

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

Civil Action No. 1:20-cv-02017-RM

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 AMENDED COMPLAINT 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 Veritas 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. 25, First Amended Complaint at ¶¶ 36-66 (hereinafter "Amended Complaint"). Plaintiff filed its initial Complaint on July 10, 2020. Dkt. No. 1. Defendants filed a Rule 12(b)(6) motion to dismiss the initial Complaint for failure to state a claim on August 24, 2020. Dkt. No. 14.

Instead of responding to the substantive arguments in Defendants' motion, Plaintiff served its Amended Complaint on October 1, 2020. Dkt. No. 25. Plaintiff's Amended Complaint, however, does not plead facts for several elements of the claims alleged by Plaintiff. In addition, Plaintiff's Amended Complaint pleads Plaintiffs 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 Amended Complaint should be dismissed in its entirety for failure to state a claim upon which relief can be granted. Additionally, the Court should dismiss Plaintiff's Amended Complaint with prejudice because it is clear from Plaintiff's failure to state a claim in its Amended Complaint that any additional amendments would be futile.

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