to comply.

3 Redwood's conduct violates this Court's enforcement order and impedes an  
4 ongoing investigation. The FTC asks the Court to order Redwood to appear and  
5 show cause why it should not be held in contempt, and thereafter, to order  
6 Redwood to comply with the FTC's CID forthwith and to impose coercive  
7 monetary sanctions on Redwood until compliance is achieved. In support of its  
8 motion, the Commission submits the Second Declaration of Elizabeth Sanger,  
9 Contempt Ex. 1, to verify the factual allegations herein, and other supporting  
10 exhibits.

11 **Procedural History**

12 1. On October 30, 2017, the FTC filed a petition for an order enforcing  
13 Redwood's compliance with an FTC CID. ECF #1. The CID was issued in the  
14 course of a nonpublic investigation into whether Redwood's advertising and  
15 marketing practices of TBX-FREE (a purported smoking cessation product) and  
16 Eupepsia Thin (a purported appetite suppressant) violate Sections 5 and 12 of the  
17 FTC Act, 15 U.S.C §§ 45, 52, and the Restore Online Shoppers' Confidence Act  
18 (ROSCA), 15 U.S.C § 8401 *et seq.* The CID, issued August 3, 2017, seeks  
19 documents and information concerning:

- 20 a. Whether Redwood made false or unsubstantiated  
21 representations concerning TBX-FREE's efficacy as a smoking  
22 cessation product;
- 23 b. Whether Redwood made false or unsubstantiated  
24 representations concerning Eupepsia Thin's efficacy as an  
25 appetite suppressant and weight loss product;
- 26 c. Whether Redwood falsely represented that certain medical  
27 institutions and publications have endorsed TBX-FREE as a  
28 smoking cessation product;

- d. Whether Redwood falsely represented that TBX-FREE comes with a money back guarantee; and
- e. Whether Redwood violated ROSCA by enrolling consumers in automatically-recurring purchase plans (also known as “autoship plans”) without their express informed consent.

ECF #1-2 at 15, 20.<sup>1</sup>

2. The due date for complying with the CID was September 6, 2017, but Redwood did not meet that deadline. ECF #1-2 at 17; Contempt Ex. 1, ¶ 6. Redwood itself proposed making weekly productions on October 5, October 12, and October 19, but it did not meet any of those deadlines either. ECF #1-1, ¶¶ 16-23. On October 30, 2017, the FTC sought enforcement of the CID. ECF #1.

3. On January 16, 2018, the Court ordered Redwood to appear on January 29 and show cause why the Court should not grant the FTC’s petition to enforce the CID. ECF #12. The FTC served the Order to Show Cause and the Petition, supporting exhibits, and memorandum of law on Redwood’s counsel on January 17, 2018. ECF #13; Contempt Ex. 1, ¶ 8.

4. Shortly thereafter, Redwood’s counsel indicated that Redwood was willing to stipulate to entry of a CID enforcement order. Contempt Exs. 1, ¶ 9; 2 at 13. The parties then filed a joint Stipulation for Entry of Order Compelling Compliance with Civil Investigative Demand and Vacating Hearing on January 24, 2018. ECF #16.

5. On January 25, 2018, the Court entered an Order Compelling Compliance with Civil Investigative Demand and Vacating Hearing. ECF #17. The order required Redwood to “comply in full” with the CID on or before

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<sup>1</sup> Citation to page numbers are to numbers that appear in page footers.

1 February 9, 2018. *Id.* The FTC emailed the order to Redwood’s counsel on the  
2 same day. Contempt Exs. 1, ¶ 11; 3.

3 **Redwood’s Noncompliance With The January 25 Order**

4 6. To date, Redwood has not complied with the Court’s enforcement  
5 order. Indeed, Redwood has yet to produce a single document. Contempt Ex. 1,  
6 ¶¶ 13, 18.

7 7. In a series of emails between February 9 and February 21, 2018, FTC  
8 staff reminded Redwood’s counsel of the deadline and inquired about the  
9 whereabouts of the required materials. *Id.*, ¶¶ 12, 14, 16-17; Contempt Exs. 4; 5  
10 at 20-21; 6 at 22. On February 13, Redwood’s counsel indicated that she had “a  
11 FedEx tracking number” and would send it to FTC staff “when [she got] into the  
12 office.” Contempt Exs. 1, ¶ 15; 5 at 20. Despite additional prompting, the FTC  
13 did not receive the promised tracking number and, to date, has not been contacted  
14 by Redwood or its counsel. Contempt Exs. 1, ¶¶ 16-17; 5; 6.

15 8. Redwood’s conduct continues to delay and impede the Commission’s  
16 investigation. Contempt Ex. 1, ¶ 19; ECF #1-1, ¶ 23. The FTC seeks coercive  
17 measures to compel compliance so that it can continue its investigation into  
18 Redwood’s advertising and marketing practices and determine whether an action to  
19 obtain monetary relief would be in the public interest.

20 **Memorandum Of Law**

21 Civil contempt requires a showing, by clear and convincing evidence, that  
22 the alleged contemnors have violated a specific and definite court order. The  
23 Court’s January 25, 2018 order required Redwood to comply with the FTC’s CID  
24 in full by February 9. As with every other deadline, Redwood watched this one  
25 pass. To date, it has not produced any of the documents or information responsive  
26 to the CID. The Court should therefore direct Redwood to comply forthwith and  
27 impose daily monetary sanctions until the company purges its contempt.

1 **I. Redwood Is In Contempt Of The Court's January 25 Order.**

2 This Court has inherent and statutory authority to enforce compliance with  
3 its lawful orders through the remedy of civil contempt. *See Gifford v. Heckler*, 741  
4 F.2d 263, 265-66 (9th Cir. 1984); *see also Shillitani v. United States*, 384 U.S. 364,  
5 370 (1966). Under Section 20(h) of the FTC Act, “[a]ny disobedience” of a final  
6 court order enforcing a CID “shall be punished as a contempt of such court.” 15  
7 U.S.C. § 57b-1(h).

8 The FTC, as the party alleging civil contempt, must show “(1) that [the  
9 alleged contemnors] violated the court order, (2) beyond substantial compliance,  
10 (3) not based on a good faith and reasonable interpretation of the order, (4) by clear  
11 and convincing evidence.” *Gemcap Lending I, LLC v. Crop USA Ins. Agency, Inc.*,  
12 No. 2:13-cv-05504 SJO (MANx), 2014 WL 12603115, at \*2 (C.D. Cal. Aug. 26,  
13 2014) (quoting *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d  
14 693, 695 (9th Cir. 1993)).

15 After this showing, “[t]he burden then shifts to the contemnors to show why  
16 they were unable to comply[.]” *FTC v. Affordable Media, LLC*, 179 F.3d 1228,  
17 1239 (9th Cir. 1999) (quotation omitted), a showing that requires Redwood to  
18 prove it “took every reasonable step.” *Stone v. City & Cnty. of San Francisco*, 968  
19 F.2d 850, 856 (9th Cir. 1992).

20 The FTC easily satisfies these requirements. The attached declaration  
21 provides clear and convincing evidence that Redwood violated the Court’s order,  
22 because it did not produce anything in response to the CID. Contempt Ex. 1, ¶ 18.  
23 Redwood’s total disregard for the order and the CID avoids any need to address  
24 “substantial compliance.” Nor can there be any question of order interpretation.  
25 The Court’s January 25 order was specific and definite. It required Redwood to  
26 “comply in full with the Civil Investigative Demand... on or before Friday,  
27 February 9, 2018.” ECF #17 at 1. Further, the Court entered its order pursuant to  
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1 a joint stipulation. ECF #16; ECF #17. As such, Redwood clearly had notice of  
2 the obligations imposed by the Court.

3 As a result of this showing, the burden thus shifts to Redwood to  
4 demonstrate why it was unable to comply with the order. *Affordable Media*, 179  
5 F.3d at 1239. It cannot. Redwood's utter failure to produce any information  
6 cannot be interpreted as any "reasonable step." Nor can Redwood now offer any  
7 plausible reason for its failure to produce the specified information, having  
8 stipulated to the entry of the order and agreed to be bound by it.

9 **II. The Court Should Impose Coercive Sanctions Against Redwood.**

10 This Court is bestowed with "broad equitable power to order appropriate  
11 relief in civil contempt proceedings." *FTC v. EDebitPay, LLC*, 695 F.3d 938, 945  
12 (9th Cir. 2012) (quoting *SEC v. Hickey*, 322 F.3d 1123, 1128 (9th Cir. 2003)). Such  
13 relief may take the form of fines, fees and costs, or even imprisonment. *See FTC*  
14 *v. Gill*, 183 F. Supp. 2d 1171, 1186 (C.D. Cal. 2001); *FTC v. Kutzner*, No. SA CV  
15 16-00999-BRO (AFMx), 2017 WL 2985397, at \*4 (C.D. Cal. June 12, 2017). In  
16 imposing sanctions, the Court should consider "the character and magnitude of the  
17 harm threatened by continued contumacy, and the probable effectiveness of any  
18 suggested sanction in bringing about the result desired." *Whittaker Corp. v.*  
19 *Execuair Corp.*, 953 F.3d 510, 516 (9th Cir. 1992) (quoting *United States v. United*  
20 *Mine Workers of Am.*, 330 U.S. 258, 304 (1947)). The Court should impose "the  
21 minimum sanction necessary to obtain compliance." *Whittaker*, 953 F.3d at 517  
22 (citing, *inter alia*, *Shillitani*, 384 U.S. at 371).

23 Applying these factors here, the record establishes the need for substantial  
24 coercive daily fines. Redwood's noncompliance has impeded the FTC's  
25 investigation into potentially unlawful advertising and marketing practices and any  
26 resultant consumer injury. The harm of continued noncompliance thus affects not  
27 just the agency, but the public as a whole. Accordingly, fines must be of a  
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1 sufficient amount to prompt Redwood to take its legal obligations seriously and  
2 produce those materials that are long overdue to the Commission.

3 **Prayer For Relief**

4 WHEREFORE, the Commission invokes the aid of this Court and prays for:

5 a. Immediate issuance of an order, substantially in the form attached,  
6 directing respondent Redwood Scientific Technologies, Inc. and a  
7 company executive with authority to direct compliance to personally  
8 appear before the Court and to show cause why Redwood should not  
9 be held in civil contempt; and

10 b. A prompt determination of this matter and entry of a Contempt Order  
11 imposing the following sanctions:

12 (i) That Redwood be directed to comply with the January 25 order  
13 and provide the documents and information specified in the  
14 August 3 CID forthwith; and

15 (ii) That Redwood pay daily monetary sanctions, in an amount to  
16 be set by the Court, but starting at no less than \$5,000 per day,  
17 for each day between the date of service of the Contempt Order  
18 and the date that it fully complies with the August 3 CID, as  
19 shown by completion, under oath, of the Form of Certification  
20 of Compliance included therein; and

21 (iii) Such other relief as the Court deems just and proper.  
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Respectfully submitted,

DAVID C. SHONKA  
Acting General Counsel

LESLIE RICE MELMAN  
Assistant General Counsel for Litigation

/s/ Burke W. Kappler  
BURKE W. KAPPLER  
Attorney

FEDERAL TRADE COMMISSION  
600 Pennsylvania Ave., N.W.  
Washington, DC 20580  
Tel.: (202) 326-2043  
Fax: (202) 326-2477  
Email: bkappler@ftc.gov

Dated: March 5, 2018

Contempt Exhibit 1:

Second Declaration of Elizabeth Sanger

(March 5, 2018)

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

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|---------------------|---|--------------------------------|--|
|                     | ) |                                |  |
| FEDERAL TRADE       | ) | Case No. 2:17-cv-07921-SJO-PLA |  |
| COMMISSION,         | ) |                                |  |
|                     | ) |                                |  |
| Petitioner,         | ) |                                |  |
|                     | ) |                                |  |
| v.                  | ) |                                |  |
|                     | ) |                                |  |
| REDWOOD SCIENTIFIC  | ) |                                |  |
| TECHNOLOGIES, INC., | ) |                                |  |
|                     | ) |                                |  |
| Respondent.         | ) |                                |  |

**SECOND DECLARATION OF ELIZABETH SANGER**

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am an attorney employed by the U.S. Federal Trade Commission (FTC or Commission), in Washington, D.C., in the Division of Advertising Practices. I am assigned to the FTC’s investigation into Redwood Scientific Technologies, Inc.’s (Redwood) advertising and marketing of two products, dissolvable oral strips called TBX-FREE and Eupepsia Thin (FTC File No. 1723117).

2. I previously executed a declaration in support of the FTC’s Petition for an Order Enforcing Civil Investigative Demand. *See* ECF #1-1. That declaration reviewed the chronology of the FTC’s interactions with Redwood and its counsel, Tracy Green, leading up to the filing of that Petition.

3. I am authorized to execute this second declaration verifying the facts that are set forth in the Federal Trade Commission’s Application for an Order to Show Cause Why Redwood Scientific Technologies, Inc. Should Not Be Held in

FTC Application, Exhibit 1

1 Contempt. I have read the Application and exhibits thereto (hereinafter referred to  
2 as Contempt. Exs.), and verify that Contempt Ex. 2 through Ex. 6 are true and  
3 correct copies of the original documents. The facts set forth herein are based on  
4 my personal knowledge or information made known to me in the course of my  
5 official duties.

6 4. On August 3, 2017, the Commission issued a Civil Investigative  
7 Demand (CID) to Redwood. ECF #1-1, ¶¶ 7-8; ECF #1-2. The CID required  
8 Redwood to respond to 22 interrogatories and 16 document requests on or before  
9 September 6, 2017. ECF #1-1, ¶ 8; ECF #1-2 at 20-28.<sup>1</sup>

10 5. Although the Commission's Rules of Practice allow a CID recipient to  
11 file a petition to limit or quash a CID, *see* 16 C.F.R. § 2.10, Redwood did not file  
12 such a petition.

13 6. Redwood did not produce any documents or information in response  
14 to the CID by the September 6 deadline.

15 7. On October 30, 2017, the Commission filed its Petition for Order  
16 Enforcing Civil Investigative Demand in the U.S. District Court for the Central  
17 District of California. ECF #1.

18 8. On January 16, 2018, the Court issued the Order to Show Cause why  
19 the Court should not grant the Commission's Petition. ECF #12. On January 17,  
20 2018, FTC staff served the Order, along with the Petition and supporting exhibits  
21 and memorandum of law, on Redwood's counsel, Tracy Green. ECF #13.

22 9. On January 23, 2018, Ms. Green emailed FTC staff, stating, "I have  
23 spoken to my client and Redwood is willing to reach stipulations on the production  
24 for an order that the Judge can sign." Contempt Ex. 2 at 13.

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<sup>1</sup> Citation to page numbers are to numbers that appear in page footers.

1           10. On January 24, 2018, with Redwood’s consent, the Commission filed  
2 a joint Stipulation for Entry of Order Compelling Compliance with Civil  
3 Investigative Demand and Vacating Hearing. ECF #16.

4           11. On January 25, 2018, the Court issued the Order Compelling  
5 Compliance with Civil Investigative Demand and Vacating Hearing, requiring  
6 Redwood to “comply in full” with the FTC’s CID “on or before Friday, February  
7 9, 2018.” ECF #17 at 1. The same day, FTC staff emailed the Order to Ms. Green.  
8 Contempt Ex. 3.

9           12. On February 9, 2018, the last day for full compliance with the CID  
10 under the Order Compelling Compliance, Commission staff emailed Ms. Green,  
11 reminding her that she should submit Redwood’s production to FTC staff  
12 consistent with the instructions in the CID. Contempt Ex. 4.

13           13. Staff did not receive any documents or information from Ms. Green or  
14 Redwood by the February 9 deadline.

15           14. On February 13, 2018, Commission staff emailed Ms. Green to  
16 confirm that Redwood did not produce any documents or information in response  
17 to the CID. Staff asked Ms. Green to send a tracking number if production had in  
18 fact been made. Contempt Ex. 5 at 20-21.

19           15. Ms. Green responded, “I have a FedEx tracking number. I am still at  
20 home and will send it to you when I get into the office.” *Id.* at 20.

21           16. FTC staff emailed Ms. Green again and requested that she provide the  
22 FedEx tracking number. *Id.* Ms. Green did not respond.

23           17. On February 21, 2018, Commission staff again emailed Ms. Green to  
24 state that the FTC had not received either a FedEx tracking number or the required  
25 materials. Staff further advised Ms. Green that the FTC would address this  
26 noncompliance in the status report due to the court on February 26. Contempt Ex.  
27 6 at 22. Staff did not receive a response to this email.

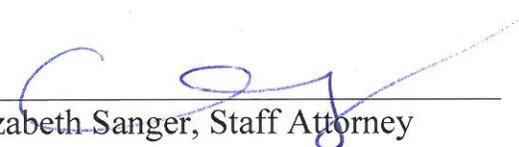
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18. To date, Redwood has not produced any documents or information in response to the CID, either by FedEx or any other delivery means. Nor did Redwood timely file any legal objections or otherwise provide any other reason for its failure to comply.

19. Redwood's non-compliance with the CID continues to burden, delay, and impede the Commission's investigation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 5, 2018

  
\_\_\_\_\_  
Elizabeth Sanger, Staff Attorney  
Division of Advertising Practices  
Bureau of Consumer Protection  
Federal Trade Commission

Contempt Exhibit 2:

Email from Tracy Green to Burke Kappler

(January 23, 2018)

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**From:** Tracy Green <tgreen@greenassoc.com>  
**Sent:** Tuesday, January 23, 2018 1:38 PM  
**To:** Kappler, Burke; Julie Woodhead  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** RE: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

There is no objection. In addition, I have spoken to my client and Redwood is willing to reach stipulations on the production for an order that the Judge can sign.

Let me know when you can discuss the matter.

Tracy Green, Esq.  
**GREEN & ASSOCIATES | Attorneys at Law**  
800 West Sixth Street, Suite 450  
Los Angeles, California 90017  
Email: [tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)  
Office: 213-233-2260  
Facsimile: (213) 477-2260

Direct Dial: 213-233-2261  
Mobile: 310-710-6434

Website: <http://www.greenassoc.com>

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---

**From:** Kappler, Burke [mailto:[bkappler@ftc.gov](mailto:bkappler@ftc.gov)]  
**Sent:** Monday, January 22, 2018 7:20 AM  
**To:** Tracy Green; Julie Woodhead  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** RE: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

Tracy –

As you probably know, the federal government has shut down because our appropriations have expired. As a result, I am not permitted to work on this matter until appropriations are restored and I will be filing a motion with the court this morning to stay this matter until such time. I am writing to see if you would object to this motion. Please let me know ASAP. Thank you.

Burke Kappler

**Burke W. Kappler**

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580  
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

---

**From:** Tracy Green [<mailto:tgreen@greenassoc.com>]

**Sent:** Thursday, January 18, 2018 1:05 PM

**To:** Kappler, Burke

**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy; Julie Woodhead

**Subject:** RE: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

Thanks, got it.

Can you copy my paralegal Julie Woodhead as well? I've copied her on this email.

Tracy Green, Esq.

**GREEN & ASSOCIATES | Attorneys at Law**

800 West Sixth Street, Suite 450

Los Angeles, California 90017

Email: [tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)

Office: 213-233-2260

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Direct Dial: 213-233-2261

Mobile: 310-710-6434

Website: <http://www.greenassoc.com>

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**From:** Kappler, Burke [<mailto:bkappler@ftc.gov>]

**Sent:** Thursday, January 18, 2018 8:58 AM

**To:** Tracy Green

**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy

**Subject:** RE: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

Tracy –

Please see the attached Proof of Service and Notice of Electronic Filing. This Proof of Service was just filed today. I will also be sending you a hard copy by first class mail. Thank you.

Burke Kappler

**Burke W. Kappler**

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580  
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

---

**From:** Tracy Green [<mailto:tgreen@greenassoc.com>]

**Sent:** Thursday, January 18, 2018 9:19 AM

**To:** Kappler, Burke  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** Re: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

Thank you.

Yours truly,

Tracy Green  
Sent from my iPhone  
Please excuse brevity & autocorrect typos

Tracy Green  
Green & Associates, Attorneys at Law  
800 West Sixth Street, Suite 450  
Los Angeles, California 90017  
[tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)  
Office: 213-233-2260  
Direct Dial: 213-233-2261  
Fax: 213.477.2260  
Mobile: 310-710-6434

On Jan 17, 2018, at 08:58, Kappler, Burke <[bkappler@ftc.gov](mailto:bkappler@ftc.gov)> wrote:

Dear Ms. Green:

I am writing to inform you that Judge Otero has signed our proposed order to show cause, setting a hearing for Monday, January 29, and setting briefing deadlines of January 19 and January 23. Per the order and your consent, I am serving you with electronic copies of that order, along with our petition and supporting exhibits and memorandum of law, and Judge Otero's standing order. I will also send you hard copies of these by FedEx overnight delivery. Please let me know if you have any questions. Thank you.

Burke Kappler

**Burke W. Kappler**

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580  
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

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**From:** Tracy Green [<mailto:tgreen@greenassoc.com>]  
**Sent:** Tuesday, October 31, 2017 2:47 PM  
**To:** Kappler, Burke  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** Re: FTC v. Redwood Scientific Technologies, Inc., 2:17-cv-7921

Dear Burke-

Sorry for the first name (I didn't want to assume gender ... I get Mr. Tracy Green sometimes).

I am out of the office today (I had a horrible flu virus the last 2 weeks) but will accept service. Let me respond more fully when I can call you from my desk.

Yours truly,

Tracy Green  
Sent from my iPhone  
Please excuse brevity & autocorrect typos

Tracy Green  
Green & Associates, Attorneys at Law  
800 West Sixth Street, Suite 450  
Los Angeles, California 90017  
[tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)  
Office: 213-233-2260  
Direct Dial: 213-233-2261  
Fax: 213.477.2260  
Mobile: 310-710-6434

On Oct 31, 2017, at 06:55, Kappler, Burke <[bkappler@ftc.gov](mailto:bkappler@ftc.gov)> wrote:

Dear Ms. Green:

My name is Burke Kappler and I am an attorney with the Office of General Counsel for the Federal Trade Commission in Washington, D.C. I am writing to inform you that on October 30, 2017, the FTC commenced a proceeding in the United States District Court for the Central District of California to enforce the civil investigative demand issued to Redwood Scientific Technologies on August 3, 2017. The FTC filed a petition and related documents along with a proposed order to show cause. I am counsel for the agency in this case and we are presently awaiting the assignment of a judge and the signing of that order. Once the order is signed, we will serve that order and the pleadings on Redwood. Do you agree to accept service on behalf of the company? Please let me know and please contact me if you have any questions. Thank you.

Sincerely,

Burke Kappler

**Burke W. Kappler**  
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20580  
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

<01\_Petition.pdf>  
<01-1\_PetEx1 (Dec of E.Sanger).pdf>  
<01-2\_PetEx2 (CID).pdf>  
<01-3\_PetEx3 (FedEx Confirmation).pdf>  
<01-4\_PetEx4 (Correspondence).pdf>  
<02\_Memo of Ps&As.pdf>  
<10\_Otero Standing Order.pdf>  
<12\_Order to Show Cause.pdf>



**From:** [Kappler, Burke](#)  
**To:** [tgreen@greenassoc.com](mailto:tgreen@greenassoc.com); [Sanger, Elizabeth](#); [Modell, Shira D.](#); [Melman, Leslie R.](#); [Procter, Stacy](#)  
**Subject:** FW: Activity in Case 2:17-cv-07921-SJO-PLA Federal Trade Commission v. Redwood Scientific Technologies Order on Motion to Stay Case  
**Date:** Thursday, January 25, 2018 2:56:09 PM  
**Attachments:** [17 Order Compelling Compliance and Vacating Hg.pdf](#)

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For everyone's records, here is the signed order establishing the compliance deadline, vacating the hearing, and setting the status report date. Thanks,

Burke

**Burke W. Kappler**

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T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

**From:** [cacd\\_ecfmail@caed.uscourts.gov](mailto:cacd_ecfmail@caed.uscourts.gov) [mailto:[cacd\\_ecfmail@caed.uscourts.gov](mailto:cacd_ecfmail@caed.uscourts.gov)]  
**Sent:** Thursday, January 25, 2018 2:43 PM  
**To:** [ecfnef@caed.uscourts.gov](mailto:ecfnef@caed.uscourts.gov)  
**Subject:** Activity in Case 2:17-cv-07921-SJO-PLA Federal Trade Commission v. Redwood Scientific Technologies Order on Motion to Stay Case

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**Notice of Electronic Filing**

The following transaction was entered on 1/25/2018 at 11:43 AM PST and filed on 1/25/2018  
**Case Name:** Federal Trade Commission v. Redwood Scientific Technologies  
**Case Number:** [2:17-cv-07921-SJO-PLA](#)  
**Filer:**  
**Document Number:** [17](#)

**Docket Text:**

**ORDER COMPELLING COMPLIANCE WITH CIVIL INVESTIGATIVE DEMAND AND VACATING HEARING [16] by Judge S. James Otero: Respondent shall comply in full with the Civil Investigative Demand (CID) issued by the Federal Trade Commission on August 3, 2017, and produce the information, documents, and tangible items responsive to the CID on or before Friday, February 9, 2018. This stipulation nullifies the purpose and need for the**

January 29, 2018, hearing scheduled pursuant to the Order to Show Cause issued by the Court on January 16, 2018; and the show cause hearing scheduled for January 29, 2018 be vacated. Additionally, the Court that the Motion to Stay [14] off its calendar as the FTC has withdrawn said motion. The parties shall file a status report by Monday, February 26, 2018. (lc)

**2:17-cv-07921-SJO-PLA Notice has been electronically mailed to:**

Burke W Kappler [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

Stacy Rene Procter [bkappler@ftc.gov](mailto:bkappler@ftc.gov), [sprocter@ftc.gov](mailto:sprocter@ftc.gov)

**2:17-cv-07921-SJO-PLA Notice has been delivered by First Class U. S. Mail or by other means BY THE FILER to :**



**From:** [Kappler, Burke](#)  
**To:** [tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)  
**Cc:** [Modell, Shira D.](#); [Sanger, Elizabeth](#); [Procter, Stacy](#)  
**Subject:** FTC v. Redwood Scientific Technologies, 2:17-cv-07921-SJO-PLA  
**Date:** Friday, February 09, 2018 12:06:21 PM

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Tracy –

Following up on our stipulated order and our discussions two weeks ago, I just wanted to remind you that you should make production to Shira Modell and Elizabeth Sanger in our Division of Advertising Practices consistent with the instructions in the CID. Please don't send anything to me – I would just forward to Shira and Liz anyway. That said, if you have any questions about those instructions, please let me know. Thanks very much,

Burke Kappler

**Burke W. Kappler**

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**From:** [Kappler, Burke](#)  
**To:** [Tracy Green](#)  
**Cc:** [Modell, Shira D.](#); [Sanger, Elizabeth](#); [Melman, Leslie R.](#); [Procter, Stacy](#)  
**Subject:** RE: FTC v. Redwood Scientific Technologies  
**Date:** Tuesday, February 13, 2018 2:16:52 PM

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Tracy –

Can you please provide that FedEx tracking number? Thanks,

Burke

**Burke W. Kappler**

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T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | [bkappler@ftc.gov](mailto:bkappler@ftc.gov)

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**From:** Tracy Green [<mailto:tgreen@greenassoc.com>]  
**Sent:** Tuesday, February 13, 2018 11:03 AM  
**To:** Kappler, Burke  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** Re: FTC v. Redwood Scientific Technologies

Dear Burke –

I have a FedEx tracking number. I am still at home and will send it to you when I get into the office.

Thanks, Tracy

Tracy Green  
Sent from my iPhone  
Please excuse brevity & autocorrect typos

Tracy Green  
Green & Associates, Attorneys at Law  
800 West Sixth Street, Suite 450  
Los Angeles, California 90017  
[tgreen@greenassoc.com](mailto:tgreen@greenassoc.com)  
Office: 213-233-2260  
Direct Dial: 213-233-2261  
Fax: 213.477.2260  
Mobile: 310-710-6434

On Feb 13, 2018, at 07:44, Kappler, Burke <[bkappler@ftc.gov](mailto:bkappler@ftc.gov)> wrote:

Tracy –

I'm writing to confirm that Redwood did not produce any documents or information pursuant to the terms of the Stipulated Order. We've been waiting for a delivery here

but have not seen anything arrive. If you have made production and have a tracking number, please let us know. Otherwise, we'll have to evaluate our options for next steps.

Burke Kappler

**Burke W. Kappler**

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**From:** [Kappler, Burke](#)  
**To:** [Tracy Green](#)  
**Cc:** [Modell, Shira D.](#); [Sanger, Elizabeth](#); [Melman, Leslie R.](#); [Procter, Stacy](#)  
**Subject:** RE: FTC v. Redwood Scientific Technologies  
**Date:** Wednesday, February 21, 2018 12:36:37 PM

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Tracy –

I'm writing to follow up on my message and to express our position. It is more than a week since the February 9, 2018, deadline that the court imposed based on our stipulation. To date, I have not received any FedEx tracking number from you. More importantly, our staff has not received any information from Redwood, either by FedEx or any other delivery means.

Redwood's position is deeply perplexing to us. As you recall, you and I spoke on January 23, 2018 to discuss the stipulation – a stipulation that you proposed. At the time, we walked through each specification of the CID. You represented to me that you had a number of materials in hand and ready to produce, including samples of the products at issue, and that you were simply doublechecking with the company to ensure that you could make a complete production by the agreed deadline. Redwood's failure to produce any information thus appears to call into question not only your representations to me but the basis for your stipulation to the court regarding Redwood's willingness to comply with the court's order.

Accordingly, we are evaluating our options concerning obtaining further relief from the court and will advise the court of Redwood's failure to comply with the stipulated order in the status report we will be filing on Monday.

Sincerely,

Burke Kappler

**Burke W. Kappler**

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**From:** Kappler, Burke  
**Sent:** Tuesday, February 13, 2018 2:17 PM  
**To:** 'Tracy Green'  
**Cc:** Modell, Shira D.; Sanger, Elizabeth; Melman, Leslie R.; Procter, Stacy  
**Subject:** RE: FTC v. Redwood Scientific Technologies

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