

EXHIBIT A

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF MONTGOMERY

DR. MARK E. VAN DYKE)

Plaintiff,)

v.)

WAKE FOREST UNIVERSITY)

HEALTH SCIENCES)

Serve: J. Reid Morgan)

Wake Forest University)

Medical Center Boulevard)

Winston Salem, NC 27157)

KERANETICS, LLC)

Serve: Capitol Services, Inc.)

1675 S. State St. Suite B)

Dover, DE 19901)

VIRTUE LABS, LLC)

Serve: Melisse Shaban)

Registered Agent)

19 W. Hargett Street, Suite 501)

Raleigh, NC 27601)

LUKE BURNETT)

Serve: 3526 North Lakeshore Drive)

Clemmons, NC 27012)

KIM WESTMORELAND)

Serve: 4240 Allistair Road)

Winston Salem, NC 27104)

CHARLES W. "TODD" JOHNSON)

Serve: 7429 Morrocroft Farm Lane)

Charlotte, NC 28211)

Defendants.)

Case No. _____

THE CREEKMORE
LAW FIRM PC

COMPLAINT

Dr. Mark E. Van Dyke brings this Complaint for breaches of contract and fiduciary duties, misappropriation of trade secrets, conversion, unjust enrichment, and business conspiracy, stating as follows:

PARTIES

1. Plaintiff Dr. Mark E. Van Dyke, PhD, is an individual residing in the County of Montgomery, Virginia, who is an Associate Professor of Biomedical Engineering at Virginia Polytechnic Institute and State University (“Virginia Tech”) in Blacksburg, Virginia.

2. Defendant Wake Forest University Health Sciences (“WFU”) is a private non-profit medical research and clinical health services organization with its principal place of business in Winston Salem, North Carolina.

3. Defendant KeraNetics, LLC (“KeraNetics”) is a Delaware limited liability company with its principal place of business in Winston Salem, North Carolina.

4. Defendant Virtue Labs, LLC (“Virtue Labs”) is a Delaware limited liability company with its principal place of business in Raleigh, North Carolina.

5. Defendant Luke Burnett (“Burnett”) is a natural person, citizen and resident of North Carolina, who has acted at various times for and on behalf of KeraNetics, Virtue Labs and/or in or for his individual, personal interests.

6. Defendant Kim Westmoreland (“Westmoreland”) is a natural person, citizen and resident of North Carolina, who has acted at various times for and on behalf of KeraNetics, Virtue Labs and/or in or for his individual, personal interests.

7. Defendant Charles W. “Todd” Johnson (“Johnson”) is a natural person, citizen and resident of North Carolina, who has acted at various times for and on behalf of KeraNetics, Virtue Labs and/or in or for his individual, personal interests.

JURISDICTION AND VENUE

8. This court has jurisdiction over this dispute pursuant to Va. Code Ann. §§ 8.01-184, -328.1, and -328.3, and 17.1-513.

9. Venue is proper in this Court pursuant to Va. Code Ann. §§ 8.01-262(4).

FACTS

10. Dr. Van Dyke is one of the world’s leading researchers in the field of keratins, the proteins that make up wool, hair and fingernails. Dr. Van Dyke has been performing research on keratin for more than twenty years. In that time, Dr. Van Dyke has acquired and/or developed extensive knowledge, information, know-how, trade secrets and other intellectual property related to the production and manufacture of keratins and keratin biomaterials; the development of products made from keratins and keratin biomaterials; and their applications in numerous markets, particularly healthcare, personal care products and cosmetics.

11. Dr. Van Dyke is the sole or primary inventor on thirty-eight granted United States patents and twenty-four United States patents pending, as well as more than eighty international patents and patents pending, most in the field of keratin research and development. He has published more than eighty papers in peer-reviewed scientific journals, has published four book chapters, and edited four books, most in the field of keratin research and development. He has graduated more than ten PhD students in keratin-related studies.

12. In 2004, after more than six years performing research on keratins and keratin-based biomaterials at Southwest Research Institute in San Antonio, Texas, Dr. Van Dyke

moved his keratin biomaterials research program to the Wake Forest University School of Medicine in Winston Salem, North Carolina, a part of Wake Forest University Health Sciences (collectively, these entities are referred to herein as “WFU”). **Exhibit 1**. There he joined the faculty as a founding member of the Wake Forest Institute for Regenerative Medicine.

13. With his offer letter, Dr. Van Dyke was presented with a WFU Organization and Policies Handbook (“Handbook”), which described the duties and obligations of WFU and Dr. Van Dyke to each other. **Exhibit 2**.

14. The Handbook includes an “Inventions and Patent Policy” (**Exhibit 2** at IV-62) that identifies the undertaking by WFU as being designed to reward the developers of inventions (**Exhibit 2** at IV-62, Section 1.a), with specific mention of WFU’s sale and licensing of inventions being designed to provide “maximum return to the University and the inventors.” (**Exhibit 2** at IV-64, Section 3.d.(3).) The Handbook further provides, in exchange for this undertaking, that all “Inventions,” (*Id.* at ¶2) developed by faculty within the faculty’s normal field of employment become “the property of the University.” **Exhibit 2** at IV-64-65, ¶4.

15. Prior to Dr. Van Dyke’s employment by WFU, WFU did not engage in, nor did it employ any individual that had prior experience in, keratin biomaterials. As of Dr. Van Dyke’s employment, WFU did not have prior or existing keratin-based inventions, know-how, trade secrets or intellectual property – including patents or license agreements.

16. During Dr. Van Dyke’s tenure at WFU from 2004 through 2012, he was the only scientist or faculty member at WFU with expertise in keratins and keratin biomaterials. He was responsible, in whole or in substantial part, for all keratin-related inventions, know-how, trade secrets and intellectual property that was developed at WFU while he was there. In

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