

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

STANLEY F. FROMPOVICZ,
Plaintiff,

CIVIL ACTION

v.

**NIAGARA BOTTLING, LLC, ICE RIVER
SPRINGS WATER CO, INC.,
CROSSROADS BEVERAGE GROUP AND
JAMES J. LAND, JR.,**
Defendants.

NO. 18-54

ORDER

AND NOW, this 24th day of May, 2018, upon consideration of Defendants Ice River Springs Water Co, Inc. (“Ice River”), Crossroads Beverage Group (“Crossroads”), and James J. Land Jr.’s (“Land”) Motion to Dismiss (ECF No. 4), Plaintiff’s Response in Opposition thereto (ECF No. 17), the Reply in Further Support thereof (ECF No. 18), and the Letter with additional authority (ECF No. 24), as well as Defendant Niagara Bottling, LLC’s (“Niagara”) Motion to Dismiss (ECF No. 11), Plaintiff’s Response in Opposition thereto (ECF No. 17), the Reply in Further Support thereof (ECF No. 19), a Letter with additional authority (ECF No. 22), Plaintiff’s reply to additional authority (ECF No. 23), and following Oral Argument on the Motions, **IT IS HEREBY ORDERED** as follows:

- (1) Defendants Ice River, Crossroads, and Land’s Motion to Dismiss (ECF No. 4) is **GRANTED IN PART AND DENIED IN PART**.
 - a. Defendant’s Motion to Dismiss Count One (Lanham Act) is **GRANTED IN PART AND DENIED IN PART**. Count One is dismissed against Defendants Ice River and Crossroads **WITHOUT PREJUDICE**. Defendants’ Motion to Dismiss Count One against Defendant Land is **DENIED**.
 - b. Defendants’ Motion to Dismiss Plaintiff’s claim for injunctive relief is **GRANTED**. Plaintiff’s request for injunctive relief is **DISMISSED WITHOUT**

PREJUDICE.

- c. Defendants Ice River, Crossroads, and Land's Motion to Dismiss Count Two (unfair competition) is **GRANTED IN PART AND DENIED IN PART**. Count Two is dismissed against Defendants Ice River and Crossroads **WITHOUT PREJUDICE**. Defendants' Motion to Dismiss Count Two against Defendant Land is **DENIED**.
- (2) Defendant Niagara's Motion to Dismiss (ECF No. 11) is **GRANTED**.
- a. Count One (Lanham Act) is **DISMISSED WITHOUT PREJUDICE** against Niagara.
 - b. Count Two (unfair competition) is **DISMISSED WITHOUT PREJUDICE** against Niagara.

BY THE COURT:

/S/WENDY BEETLESTONE, J.

WENDY BEETLESTONE, J.