

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:20-cv-02017

CARRICK-HARVEST, LLC d/b/a VERITAS FINE CANNABIS,
a Colorado limited liability company,

Plaintiff,

v.

VERITAS FARMS, INC., a Nevada corporation;
271 LAKE DAVIS HOLDINGS, LLC d/b/a VERITAS FARMS,
a Delaware limited liability company,

Defendants.

**MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER FEDERAL
RULE OF CIVIL PROCEDURE 12**

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I. INTRODUCTION

This is an intellectual property dispute based on Plaintiff's Carrick-Harvest, LLC d/b/a Veritas Fine Cannabis's (hereinafter "Plaintiff") alleged rights in two unregistered common law trademarks. Plaintiff has attempted to bring claims against Vertias Farms, Inc. and 271 Lake Davis Holdings d/b/a Veritas Farms (together "Defendants") for trademark infringement under the Lanham Act (Count I), false designation of origin and unfair competition under the Lanham Act (Count II), violation of the Anti-Cybersquatting Consumer Protection Act (Count III), common law unfair competition (Count IV), and a declaratory judgement of superior trademark rights (Count V). Dkt. No. 2, Complaint at ¶¶ 34-63 (hereinafter "Complaint"). However, Plaintiff has not pled sufficient facts for several elements of these claims. In addition, Plaintiff has pled itself out of court by including facts showing that the Plaintiff does not possess the claimed common law trademarks. Accordingly, under Fed. R. Civ. P. 12(b)(6), Plaintiff's Complaint should be dismissed in its entirety for failure to state a claim upon which relief can be granted.

II. BACKGROUND

Plaintiff is a recreational cannabis wholesaler with a principle place of business in Denver, Colorado that sells marijuana and marijuana-related products through dispensaries located in the State of Colorado.¹ Defendants understand that Plaintiff's marijuana products are controlled substances under the Title 21 United States Code Controlled Substances Act. As such, Plaintiff's products are not sold or offered for sale outside the State of Colorado, are not used in interstate commerce, and are not available for sale on Plaintiff's website

¹ See www.veritascannabis.com.

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