

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

**STATE OF IOWA** ex rel.  
THOMAS J. MILLER,  
ATTORNEY GENERAL OF IOWA,

Plaintiff,

v.

**NEXT LEVEL WEIGHT LOSS OF DES  
MOINES LLC dba NUTRIMOST OF DES  
MOINES and  
EMMETT BLAHNIK,**

Defendants.

**EQUITY No. EQCE 084314**

**CONSENT JUDGMENT**

The Court, having been presented by Assistant Attorney General Amy Licht with this Consent Judgment, finds and orders as follows:

1. This Consent Judgment, which has been approved by both Defendants and their attorney, is intended to resolve this litigation pursuant to Iowa Code § 714.16, the Iowa Consumer Fraud Act (CFA) and Iowa Code 714.16A, the Older Iowans Act (OIA).
2. For purposes of entry of this Consent Judgment, the above-captioned Defendants agree that any and all service or notice requirements relating to this Consent Judgment may be fully met through Plaintiff's prompt emailing of a file-stamped copy of this document to Defendants' counsel.
3. The Court has jurisdiction of the parties and subject matter.
4. The Defendants deny that they, or (as applicable) their agents, owners, officers, directors or employees are legally responsible for any conduct in violation of any statutory or common law and this Consent Judgment is not an admission of liability by those individuals or entities. Defendants state that Emmett Blahnik was at no time acting as a

licensed chiropractor when engaged in the conduct that is the subject of this Consent Judgment. The Consumer Protection Division of the Attorney General's office takes no position as to whether Emmett Blahnik was acting as a licensed chiropractor when engaged in the conduct that is the subject of this Consent Judgment.

5. Defendants Next Level Weight Loss dba NutriMost of Des Moines and Emmett Blahnik operated as a franchisee of NutriMost Doctors LLC, owned by Dr. Ray Wisniewski.
6. The Court finds that this Consent Judgment should be entered.

**IT IS THEREFORE ORDERED**, pursuant to Iowa R. Civ. P. 1.1501 *et. seq.*, the CFA and the OIA, that Defendants, and (as applicable), their directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, parent or controlling entities (hereinafter "Defendants *et. al.*"), and all other persons, corporations, and other entities acting in concert or participating with one or more Defendants who have actual or constructive notice of the Court's injunction, are permanently restrained and enjoined from violating the CFA, and, without limiting the foregoing: (A) Defendants shall cease advertising, marketing, sale and distribution of the NutriMost System to Iowa residents and (B) Defendants shall not directly or indirectly in connection with the advertising or sale of any weight-loss or health-related program or product that occurs in Iowa, make any representation, expressly or by implication, about the efficacy or benefits of the program or product unless competent and reliable scientific evidence substantiates the claim at the time it is made. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Notwithstanding the foregoing, Defendants *et.*

al. shall not be liable for the actions or inactions of NutriMost, LLC, NutriMost Doctors, LLC, Raymond Wisniewski or any other NutriMost franchisor.

**IT IS FURTHER ORDERED** that Defendants pay \$50,000 to the Attorney General, provided however that \$20,000 of the judgment amount shall be suspended for the reasons and subject to the conditions listed below. Further, the remaining \$30,000 shall be paid in accordance with a payment plan described below in Paragraphs (A) – (D), to be applied by the Attorney General’s office in its discretion to making full or partial refunds to Iowa consumers of amounts paid to Defendants for the NutriMost System, with the proviso that, to the extent any of this sum remains after reasonable efforts to effect refunds, the money that is not paid to consumers shall be deposited into the investigation and litigation fund created by Iowa Code § 714.16A. Defendants have represented to the Attorney General that they do not have the financial ability to pay the judgment in full and the Attorney General has agreed to a suspend part of the judgment and accept a payment plan commensurate with their represented financial condition in reliance on the Defendants’ representations. The Attorney General reserves the right to demand a different repayment schedule and/or payment of the entire judgment amount (including the currently suspended portion) should credible evidence surface that Defendants misrepresented their financial status or have subsequently improved their financial situation.

A. At this time, Defendants shall pay the judgment as follows:

- i. Defendants shall make an initial payment of \$5,000 with ten (10) days of the entry of this Consent Judgment.
- ii. Defendants shall make 20 payments of \$1,200 per month, beginning on April 1, 2019 and ending on November 1, 2020, and make 1 payment of \$1,000 on December 1, 2020.

B. All payments shall be delivered to:

Marc Wallin, Investigator  
Iowa Department of Justice  
Consumer Protection Division  
1305 East Walnut Street, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

C. The Attorney General may claim interest at the rate of 10% per annum on any payments not received by the Consumer Protection Division by the tenth (10<sup>th</sup>) day of the month in which that payment is due. The provisions of this Consent Judgment do not preclude Defendants from paying this Judgment in advance of this payment schedule if Defendants so choose.

D. Should Defendants fail to make full payment on any two months within any 12-month period, whether nonconsecutive or otherwise, the Attorney General may cancel the payment plan and collect the full judgment.

**IT IS FURTHER ORDERED** that nothing herein diminishes the requirements, duties, obligations, or powers set forth in the Consumer Fraud Act.

**IT IS FURTHER ORDERED** that Defendants cooperate with reasonable requests from the Attorney General's office for information relating to the conduct that gave rise to this Consent Judgment, and/or relating to Defendants' compliance with the Consent Judgment.

**IT IS FURTHER ORDERED** that the Attorney General's execution of this Consent Judgment and its subsequent entry by the Court constitutes a release of Defendants from any and all liability for conduct in violation of the CFA or OIA that (i) occurred prior to entry of this Consent Judgment and (ii) would violate one or more injunctive provisions herein if such conduct had occurred after entry of the Consent Judgment.

**IT IS FURTHER ORDERED** that the Court retain jurisdiction to enforce this Consent Judgment.

**IT IS FURTHER ORDERED** that the Defendants pay court costs, if any.

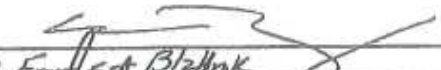
**SO ORDERED.**

Approved:

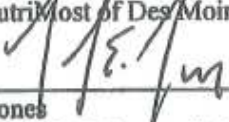
Date: 03/12/19

  
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Emmett Blahnik


Date: 03/12/19

  
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Name: Emmett Blahnik  
For Next Level Weight Loss of Des Moines, LLC  
dba NutriMost of Des Moines

Date: 3/27/19

  
\_\_\_\_\_  
Sam Jones  
Shuttleworth & Ingersoll, PLC  
Counsel for Defendants

Date: 3/27/19

  
\_\_\_\_\_  
Amy Licht  
Assistant Attorney General



State of Iowa Courts

**Type:** ORDER FOR CONSENT DECREE

**Case Number**      **Case Title**  
EQCE084314      STATE OF IOWA VS NEXT LEVEL WEIGHT LOSS ET AL

So Ordered

A handwritten signature in cursive script that reads "Robert B. Hanson". The signature is written in black ink and is positioned above a horizontal line.

**Robert B. Hanson, District Court Judge,  
Fifth Judicial District of Iowa**