

## **Trials Group Of The Year: Hueston Hennigan**

By **Cara Salvatore**

*Law360 (January 30, 2023, 2:02 PM EST)* -- Trial boutique Hueston Hennigan LLP had a big 2022 with two eye-popping wins for Monster Energy against a rival that then declared bankruptcy, and another win for a vineyard in an arbitration, making it one of Law360's 2022 Trial Groups of the Year.

The roughly 80-lawyer boutique, founded by John Hueston, is opening an office in New York to complement its two in Southern California and shows no sign of slowing down.

"From the very founding of our firm, our philosophy has been we will always hire every talented person that we can," said Moez Kaba, the firm's new managing partner.

In September, a California federal jury awarded Monster Energy Co. nearly \$293 million after finding Vital Pharmaceuticals Inc. and its CEO falsely advertised a "super creatine" ingredient in the Bang energy drink. The nine-person jury also found that Vital — which does business as VPX — and its CEO Jack Owoc acted willfully and deliberately in violating the federal Lanham Act by falsely advertising the health benefits of Bang.

VPX then filed for bankruptcy.

The California jury also ruled in Monster's favor on several state law claims. The jury cleared Owoc of any liability on the contract claim, and he was not a defendant with respect to the trade secrets claim.

VPX went from an obscure company facing financial ruin in 2015 to the No. 3 energy drink company in the United States within a few years, but Monster convinced the jury that VPX's meteoric rise was due largely to the false advertising of super creatine.

Owoc is the founder, CEO and sole owner of VPX, and much of the trial focused on his social media statements about the wonders of super creatine, which included his saying it can help people suffering from Parkinson's disease and Alzheimer's disease.

Computer programmer Brent Tuominen, the jury's foreperson, told Law360 that none of the jurors felt that super creatine was the equivalent of creatine. "The first question is: Is super creatine, or creatyl-L-Leucine — see, I can rattle these things off now — is it creatine?" Tuominen told Law360. "There was not anybody in the room at any point that said 'yes'."



It was Monster's second nine-figure court win over Vital Pharmaceuticals this year under Hueston Hennigan's guidance. In April, Monster and a small family-owned business called Orange Bang Inc. scored a \$175 million trademark win in arbitration against VPX that also requires the company to pay \$9.3 million in attorney fees.

Vital Pharmaceuticals must pay \$175 million to disgorge the profits it made off the back of the Bang mark after it breached a years-old deal with Orange Bang, in which it agreed to use the mark only in relation to creatine-based sports beverages, according to a 25-page motion to confirm the arbitration award.

Hueston Hennigan also won an arbitration for investors in a vineyard that claimed their business partner, part of a storied Napa Valley wine family, had "bamboozled" them and was misappropriating revenue for his own uses. An arbitrator awarded \$6 million and had the defendant "dissociated" from the vineyard, an "extraordinary remedy," according to Hueston. During the two-week hearing, witnesses were put on live, but remotely from the courtroom that the firm has built in its office.

The firm also successfully defended Endo Pharmaceuticals in opioid litigation in California.

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