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4 THE FOUNDATION FOR TAXPAYER  
5 AND CONSUMER RIGHTS  
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7 Santa Monica, California 90405-4938  
8 (310) 392-0522  
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ORIGINAL FILED  
MAR 30 2001  
SUPERIOR COURT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF LOS ANGELES

11 THE FOUNDATION FOR TAXPAYER  
12 AND CONSUMER RIGHTS,

13 Plaintiff,

14 vs.

15 FAXERTISE; PETER POLLARD,  
16 individually and as a principal of FAXERTISE;  
17 SCHATZI ON MAIN; TEMMEL  
18 CORPORATION; AKBAR CUISINE OF  
19 INDIA; KHANABAZAARI, INC.; ROSTI;  
20 FAMIGLIA TOSCANA, INC.; THE DANCE  
21 DOCTOR; JOHN CASSESE THE DANCE  
22 DOCTOR PRODUCTIONS; JOHN CASSESE,  
23 individually and as a principal of JOHN  
24 CASSESE THE DANCE DOCTOR  
25 PRODUCTIONS; and DOES 1 through 99,  
26 inclusive,

27 Defendants.

Case No. BC247813

COMPLAINT

Violations of 47 U.S.C. § 227(b) (Restrictions on the use of automated telephone equipment) and 47 C.F.R. § 64.1200 (Delivery restrictions).  
Trespass to chattel.  
Trespass to personal property.  
Violations of unfair competition law (Cal. Business and Professions Code §§ 17200 through 17210).

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1 **GENERAL ALLEGATIONS**

2  
3 **THE PARTIES**

4 1. Plaintiff THE FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS  
5 (FTCR) is a nonprofit public benefit corporation duly organized and existing under and by virtue of  
6 the laws of this State. FTCR deploys an in-house team of public interest lawyers, policy experts,  
7 strategists, public educators, and grassroots activists to advance and protect the interests of  
8 consumers and taxpayers. FTCR brings this action on behalf of itself and the general public.

9 2. Defendant FAXERTISE (FAXertise) is a business organization, form unknown, that  
10 delivers or has delivered advertisements to consumers or users of telephone facsimile machines (fax  
11 machines). FAXertise has used the address 1125 Lindero Canyon Road, Suite A-8227, Westlake  
12 Village, CA 91362, and phone numbers (800) 576-3535 and (818) 587-3502. Dun & Bradstreet  
13 (www.dnb.com) has assigned D-U-N-S® Number 06-926-5374 to FAXertise, a trade style (or "aka,  
14 'doing business as'" or trade name) of Peter Bernard Pollard at 179 Concerto Dr., Agoura Hills, CA  
15 91377. Plaintiff is informed and believes and thereon alleges that FAXertise has also used phone  
16 numbers (800) 576-8320, (818) 581-3502, and (818) 991-1096 (fax).

17 3. Plaintiff is informed and believes and thereupon alleges that defendant PETER  
18 POLLARD is, and at all relevant times was, president or a principal of FAXertise, and in such  
19 capacity has used the e-mail address ncv21@earthlink.net.

20 4. Defendant SCHATZI ON MAIN is, and at all relevant times was, a restaurant and  
21 food and drink business at 3110 Main Street, Santa Monica, CA 90405.

22 5. Defendant TEMMEL CORPORATION is, and at all relevant times was, the owner of  
23 SCHATZI ON MAIN. Its registered agent is Helmut Elmaan and its mailing address and registered  
24 office is 3110 Main Street, Santa Monica, CA 90405. Its president is Karl P. Temmel, of 2100  
25 Neilson Way, Suite 724, Santa Monica CA 90405.  
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1           6.       Defendant ROSTI is, and at all relevant times was, a restaurant and food and drink  
2 business at 931 Montana Avenue, Santa Monica, CA 90401. Its mailing address is 1956 Cotner  
3 Ave., Los Angeles, CA 90025.

4           7.       Defendant FAMIGLIA TOSCANA, INC., is, and at all relevant times was, the owner  
5 of ROSTI. Its registered agent is John Kaufman, and its mailing address and registered office is  
6 1956 Cotner Avenue, Suite 200, Los Angeles, CA 90025. Its president is Michael A. Gordon, of  
7 11812 San Vicente Boulevard, Suite 200, Los Angeles, CA 90049.

8           8.       Defendant AKBAR CUISINE OF INDIA is, and at all relevant times was, a restaurant  
9 and food and drink business at 2627 Wilshire Blvd., Santa Monica, CA 90403.

10          9.       Defendant KHANABAZAARIII, INC., is, and at all relevant times was, the owner of  
11 AKBAR CUISINE OF INDIA. Its mailing address is 11346 Goleta Street, Lakeview Terrace, CA  
12 91342. Its registered agent is George Chakmakis, Jr., and its registered office is 301 N. Canon Drive,  
13 Suite 223, Beverly Hills, CA 90210. Its president is Avinash (or possibly, Avlnash) Kapoor, of  
14 11346 Goleta Street, Lakeview Terrace, CA 91342.

15          10.      Defendant THE DANCE DOCTOR is a business organization, form unknown, and  
16 the registrant of the Internet address dancedoctor.com. Its mailing address is 1440 - 4th St., Santa  
17 Monica, CA 90401.

18          11.      Defendant JOHN CASSESE THE DANCE DOCTOR PRODUCTIONS, is, and at all  
19 relevant times was, a California corporation. Its president is John Cassese, of 16001 Pacific Coast  
20 Hwy., Pacific Palisades, CA 90272. Its registered agent is John Cassese, and its registered office is  
21 1440 - 4th St., Santa Monica, CA 90401.

22          12.      Defendant JOHN CASSESE is a principal of JOHN CASSESE THE DANCE  
23 DOCTOR PRODUCTIONS. On information and belief plaintiff alleges that JOHN CASSESE does  
24 business as THE DANCE DOCTOR.  
25

26          13.      Plaintiff is ignorant of the true names or capacities of the defendants sued herein  
27 under the fictitious names DOE ONE through NINETY-NINE inclusive.  
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1 STATEMENT OF FACTS

2 14. Copies of the federal statute and regulations discussed below are attached for the  
3 Court's convenience as Exhibit A.

4 15. The Telephone Consumer Protection Act of 1991, Pub.L. 102-243, § 3(a), added  
5 Section 227 to Title 47 of the United States Code. 47 U.S.C. § 227 was last amended in 1994.

6 16. In pertinent part, 47 U.S.C. § 227(b) provides "It shall be unlawful for any person  
7 within the United States . . . to use any telephone facsimile machine, computer, or other device to  
8 send an unsolicited advertisement to a telephone facsimile machine[.]"

9 17. In pertinent part, 47 C.F.R. § 64.1200(a), a regulation prescribed under 47 U.S.C. §  
10 227(b) and effective as of December 20, 1992, provides that "No person may . . . [u]se a telephone  
11 facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone  
12 facsimile machine."

13 18. As used in both 47 U.S.C. § 227 and 47 C.F.R. 64.1200, "[t]he term 'unsolicited  
14 advertisement' means any material advertising the commercial availability or quality of any property,  
15 goods, or services which is transmitted to any person without that person's prior express invitation or  
16 permission." (47 U.S.C. § 227(a)(4); 47 C.F.R. § 64.1200(f)(5).)

17 19. Paragraph (3) of 47 U.S.C. § 227(b) reads as follows:

18 (3) Private right of action

19 A person or entity may, if otherwise permitted by the laws or rules of court of  
20 a State, bring in an appropriate court of that State--

21 (A) an action based on a violation of this subsection or the regulations  
22 prescribed under this subsection to enjoin such violation,

23 (B) an action to recover for actual monetary loss from such a violation, or to  
receive \$500 in damages for each such violation, whichever is greater, or

(C) both such actions.

24 If the court finds that the defendant willfully or knowingly violated this  
25 subsection or the regulations prescribed under this subsection, the court may,  
26 in its discretion, increase the amount of the award to an amount equal to not  
more than 3 times the amount available under subparagraph (B) of this  
paragraph.

27 20. Cal. Bus. & Prof. Code §§ 17200 through 17210 constitute Chapter 5 of Part 2 of  
28 Division 7 of the Business and Professions Code, which is California's "unfair competition law."

1           21.     Cal. Bus. & Prof. Code § 17204 provides *inter alia* that "[a]ctions for any relief  
2 pursuant to this chapter" may be prosecuted in a court of competent jurisdiction "by any person  
3 acting for the interests of itself, its members or the general public."

4           22.     In pertinent part, Cal. Bus. & Prof. Code § 17200 defines "unfair competition" to  
5 "mean and include," *inter alia*, "any unlawful, unfair or fraudulent business act or practice and  
6 unfair, deceptive, untrue or misleading advertising. . . ."

7           23.     In pertinent part, Cal. Bus. & Prof. Code § 17203 provides that  
8                 "[a]ny person who . . . has engaged . . . in unfair competition may be enjoined  
9                 in any court of competent jurisdiction. The court may make such orders or  
10                judgments . . . as may be necessary to prevent the use or employment by any  
11                person of any practice which constitutes unfair competition . . . or as may be  
                necessary to restore to any person in interest any money or property, real or  
                personal, which may have been acquired by means of such unfair  
                competition."

12           24.     In pertinent part, Cal. Bus. & Prof. Code § 17202 provides that "specific or  
13 preventative relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair  
14 competition."

15           25.     FTCR has, and at all relevant times had, telephone service at (310) 392-8874 and  
16 (310) 392-8423. FTCR receives facsimile transmissions ("faxes") at those numbers, using telephone  
17 facsimile machines ("fax machines").

18           26.     During the week of December 20, 2000, FTCR received on one of its fax machines (at  
19 (310) 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises SCHATZI ON MAIN ("One of  
20 the Most Famous Restaurants in the World' [¶] Invites you to celebrate the Holidays with Us"). This  
21 fax was wholly unsolicited. A copy of this fax advertisement is attached hereto as Exhibit B.

22           27.     The fax described in the preceding paragraph also advertises FAXertise.

23           28.     On or about December 28, 2000, FTCR received on one of its fax machines (at (310)  
24 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises SCHATZI ON MAIN ("NEW YEARS  
25 EVE 2000"). This fax was wholly unsolicited. A copy of this fax advertisement is attached hereto as  
26 Exhibit C.

27           29.     The fax described in the preceding paragraph also advertises FAXertise.  
28

1           30.     On or about February 10, 2001, FTCR received on one of its fax machines (at (310)  
2 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises SCHATZI ON MAIN ("Menu for Two  
3 . . . Happy Valentines Day"). This fax was wholly unsolicited. A copy of this fax advertisement is  
4 attached hereto as Exhibit D.

5           31.     The fax described in the preceding paragraph also advertises FAXertise.

6           32.     On or about November 8, 2000, FTCR received on one of its fax machines (at (310)  
7 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises ROSTI ("TUSCAN KITCHEN"). This  
8 fax was wholly unsolicited. A copy of this fax advertisement is attached hereto as Exhibit E.

9           33.     The fax described in the preceding paragraph also advertises FAXertise.

10          34.     On or about March 28, 2000, FTCR received on one of its fax machines (at (310) 392-  
11 8874 or (310) 392-8423) a fax that, *inter alia*, advertises AKBAR CUISINE OF INDIA (including a  
12 listing of "Desserts"). This fax was wholly unsolicited. A copy of this fax advertisement is attached  
13 hereto as Exhibit F.

14          35.     The fax described in the preceding paragraph also advertises FAXertise.

15          36.     On or about May 29, 2000, FTCR received on one of its fax machines (at (310) 392-  
16 8874 or (310) 392-8423) a fax that, *inter alia*, advertises AKBAR CUISINE OF INDIA ("Get 1  
17 FREE Soda With Any Lunch Special"). This fax was wholly unsolicited. A copy of this fax  
18 advertisement is attached hereto as Exhibit G.

19          37.     The fax described in the preceding paragraph also advertises FAXertise.

20          38.     On or about October 4, 2000, FTCR received on one of its fax machines (at (310)  
22 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises AKBAR CUISINE OF INDIA ("Buy  
23 1st Entrée & Get a 2nd Entrée of equal or lesser value FREE!"). This fax was wholly unsolicited. A  
24 copy of this fax advertisement is attached hereto as Exhibit H.

25          39.     The fax described in the preceding paragraph also advertises FAXertise.

26          40.     On or about January 24, 2001, FTCR received on one of its fax machines (at (310)  
27 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises AKBAR CUISINE OF INDIA ("Let  
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1 Akbar cater your office party . . . !"). This fax was wholly unsolicited. A copy of this fax  
2 advertisement is attached hereto as Exhibit I.

3 41. The fax described in the preceding paragraph also advertises FAXertise.

4 42. On or about February 13, 2001, FTCR received on one of its fax machines (at (310)  
5 392-8874 or (310) 392-8423) a fax that, *inter alia*, advertises JOHN CASSESE, THE DANCE  
6 DOCTOR and dancedoctor.com ("4 Lessons for \$99"). This fax was wholly unsolicited. A copy of  
7 this fax advertisement is attached hereto as Exhibit J.

8 43. The fax described in the preceding paragraph also advertises FAXertise.

9  
10 **FIRST CAUSE OF ACTION FOR VIOLATIONS OF 47 U.S.C. § 227 AND**  
11 **47 C.F.R. § 64.1200 BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE,**  
12 **PETER POLLARD, SCHATZI ON MAIN, TEMMEL CORPORATION AND**  
13 **DOES 1 THROUGH 15**

14 44. Plaintiff hereby incorporates paragraphs 1 through 19 and 25 through 31 by reference.

15 45. Plaintiff alleges that during the week of December 20, 2000, and again on or about  
16 December 28, 2000, and again on or about February 10, 2001, defendants FAXERTISE, PETER  
17 POLLARD, SCHATZI ON MAIN, TEMMEL CORPORATION and DOES 1 through 15 used a  
18 telephone facsimile machine, computer, or other device to send unsolicited advertisements for  
19 SCHATZI ON MAIN to telephone facsimile machines including a telephone facsimile machine  
20 owned by plaintiff.

21 46. Plaintiff further alleges that in each instance these defendants did so willfully or  
22 knowingly.

23 47. Plaintiff further alleges on information and belief that in each instance these  
24 defendants had actual notice of participation, or a high degree of involvement, in a plan to transmit  
25 unsolicited advertisements to telephone facsimile machines (by, for example, knowing the that the  
26 transmitted faxes were advertisements or participating in preparing their content, providing or  
27 obtaining the fax telephone numbers of FTCR or other recipients, and knowing that FTCR or other  
28

1 recipients had not authorized the faxes' transmission by prior express invitation or permission), and  
2 that the use of the trade name "FAXertise" indicates awareness of sending of advertisements to fax  
3 machines.

4 48. Plaintiff therefore alleges that these defendants violated 47 U.S.C. § 227 and  
5 47 C.F.R. § 64.1200 three times.

6  
7 **SECOND CAUSE OF ACTION FOR VIOLATION OF 47 U.S.C. § 227 AND**  
8 **47 C.F.R. § 64.1200 BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE,**  
9 **PETER POLLARD, ROSTI, FAMIGLIA TOSCANA, INC., AND DOES 16**  
10 **THROUGH 20**

11 49. Plaintiff hereby incorporates paragraphs 1 through 19, 25, and 32 through 33 by  
12 reference.

13 50. Plaintiff alleges that on or about November 8, 2000, defendants FAXERTISE, PETER  
14 POLLARD, ROSTI, FAMIGLIA TOSCANA, INC. and DOES 16 THROUGH 20 used a telephone  
15 facsimile machine, computer, or other device to send an unsolicited advertisement for ROSTI to  
16 telephone facsimile machines including a telephone facsimile machine owned by plaintiff.

17 51. Plaintiff further alleges that these defendants did so willfully or knowingly.

18 52. Plaintiff further alleges on information and belief that these defendants had actual  
19 notice of participation, or a high degree of involvement, in a plan to transmit unsolicited  
20 advertisements to telephone facsimile machines (by, for example, knowing the that the transmitted  
22 faxes were advertisements or participating in preparing their content, providing or obtaining the fax  
23 telephone numbers of FTCD or other recipients, and knowing that FTCD or other recipients had not  
24 authorized the faxes' transmission by prior express invitation or permission), and that the use of the  
25 trade name "FAXertise" indicates awareness of sending of advertisements to fax machines.

26 53. Plaintiff therefore alleges that these defendants violated 47 U.S.C. § 227 and  
27 47 C.F.R. § 64.1200.



1                   **THIRD CAUSE OF ACTION FOR VIOLATIONS OF 47 U.S.C. § 227 AND**  
2                   **47 C.F.R. § 64.1200 BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE,**  
3                   **PETER POLLARD, AKBAR CUISINE OF INDIA, KHANABAZAARI, INC.,**  
4                   **AND DOES 21 THROUGH 40**

5           54.     Plaintiff hereby incorporates paragraphs 1 through 19, 25, and 34 through 41 by  
6 reference.

7           55.     Plaintiff alleges that on or about March 28, 2000, and again on or about May 29,  
8 2000, and again on or about October 4, 2000, and again on or about January 24, 2001, defendants  
9 FAXERTISE, PETER POLLARD, AKBAR CUISINE OF INDIA, KHANABAZAARI, INC. and  
10 DOES 21 THROUGH 40 used a telephone facsimile machine, computer, or other device to send  
11 unsolicited advertisements for AKBAR CUISINE OF INDIA to telephone facsimile machines  
12 including a telephone facsimile machine owned by plaintiff.

13          56.     Plaintiff further alleges that in each instance these defendants did so willfully or  
14 knowingly.

15          57.     Plaintiff further alleges on information and belief that in each instance these  
16 defendants had actual notice of participation, or a high degree of involvement, in a plan to transmit  
17 unsolicited advertisements to telephone facsimile machines (by, for example, knowing the that the  
18 transmitted faxes were advertisements or participating in preparing their content, providing or  
19 obtaining the fax telephone numbers of FTCD or other recipients, and knowing that FTCD or other  
20 recipients had not authorized the faxes' transmission by prior express invitation or permission), and  
21 that the use of the trade name "FAXertise" indicates awareness of sending of advertisements to fax  
22 machines.  
23

24          58.     Plaintiff therefore alleges that these defendants violated 47 U.S.C. § 227 and  
25 47 C.F.R. § 64.1200 four times.  
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1                   **FOURTH CAUSE OF ACTION FOR VIOLATION OF 47 U.S.C. § 227 AND**  
2                   **47 C.F.R. § 64.1200 BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE,**  
3                   **PETER POLLARD, JOHN CASSESE, THE DANCE DOCTOR, JOHN**  
4                   **CASSESE THE DANCE DOCTOR PRODUCTIONS, AND DOES 41**  
5                   **THROUGH 45**

6           59.     Plaintiff hereby incorporates paragraphs 1 through 19, 25, and 42 through 43 by  
7 reference.

8           60.     Plaintiff alleges that on or about February 13, 2001, defendants FAXERTISE, PETER  
9 POLLARD, JOHN CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR  
10 PRODUCTIONS, and DOES 41 THROUGH 45 used a telephone facsimile machine, computer, or  
11 other device to send an unsolicited advertisement for JOHN CASSESE or THE DANCE DOCTOR  
12 to telephone facsimile machines including a telephone facsimile machine owned by plaintiff.

13          61.     Plaintiff further alleges that these defendants did so willfully or knowingly.

14          62.     Plaintiff further alleges on information and belief that these defendants had actual  
15 notice of participation, or a high degree of involvement, in a plan to transmit unsolicited  
16 advertisements to telephone facsimile machines (by, for example, knowing the that the transmitted  
17 faxes were advertisements or participating in preparing their content, providing or obtaining the fax  
18 telephone numbers of FTCD or other recipients, and knowing that FTCD or other recipients had not  
19 authorized the faxes' transmission by prior express invitation or permission), and that the use of the  
20 trade name "FAXertise" indicates awareness of sending of advertisements to fax machines.

21          63.     Plaintiff therefore alleges that these defendants violated 47 U.S.C. § 227 and  
22 47 C.F.R. § 64.1200.  
23

24  
25                   **FIFTH CAUSE OF ACTION FOR VIOLATION OF 47 U.S.C. § 227 AND**  
26                   **47 C.F.R. § 64.1200 BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE,**  
27                   **PETER POLLARD, AND DOES 46 THROUGH 99**

28          64.     Plaintiff hereby incorporates paragraphs 1 through 19 and 26 through 43 by reference.

1           65. Plaintiff alleges that on or about March 28, 2000, and again on or about May 29,  
2 2000, and again on or about October 4, 2000, and again on or about November 8, 2000, and again  
3 during the week of December 20, 2000, and again on or about December 28, 2000, and again on or  
4 about January 24, 2001, and again on or about February 10, 2001, and again on or about February 13,  
5 2001, defendants FAXERTISE, PETER POLLARD and DOES 46 THROUGH 99 used a telephone  
6 facsimile machine, computer, or other device to send unsolicited advertisements for FAXertise to  
7 telephone facsimile machines including a telephone facsimile machine owned by plaintiff.

8           66. Plaintiff further alleges that in each instance these defendants did so willfully or  
9 knowingly.

10           67. Plaintiff further alleges on information and belief that in each instance these  
11 defendants had actual notice of participation, or a high degree of involvement, in a plan to transmit  
12 unsolicited advertisements to telephone facsimile machines (by, for example, knowing the that the  
13 transmitted faxes were advertisements or participating in preparing their content, providing or  
14 obtaining the fax telephone numbers of FTCCR or other recipients, and knowing that FTCCR or other  
15 recipients had not authorized the faxes' transmission by prior express invitation or permission), and  
16 that the use of the trade name "FAXertise" indicates awareness of sending of advertisements to fax  
17 machines.

18           68. Plaintiff therefore alleges that these defendants violated 47 U.S.C. § 227 and  
19 47 C.F.R. § 64.1200 nine additional times.

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22           **SIXTH CAUSE OF ACTION FOR TRESPASS TO CHATTEL BY PLAINTIFF**  
23           **AGAINST DEFENDANTS FAXERTISE, PETER POLLARD, SCHATZI ON**  
24           **MAIN, TEMMEL CORPORATION AND DOES 1 THROUGH 15**

25           69. Plaintiff hereby incorporates paragraphs 1 through 13 and 25 through 31 by reference.

26           70. Plaintiff alleges that during the week of December 20, 2000, and again on or about  
27 December 28, 2000, and again on or about February 10, 2001, defendants FAXERTISE, PETER  
28 POLLARD, SCHATZI ON MAIN, TEMMEL CORPORATION and DOES 1 THROUGH 15

1 moved or caused the movement or asportation of a piece of paper owned and possessed by FTCR  
2 from the input tray of a telephone facsimile machine owned and possessed by FTCR to the output  
3 tray of such fax machine. In the process, these defendants seized or caused the caption of said paper  
4 by remote control. At those times these defendants also caused the movement of a quantity of toner  
5 or ink owned and possessed by FTCR from a reservoir in such fax machine to said paper. The toner  
6 or ink became imprinted upon the paper, and FTCR could no longer use the toner or ink, or the  
7 paper, as FTCR wished.

8 71. Plaintiff further alleges that these defendants intended to do as alleged above.

9 72. Plaintiff further alleges that these defendants either foresaw that their actions would  
10 have the effects described above or would have foreseen those effects had they been people using  
11 ordinary care.

12 73. Plaintiff further alleges that these defendants had no justification for their actions.

13 74. Plaintiff never consented to the behavior alleged above.

14 75. Plaintiff alleges that in each instance these defendants committed trespass to chattel.

15  
16 **SEVENTH CAUSE OF ACTION FOR TRESPASS TO CHATTEL BY**  
17 **PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER POLLARD,**  
18 **ROSTI, FAMIGLIA TOSCANA, INC., AND DOES 16 THROUGH 20**

19 76. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 32 through 33 by  
20 reference.

21 77. Plaintiff alleges that on or about November 8, 2000, defendants FAXERTISE, PETER  
22 POLLARD, ROSTI, FAMIGLIA TOSCANA, INC., and DOES 16 THROUGH 20 moved or caused  
23 the movement or asportation of a piece of paper owned and possessed by FTCR from the input tray  
24 of a telephone facsimile machine owned and possessed by FTCR to the output tray of such fax  
25 machine. In the process, these defendants seized or caused the caption of said paper by remote  
26 control. At those times these defendants also caused the movement of a quantity of toner or ink  
27 owned and possessed by FTCR from a reservoir in such fax machine to said paper. The toner or ink  
28

1 became imprinted upon the paper, and FTCCR could no longer use the toner or ink, or the paper, as  
2 FTCCR wished.

3 78. Plaintiff further alleges that these defendants intended to do as alleged above.

4 79. Plaintiff further alleges that these defendants either foresaw that their actions would  
5 have the effects described above or would have foreseen those effects had they been people using  
6 ordinary care.

7 80. Plaintiff further alleges that these defendants had no justification for their actions.

8 81. Plaintiff never consented to the behavior alleged above.

9 82. Plaintiff alleges that these defendants committed trespass to chattel.

10  
11 **EIGHTH CAUSE OF ACTION FOR TRESPASS TO CHATTEL BY**  
12 **PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER POLLARD,**  
13 **AKBAR CUISINE OF INDIA, KHANABAZAARI, INC., AND DOES 21**  
14 **THROUGH 40**

15 83. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 34 through 41 by  
16 reference.

17 84. Plaintiff alleges that on or about March 28, 2000, and again on or about May 29,  
18 2000, and again on or about October 4, 2000, and again on or about January 24, 2001, defendants  
19 FAXERTISE, PETER POLLARD, AKBAR CUISINE OF INDIA, KHANABAZAARI, INC., and  
20 DOES 21 THROUGH 40 moved or caused the movement or asportation of a piece of paper owned  
21 and possessed by FTCCR from the input tray of a telephone facsimile machine owned and possessed  
22 by FTCCR to the output tray of such fax machine. In the process, these defendants seized or caused  
23 the caption of said paper by remote control. At those times these defendants also caused the  
24 movement of a quantity of toner or ink owned and possessed by FTCCR from a reservoir in such fax  
25 machine to said paper. The toner or ink became imprinted upon the paper, and FTCCR could no  
26 longer use the toner or ink, or the paper, as FTCCR wished.  
27

28 85. Plaintiff further alleges that these defendants intended to do as alleged above.

1           86. Plaintiff further alleges that these defendants either foresaw that their actions would  
2 have the effects described above or would have foreseen those effects had they been people using  
3 ordinary care.

4           87. Plaintiff further alleges that these defendants had no justification for their actions.

5           88. Plaintiff never consented to the behavior alleged above.

6           89. Plaintiff alleges that in each instance these defendants committed trespass to chattel.

7  
8           **NINTH CAUSE OF ACTION FOR TRESPASS TO CHATTEL BY PLAINTIFF**  
9           **AGAINST DEFENDANTS FAXERTISE, PETER POLLARD, JOHN**  
10          **CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR**  
11          **PRODUCTIONS, AND DOES 41 THROUGH 45**

12          90. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 42 through 43 by  
13 reference.

14          91. Plaintiff alleges that on or about February 13, 2001, defendants FAXERTISE, PETER  
15 POLLARD, JOHN CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR  
16 PRODUCTIONS, AND DOES 41 THROUGH 45 moved or caused the movement or asportation of  
17 a piece of paper owned and possessed by FTCD from the input tray of a telephone facsimile machine  
18 owned and possessed by FTCD to the output tray of such fax machine. In the process, these  
19 defendants seized or caused the caption of said paper by remote control. At that time these  
20 defendants also caused the movement of a quantity of toner or ink owned and possessed by FTCD  
21 from a reservoir in such fax machine to said paper. The toner or ink became imprinted upon the  
22 paper, and FTCD could no longer use the toner or ink, or the paper, as FTCD wished.

23          92. Plaintiff further alleges that these defendants intended to do as alleged above.

24          93. Plaintiff further alleges that these defendants either foresaw that their actions would  
25 have the effects described above or would have foreseen those effects had they been people using  
26 ordinary care.

27          94. Plaintiff further alleges that these defendants had no justification for their actions.

1 95. Plaintiff never consented to the behavior alleged above.

2 96. Plaintiff alleges that these defendants committed trespass to chattel.

3  
4 **TENTH CAUSE OF ACTION FOR TRESPASS TO PERSONAL PROPERTY**  
5 **BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER POLLARD,**  
6 **SCHATZI ON MAIN, TEMMEL CORPORATION AND DOES 1 THROUGH**

7 **15**

8 97. Plaintiff hereby incorporates paragraphs 1 through 13 and 25 through 31 by reference.

9 98. Plaintiff alleges that during the week of December 20, 2000, and again on or about  
10 December 28, 2000, and again on or about February 10, 2001, defendants FAXERTISE, PETER  
11 POLLARD, SCHATZI ON MAIN, TEMMEL CORPORATION and DOES 1 THROUGH 15 used  
12 or caused use of a telephone facsimile machine (fax machine) owned and possessed by FTCT,  
13 thereby interfering with FTCT's possession and use of such fax machine and temporarily  
14 dispossessing plaintiff (FTCT) of its lawful right of possession of such fax machine. In so doing,  
15 these defendants also caused plaintiff to consume, involuntarily and at some cost, a quantity of  
16 electrical energy as well as some paper and toner or ink.

17 99. Plaintiff further alleges that these defendants intended to do as alleged above.

18 100. During the fax machine use alleged above, said fax machine was unavailable to  
19 receipt of any other transmission and could not readily be used to send a fax or make a phone call.

20 101. Plaintiff further alleges that these defendants either foresaw that their actions would  
21 have the effects described above or would have foreseen those effects had they been people using  
22 ordinary care.

24 102. Plaintiff further alleges that these defendants had no justification for their actions.

25 103. Plaintiff never consented to the behavior alleged above. FTCT did not solicit any fax  
26 transmission from these defendants. The fax machine use alleged above was unauthorized.

27 104. Plaintiff alleges that in each instance these defendants committed trespass to personal  
28 property.

1                                    **ELEVENTH CAUSE OF ACTION FOR TRESPASS TO PERSONAL**  
2                                    **PROPERTY BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER**  
3                                    **POLLARD, ROSTI, FAMIGLIA TOSCANA, INC., AND DOES 16**  
4                                    **THROUGH 20**

5                    105. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 32 through 33 by  
6 reference.

7                    106. Plaintiff alleges that on or about November 8, 2000, defendants FAXERTISE, PETER  
8 POLLARD, ROSTI, FAMIGLIA TOSCANA, INC., and DOES 16 THROUGH 20 used or caused  
9 use of a telephone facsimile machine (fax machine) owned and possessed by FTCT, thereby  
10 interfering with FTCT's possession and use of such fax machine and temporarily dispossessing  
11 plaintiff (FTCT) of its lawful right of possession of such fax machine. In so doing, these defendants  
12 also caused plaintiff to consume, involuntarily and at some cost, a quantity of electrical energy as  
13 well as some paper and toner or ink.

14                    107. Plaintiff further alleges that these defendants intended to do as alleged above.

15                    108. During the fax machine use alleged above, said fax machine was unavailable to  
16 receipt of any other transmission and could not readily be used to send a fax or make a phone call.

17                    109. Plaintiff further alleges that these defendants either foresaw that their actions would  
18 have the effects described above or would have foreseen those effects had they been people using  
19 ordinary care.

20                    110. Plaintiff further alleges that these defendants had no justification for their actions.

21                    111. Plaintiff never consented to the behavior alleged above. FTCT did not solicit any fax  
22 transmission from these defendants. The fax machine use alleged above was unauthorized.  
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24                    112. Plaintiff alleges that these defendants committed trespass to personal property.  
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1                                    **TWELFTH CAUSE OF ACTION FOR TRESPASS TO PERSONAL**  
2                                    **PROPERTY BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER**  
3                                    **POLLARD, AKBAR CUISINE OF INDIA, KHANABAZAARI, INC., AND**  
4                                    **DOES 21 THROUGH 40**

5            113. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 34 through 41 by  
6 reference.

7            114. Plaintiff alleges that on or about March 28, 2000, and again on or about May 29,  
8 2000, and again on or about October 4, 2000, and again on or about January 24, 2001, defendants  
9 FAXERTISE, PETER POLLARD, AKBAR CUISINE OF INDIA, KHANABAZAARI, INC., and  
10 DOES 21 THROUGH 40 used or caused use of a telephone facsimile machine (fax machine) owned  
11 and possessed by FTCD, thereby interfering with FTCD's possession and use of such fax machine  
12 and temporarily dispossessing plaintiff (FTCD) of its lawful right of possession of such fax machine.  
13 In so doing, these defendants also caused plaintiff to consume, involuntarily and at some cost, a  
14 quantity of electrical energy as well as some paper and toner or ink.

15            115. Plaintiff further alleges that these defendants intended to do as alleged above.

16            116. During the fax machine use alleged above, said fax machine was unavailable to  
17 receipt of any other transmission and could not readily be used to send a fax or make a phone call.

18            117. Plaintiff further alleges that these defendants either foresaw that their actions would  
19 have the effects described above or would have foreseen those effects had they been people using  
20 ordinary care.

21            118. Plaintiff further alleges that these defendants had no justification for their actions.

22            119. Plaintiff never consented to the behavior alleged above. FTCD did not solicit any fax  
23 transmission from these defendants. The fax machine use alleged above was unauthorized.  
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25            120. Plaintiff alleges that in each instance these defendants committed trespass to personal  
26 property.  
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1                   **THIRTEENTH CAUSE OF ACTION FOR TRESPASS TO PERSONAL**  
2                   **PROPERTY BY PLAINTIFF AGAINST DEFENDANTS FAXERTISE, PETER**  
3                   **POLLARD, JOHN CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE**  
4                   **DANCE DOCTOR PRODUCTIONS, AND DOES 41 THROUGH 45**

5           121. Plaintiff hereby incorporates paragraphs 1 through 13, 25, and 42 through 43 by  
6 reference.

7           122. Plaintiff alleges that on or about February 13, 2001, defendants FAXERTISE, PETER  
8 POLLARD, JOHN CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR  
9 PRODUCTIONS, AND DOES 41 THROUGH 45 used or caused use of a telephone facsimile  
10 machine (fax machine) owned and possessed by FTCD, thereby interfering with FTCD's possession  
11 and use of such fax machine and temporarily dispossessing plaintiff (FTCD) of its lawful right of  
12 possession of such fax machine. In so doing, these defendants also caused plaintiff to consume,  
13 involuntarily and at some cost, a quantity of electrical energy as well as some paper and toner or ink.

14           123. Plaintiff further alleges that these defendants intended to do as alleged above.

15           124. During the fax machine use alleged above, said fax machine was unavailable to  
16 receipt of any other transmission and could not readily be used to send a fax or make a phone call.

17           125. Plaintiff further alleges that these defendants either foresaw that their actions would  
18 have the effects described above or would have foreseen those effects had they been people using  
19 ordinary care.

20           126. Plaintiff further alleges that these defendants had no justification for their actions.

21           127. Plaintiff never consented to the behavior alleged above. FTCD did not solicit any fax  
22 transmission from these defendants. The fax machine use alleged above was unauthorized.  
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24           128. Plaintiff alleges that these defendants committed trespass to personal property.  
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1                   **FOURTEENTH CAUSE OF ACTION FOR VIOLATION OF UNFAIR**  
2                   **COMPETITION LAW BY PLAINTIFF AGAINST DEFENDANTS SCHATZI**  
3                   **ON MAIN, TEMMEL CORPORATION AND DOES 1 THROUGH 15**

4           129. Plaintiff hereby incorporates paragraphs 1 through 31, 44 through 48, 69 through 75,  
5 and 97 through 104 by reference.

6           130. Plaintiff alleges on information and belief that at or about the time when defendants  
7 SCHATZI ON MAIN, TEMMEL CORPORATION and DOES 1 THROUGH 15 violated 47 U.S.C.  
8 § 227(b) and 47 C.F.R. § 64.1200, committed trespass to chattel or committed trespass to personal  
9 property, as alleged above with regard to FTCR, these defendants also did so with regard to other  
10 members of the general public.

11           131. By violating 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, by committing trespass to  
12 chattel, or by committing trespass to personal property, as alleged above, these defendants engaged  
13 in unfair advertising or unlawful business acts or practices, and therefore engaged in unfair  
14 competition in violation of California's unfair competition law, Cal. Bus. & Prof. Code §§ 17200-  
15 17210. FTCR so alleges on behalf of its own interests and those of the general public.

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17                   **FIFTEENTH CAUSE OF ACTION FOR VIOLATION OF UNFAIR**  
18                   **COMPETITION LAW BY PLAINTIFF AGAINST DEFENDANTS ROSTI,**  
19                   **FAMIGLIA TOSCANA, INC., AND DOES 16 THROUGH 20**

20           132. Plaintiff hereby incorporates paragraphs 1 through 25, 32 through 33, 49 through 53,  
21 76 through 82, and 105 through 112 by reference.

22           133. Plaintiff alleges on information and belief that at or about the time when defendants  
23 ROSTI, FAMIGLIA TOSCANA, INC., and DOES 16 THROUGH 20 violated 47 U.S.C. § 227(b)  
24 and 47 C.F.R. § 64.1200, committed trespass to chattel or committed trespass to personal property, as  
25 alleged above with regard to FTCR, these defendants also did so with regard to other members of the  
26 general public.  
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1           134. By violating 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, by committing trespass to  
2 chattel, or by committing trespass to personal property, as alleged above, these defendants engaged  
3 in unfair advertising or unlawful business acts or practices, and therefore engaged in unfair  
4 competition in violation of California's unfair competition law, Cal. Bus. & Prof. Code §§ 17200-  
5 17210. FTCR so alleges on behalf of its own interests and those of the general public.  
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7                                   **SIXTEENTH CAUSE OF ACTION FOR VIOLATION OF UNFAIR**  
8                                   **COMPETITION LAW BY PLAINTIFF AGAINST DEFENDANTS AKBAR**  
9                                   **CUISINE OF INDIA, KHANABAZAARIII, INC., AND DOES 21**  
10                                   **THROUGH 40**

11           135. Plaintiff hereby incorporates paragraphs 1 through 25, 34 through 41, 54 through 58,  
12 83 through 89, and 113 through 120 by reference.

13           136. Plaintiff alleges on information and belief that at or about the time when defendants  
14 AKBAR CUISINE OF INDIA, KHANABAZAARIII, INC., and DOES 21 THROUGH 40 violated  
15 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, committed trespass to chattel or committed trespass to  
16 personal property, as alleged above with regard to FTCR, these defendants also did so with regard to  
17 other members of the general public.

18           137. By violating 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, by committing trespass to  
19 chattel, or by committing trespass to personal property, as alleged above, these defendants engaged  
20 in unfair advertising or unlawful business acts or practices, and therefore engaged in unfair  
21 competition in violation of California's unfair competition law, Cal. Bus. & Prof. Code §§ 17200-  
22 17210. FTCR so alleges on behalf of its own interests and those of the general public.  
23

1                   **SEVENTEENTH CAUSE OF ACTION FOR VIOLATION OF UNFAIR**  
2                   **COMPETITION LAW BY PLAINTIFF AGAINST DEFENDANTS JOHN**  
3                   **CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR**  
4                   **PRODUCTIONS, AND DOES 41 THROUGH 45**

5           138. Plaintiff hereby incorporates paragraphs 1 through 25, 42 through 43, 59 through 63,  
6 90 through 96, and 121 through 128 by reference.

7           139. Plaintiff alleges on information and belief that at or about the time when defendants  
8 JOHN CASSESE, THE DANCE DOCTOR, JOHN CASSESE THE DANCE DOCTOR  
9 PRODUCTIONS, and DOES 41 THROUGH 45 violated 47 U.S.C. § 227(b) and 47 C.F.R. §  
10 64.1200, committed trespass to chattel or committed trespass to personal property, as alleged above  
11 with regard to FTCD, these defendants also did so with regard to other members of the general  
12 public.

13           140. By violating 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, by committing trespass to  
14 chattel, or by committing trespass to personal property, as alleged above, these defendants engaged  
15 in unfair advertising or unlawful business acts or practices, and therefore engaged in unfair  
16 competition in violation of California's unfair competition law, Cal. Bus. & Prof. Code §§ 17200-  
17 17210. FTCD so alleges on behalf of its own interests and those of the general public.

18  
19                   **EIGHTEENTH CAUSE OF ACTION FOR VIOLATION OF UNFAIR**  
20                   **COMPETITION LAW BY PLAINTIFF AGAINST DEFENDANTS**  
21                   **FAXERTISE, PETER POLLARD, AND DOES 1 THROUGH 99**

22           141. Plaintiff hereby incorporates paragraphs 1 through 128 by reference.

23           142. Plaintiff alleges on information and belief that at or about the time when defendants  
24 FAXERTISE, PETER POLLARD, and DOES 1 THROUGH 99 violated 47 U.S.C. § 227(b) and 47  
25 C.F.R. § 64.1200, committed trespass to chattel or committed trespass to personal property, as  
26 alleged above with regard to FTCD, these defendants also did so with regard to other members of the  
27 general public.  
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1 143. By violating 47 U.S.C. § 227(b) and 47 C.F.R. § 64.1200, by committing trespass to  
2 chattel, or by committing trespass to personal property, as alleged above, these defendants engaged  
3 in unfair advertising or unlawful business acts or practices, and therefore engaged in unfair  
4 competition in violation of California's unfair competition law, Cal. Bus. & Prof. Code §§ 17200-  
5 17210. FTCL so alleges on behalf of its own interests and those of the general public.

6  
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgement against defendants and relief as follows:

9 A. Jointly and severally against all defendants named in the first cause of action herein,  
10 the statutory award available under 47 U.S.C. § 227(b)(3)(B) of \$1,500 for three violations against  
11 plaintiff of 47 U.S.C. § 227(b) or the regulations prescribed thereunder.

12 B. An increase by the Court of the award prayed for in the preceding paragraph to three  
13 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)  
14 for willful or knowing violation. Here, an increase from an award of \$1,500 to an award of \$4,500.

15 C. Jointly and severally against all defendants named in the second cause of action  
16 herein, the statutory award available under 47 U.S.C. § 227(b)(3)(B) of \$500 for one violation  
17 against plaintiff of 47 U.S.C. § 227(b) or the regulations prescribed thereunder.

18 D. An increase by the Court of the award prayed for in the preceding paragraph to three  
19 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)  
20 for willful or knowing violation. Here, an increase from an award of \$500 to an award of \$1,500.

21 E. Jointly and severally against all defendants named in the third cause of action herein,  
22 the statutory award available under 47 U.S.C. § 227(b)(3)(B) of \$2,000 for four violations against  
23 plaintiff of 47 U.S.C. § 227(b) or the regulations prescribed thereunder.

24 F. An increase by the Court of the award prayed for in the preceding paragraph to three  
25 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)  
26 for willful or knowing violation. Here, an increase from an award of \$2,000 to an award of \$6,000.  
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1 G. Jointly and severally against all defendants named in the fourth cause of action herein,  
2 the statutory award available under 47 U.S.C. § 227(b)(3)(B) of \$500 for one violation against  
3 plaintiff of 47 U.S.C. § 227(b) or the regulations prescribed thereunder.

4 H. An increase by the Court of the award prayed for in the preceding paragraph to three  
5 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)  
6 for willful or knowing violation. Here, an increase from an award of \$500 to an award of \$1,500.

7 I. Jointly and severally against all defendants named in the fifth cause of action herein,  
8 the statutory award available under 47 U.S.C. § 227(b)(3)(B) of \$4,500 for nine violations against  
9 plaintiff of 47 U.S.C. § 227(b) or the regulations prescribed thereunder.

10 J. An increase by the Court of the award prayed for in the preceding paragraph to three  
11 times the amount available under 47 U.S.C. § 227(b)(3)(B), as authorized by 47 U.S.C. § 227(b)(3)  
12 for willful or knowing violation. Here, an increase from an award of \$4,500 to an award of \$13,500.

13 K. Jointly and severally against all defendants named in the sixth cause of action herein,  
14 an award of damages for trespass to chattel.

15 L. Jointly and severally against all defendants named in the seventh cause of action  
16 herein, an award of damages for trespass to chattel.

17 M. Jointly and severally against all defendants named in the eighth cause of action herein,  
18 an award of damages for trespass to chattel.

19 N. Jointly and severally against all defendants named in the ninth cause of action herein,  
20 an award of damages for trespass to chattel.

22 O. Jointly and severally against all defendants named in the tenth cause of action herein,  
23 an award of damages for trespass to personal property.

24 P. Jointly and severally against all defendants named in the eleventh cause of action  
25 herein, an award of damages for trespass to personal property.

26 Q. Jointly and severally against all defendants named in the twelfth cause of action  
27 herein, an award of damages for trespass to personal property.

28

1 R. Jointly and severally against all defendants named in the thirteenth cause of action  
2 herein, an award of damages for trespass to personal property.

3 S. Against all defendants, an injunction against violation of 47 U.S.C. § 227(b) or 47  
4 C.F.R. 64.1200(a), as authorized by 47 U.S.C. § 227(b)(3)(A).

5 T. Against all defendants named in the fourteenth cause of action herein, an injunction,  
6 as authorized by Cal. Bus. & Prof. Code § 17203, to prevent the use or employment of fax practices  
7 which constitute unfair competition, and to restore to persons in interest any money or property  
8 which was acquired by means of such unfair competition. Such injunction, or accompanying orders  
9 or judgments, shall require payment by these defendants to all recipients of their unsolicited faxes a  
10 sum of money sufficient (a) to compensate said recipients for time wasted by means of these  
11 defendants' unfair competition, (b) to pay for paper, toner or ink, and electrical energy to replace that  
12 acquired by means of such unfair competition, and (c) to provide enough time to effectuate such  
13 purchases.

14 U. Against all defendants named in the fifteenth cause of action herein, an injunction, as  
15 authorized by Cal. Bus. & Prof. Code § 17203, to prevent the use or employment of fax practices  
16 which constitute unfair competition, and to restore to persons in interest any money or property  
17 which was acquired by means of such unfair competition. Such injunction, or accompanying orders  
18 or judgments, shall require payment by these defendants to all recipients of their unsolicited faxes a  
19 sum of money sufficient (a) to compensate said recipients for time wasted by means of these  
20 defendants' unfair competition, (b) to pay for paper, toner or ink, and electrical energy to replace that  
22 acquired by means of such unfair competition, and (c) to provide enough time to effectuate such  
23 purchases.

24 V. Against all defendants named in the sixteenth cause of action herein, an injunction, as  
25 authorized by Cal. Bus. & Prof. Code § 17203, to prevent the use or employment of fax practices  
26 which constitute unfair competition, and to restore to persons in interest any money or property  
27 which was acquired by means of such unfair competition. Such injunction, or accompanying orders  
28 or judgments, shall require payment by these defendants to all recipients of their unsolicited faxes a



1 sum of money sufficient (a) to compensate said recipients for time wasted by means of these  
2 defendants' unfair competition, (b) to pay for paper, toner or ink, and electrical energy to replace that  
3 acquired by means of such unfair competition, and (c) to provide enough time to effectuate such  
4 purchases.

5 W. Against all defendants named in the seventeenth cause of action herein, an injunction,  
6 as authorized by Cal. Bus. & Prof. Code § 17203, to prevent the use or employment of fax practices  
7 which constitute unfair competition, and to restore to persons in interest any money or property  
8 which was acquired by means of such unfair competition. Such injunction, or accompanying orders  
9 or judgments, shall require payment by these defendants to all recipients of their unsolicited faxes a  
10 sum of money sufficient (a) to compensate said recipients for time wasted by means of these  
11 defendants' unfair competition, (b) to pay for paper, toner or ink, and electrical energy to replace that  
12 acquired by means of such unfair competition, and (c) to provide enough time to effectuate such  
13 purchases.

14 X. Against all defendants named in the eighteenth cause of action herein, an injunction,  
15 as authorized by Cal. Bus. & Prof. Code § 17203, to prevent the use or employment of fax practices  
16 which constitute unfair competition, and to restore to persons in interest any money or property  
17 which was acquired by means of such unfair competition. Such injunction, or accompanying orders  
18 or judgments, shall require payment by these defendants to all recipients of their unsolicited faxes a  
19 sum of money sufficient (a) to compensate said recipients for time wasted by means of these  
20 defendants' unfair competition, (b) to pay for paper, toner or ink, and electrical energy to replace that  
22 acquired by means of such unfair competition, and (c) to provide enough time to effectuate such  
23 purchases.

24 Y. Jointly and severally against all defendants, an award of attorney fees, costs and  
25 expenses of bringing and prosecuting this action, pursuant to, *inter alia*, Cal. Code Civ. Proc.  
26 § 1021.5.

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Z. Such other and further relief as the Court may deem just and proper.

Dated: March \_\_\_\_, 2001

Respectfully Submitted,  
THE FOUNDATION FOR TAXPAYER  
AND CONSUMER RIGHTS  
Harvey Rosenfield  
Pamela M. Pressley  
David A. Holtzman

by: David A. Holtzman  
ATTORNEYS FOR PLAINTIFF  
THE FOUNDATION FOR TAXPAYER  
AND CONSUMER RIGHTS