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 7  
 8  
 9  
 10 UNITED STATES DISTRICT COURT  
 DISTRICT OF OREGON AT PORTLAND

11 Atlantic Recording Corporation, a	)	No. CV 05-933 AS
12 Delaware corporation; Priority Records,	)	
13 LLC, a California limited liability	)	Amended Counterclaims to
company; Capitol Records, Inc., a	)	Defendant’s Answer, Affirmative
14 Delaware corporation; UMG Recordings,	)	Defenses and Counterclaims Filed
Inc., a Delaware corporation; and BMG	)	on September 30, 2005
15 Music, a New York general partnership,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>AND DEMAND</b>
	)	<b>FOR JURY TRIAL</b>
17 Tanya Andersen,	)	
	)	
18 Defendant.	)	

19 Tanya Andersen’s previously filed Answer, Affirmative Defenses and Reservation filed  
 20 on September 30, 2005 stand.  
 21

22 **I. COUNTERCLAIMS**

23 **A. Tanya Andersen has been Wrongfully Targeted**

24 1. Ms. Andersen is a former employee of the Oregon Department of Justice. She is  
 25 42 years old, disabled, and the single mother of an eight-year-old daughter. She survives on a  
 26

1 limited income from Social Security. Ms. Andersen has never downloaded or distributed music  
2 online. She has not infringed on any of plaintiffs' alleged copyrighted interest.

3           2.       Since February 2005, Tanya Andersen, a 42 year-old disabled single mother of  
4 an 8 year-old daughter, has been trying to get the record companies to do one thing: look at her  
5 computer so that this nightmare will end. For the past year, the record companies have been  
6 wrongfully accusing Ms. Andersen of downloading and sharing music online. Ms. Andersen,  
7 who lives off of a fixed income from Social Security and has no ability to pay to defend a  
8 lawsuit, offered her computer to the record companies to inspect before this lawsuit was ever  
9 filed. The record companies have refused to look at her computer. Ms. Andersen has never  
10 downloaded or distributed music online. She has not infringed on any of plaintiffs' alleged  
11 copyright interests. She has nothing to hide. The record companies have harassed her without  
12 doing any reasonable inquiry. They have clearly sued the wrong person.  
13  
14

15           **B.       The Record Companies' "John Doe" Lawsuits**

16           2.       For a number of years, a group of large, multinational, multi-billion dollar  
17 record companies, including these plaintiffs, have been abusing the federal court judicial  
18 system for the purpose of waging a public relations and public threat campaign targeting digital  
19 file sharing activities. As part of this campaign, these record companies hired MediaSentry  
20 who receive a bounty to invade private home computers and collect personal information.  
21 Based on private information allegedly extracted from these personal home computers, the  
22 record companies have reportedly filed lawsuits against more than 13,500 anonymous "John  
23 Does."  
24

25           3.       The anonymous "John Doe" lawsuits are filed for the sole purpose of  
26 information farming and specifically to harvest personal internet protocol addresses from

1 internet service providers.

2 4. After an individual's personal information is harvested, it is given to the record  
3 companies' representatives and the anonymous "John Doe" information farming suits are then  
4 typically dismissed.

5 5. The record companies then provide the personal information to their agent, the  
6 "Settlement Support Center," which engages in deceptive and illegal practices aimed at  
7 extorting money from people allegedly identified from the secret lawsuits. Most of the people  
8 subjected to these secret suits do not even know that they have been sued until a demand for  
9 payment is made by lawyers for the record companies or by the Settlement Support Center  
10 operatives.

11  
12 **C. Tanya Andersen was Secretly Sued**

13 6. Ms. Andersen has, however, been the victim of the record companies' public  
14 threat campaign. The threats started when the record companies falsely claimed that Ms.  
15 Andersen had been an "unnamed" defendant who was being sued in federal court in the District  
16 of Columbia. She was never named in that lawsuit and never received service of a summons  
17 and complaint.

18 7. Neither did Ms. Andersen receive any timely notice that the suit even existed.  
19 That anonymous suit was filed in mid-2004. Ms. Andersen first learned that she was being  
20 "sued" when she received a letter dated February 2, 2005, from the Los Angeles, California,  
21 law firm Mitchell Silverberg & Knupp, LLP. The L.A. firm falsely claimed that Ms. Andersen  
22 had downloaded music, infringed undisclosed copyrights and owed hundreds of thousands of  
23 dollars and that "The evidence necessary for the record companies to prevail in this action has  
24 already been secured." Ms. Andersen was understandably shocked, fearful, and upset.  
25  
26

1           **D.     Record Companies Demand that Tanya Andersen Pay them Thousands of**  
2           **Dollars**

3           8.     After receiving the February 2, 2005 letter, Ms. Andersen contacted the record  
4 companies' "representative," which turned out to be Settlement Support Center, LLC. This  
5 company was formed by the record companies for the sole purpose of coercing payments from  
6 people who had been identified as targets in the anonymous information farming suits.  
7 Settlement Support Center is a Washington State phone solicitation company which engages in  
8 debt collection activities across the country.  
9

10          9.     When Ms. Andersen contacted Settlement Support Center, she was advised that  
11 her personal home computer had been secretly entered by the record companies' agents,  
12 MediaSentry.

13          10.    Settlement Support Center also falsely claimed that Ms. Andersen had "been  
14 viewed" by MediaSentry downloading "gangster rap" music at 4:24 a.m. Settlement Support  
15 Center also falsely claimed that Ms. Andersen had used the login name  
16 "gotenkito@kazaa.com." Ms. Andersen does not like "gangster rap," does not recognize the  
17 name "gotenkito," is not awake at 4:24 a.m. and has never downloaded music.  
18

19          11.    Settlement Support Center threatened that if Ms. Andersen did not immediately  
20 pay them, the record companies would bring an expensive and disruptive federal lawsuit using  
21 her actual name and they would get a judgment for hundreds of thousands of dollars.  
22

23           **E.     The Record Companies Refused to Investigate the False Claim Of Debt**

24          12.    Ms. Andersen explained to Settlement Support Center that she had never  
25 downloaded music, she had no interest in "gangster rap," and that she had no idea who  
26 "gotenkito" was.

1           13.    An employee of Settlement Support Center asked Ms. Andersen to help  
2 plaintiffs by investigating who could have used her computer or IP address to engage in any of  
3 the alleged acts of infringement. Relying on the information provided by Settlement Support  
4 Center, Ms. Andersen invested substantial time and resources finding information for plaintiffs’  
5 benefit.  
6

7           14.    In response to the information that Ms. Andersen had provided, an employee of  
8 Settlement Support Center admitted that he believed that Ms. Andersen had not downloaded  
9 any music. He explained, however, that Settlement Support Center and the record companies  
10 would not quit their debt collection activities because to do so would encourage other people to  
11 defend themselves against the record companies’ claims. He stated that plaintiffs did not care  
12 whether it was Ms. Andersen who engaged in the alleged infringing activity or not—Ms.  
13 Andersen would have to pay thousands of dollars to the record companies immediately, or else  
14 she would be subjected to an expensive and intrusive federal lawsuit. The Settlement Support  
15 Center employee stated that whether or not she had infringed any copyrights, plaintiffs could  
16 force Ms. Andersen to pay thousands of dollars by filing a lawsuit.  
17

18           15.    Ms. Andersen was understandably shocked and upset. In a telephone call with  
19 Settlement Support Center in late February 2005, Ms. Andersen offered to provide her  
20 computer for inspection before plaintiffs filed any lawsuit and caused her to incur substantial  
21 unnecessary costs and additional distress. Ms. Andersen specifically told plaintiffs that their  
22 conduct had caused her to suffer a painful medical condition for which she had sought  
23 treatment. When she did not receive a response, Ms. Andersen followed up with a letter to  
24 Settlement Support Center dated March 6, 2005, in which she asked plaintiffs to inspect her  
25 computer to prove that the claims made against her were mistaken:  
26

1 “Like I have said several times in this letter, I am innocent from doing what is being  
2 alleged. No one in my household has done this either. If there is a way to prove this by  
3 looking at my hard drive or something and someone from your agency would like to do  
4 that, I have nothing to hide.”

5 16. Settlement Support Center insisted that Ms. Andersen’s lack of involvement was  
6 irrelevant and that the record companies would sue her for hundreds of thousands of dollars  
7 whether or not she was actually engaged in the file sharing of music recordings: It didn’t  
8 matter who did the downloading, she was going to have to pay. Plaintiffs’ further threatened  
9 that unless Ms. Andersen paid thousands of dollars immediately, they would subject her to an  
10 extensive and costly lawsuit.

11 17. Instead of investigating their claims, the record company plaintiffs filed this suit  
12 this against Ms. Andersen.

13 **F. The Record Companies have no Proof of Infringement.**

14 18. Despite making false representations to Ms. Andersen that they had evidence of  
15 infringement and evidence of Ms. Andersen’s identity, plaintiffs knew that they had no factual  
16 support for their claims. When this complaint was filed, the record companies knew that their  
17 investigation could not identify who had committed any of the alleged acts of infringement; knew  
18 that that there was no evidence that the files allegedly detected were sound recordings; and knew  
19 that that the investigation protocol they employed had lead to multiple mistaken identifications in  
20 the past.

21 19. In BMG Canada Inc. v. John Doe, 3 F.C. 241 (No. T-292-04 2004), the  
22 Canadian Federal Court ruled that the investigation protocols used by the record companies in  
23 these cases are so deficient, that the “evidence” gathered fails to establish even a prima facie  
24 case of infringement.  
25  
26



1           25. Defendant realleges and incorporates herein by reference each of the allegations  
2 set forth above.

3           26. Entering a person's personal computer without their authorization to snoop  
4 around, steal information, or remove files is a violation of the common law prohibition against  
5 trespass to chattels.  
6

7           27. Ms. Andersen's computer, its capacity and its integrity are her personal  
8 property. Ms. Andersen had password protection and security in place to protect her computer  
9 and personal files from access by others. Ms. Andersen has never engaged in file sharing  
10 activities, did not make any portion of her computer available to the public, and did not authorize  
11 MediaSentry or the record company plaintiffs to break into her computer or steal information.  
12

13           28. The record company plaintiffs employed MediaSentry as their agent to break  
14 into Ms. Andersen's personal computer (and those of tens of thousands of other people) to  
15 secretly spy on and steal information or remove files. If MediaSentry accessed her private  
16 computer, it did so illegally and secretly and, in doing so, the record companies willfully used  
17 Ms. Andersen's computer without authorization to appropriate Andersen's personal property  
18 for their own purposes. Plaintiffs' unauthorized invasion and use of Ms. Andersen's computer  
19 constituted an interference and/or intermeddling with the capacity and integrity of her personal  
20 property. MediaSentry did not have Ms. Andersen's permission to inspect, copy, or remove  
21 private computer files. In fact, Ms. Andersen was unaware that the trespass occurred until well  
22 after she was anonymously sued.  
23

24           29. According to the record companies, the agent, Settlement Support Center used  
25 the stolen private information allegedly removed from her home computer in their attempt to  
26 threaten and coerce Ms. Anderson into paying thousands of dollars.



1 access by others. Ms. Andersen has never engaged in file sharing activities, did not make any  
2 portion of her computer available to the public, and did not authorize MediaSentry or the record  
3 company plaintiffs to break into her computer or steal information.

4 34. Ms. Andersen's computer, its capacity and its integrity are her personal  
5 property. The record company plaintiffs employed MediaSentry as their agent to bypass Ms.  
6 Andersen's computer security systems and break into her personal computer to secretly spy and  
7 steal or remove private information. MediaSentry did not have her permission to inspect, copy,  
8 or remove her private computer files. It gained access secretly and illegally.

9 35. The record companies willfully used Ms. Andersen's computer without  
10 authorization to appropriate Andersen's personal property for their own purposes.

11 36. The record companies' conduct resulted in damages and harm to Ms.  
12 Andersen's health and property. As a direct result of plaintiffs' interference with the integrity  
13 and capacity of her personal computer, Ms. Andersen invested substantial resources into  
14 investigating the integrity of her computer. Plaintiffs' conduct caused her medical condition to  
15 flare up, requiring that she return to her doctor and caused her to be unable to return to work.  
16 The record companies' conduct resulted in direct and consequential damages, loss, and harm to  
17 Ms. Andersen in an amount to be proven at trial in excess of \$5,000.

### 21 **Count 3**

#### 22 **Invasion of Privacy**

23 37. Defendant realleges and incorporates herein by reference each of the allegations  
24 set forth above.

25 38. According to the record companies, Ms. Andersen's personal computer was  
26 invaded by MediaSentry after she was identified with an IP address obtained from the

1 anonymous information farming lawsuits. MediaSentry did not have permission to inspect Ms.  
2 Andersen's private computer files. It gained access only by illegal acts of subterfuge.

3 39. Ms. Andersen's computer, its capacity, integrity and the information contained  
4 in it are her personal, private property. Ms. Andersen has never engaged in file sharing activities,  
5 did not make any portion of her computer available to the public, and did not authorize  
6 MediaSentry or the record company plaintiffs to break into her computer or steal information.  
7 MediaSentry did not have her permission to inspect, copy, or remove her private computer  
8 files. 40. The record companies' agent has falsely represented that information obtained  
9 in this invasive and secret manner is proof of Ms. Andersen's alleged downloading. Ms.  
10 Andersen never downloaded music but has been subjected to public derision and  
11 embarrassment associated with plaintiffs' claims and public relations campaign.  
12

13  
14 41. The record companies have used this derogatory, harmful information to  
15 recklessly and shamefully publicly accuse Ms. Andersen of illegal activities without even  
16 taking the opportunity offered by Ms. Andersen to inspect her computer.

17 42. The record companies' conduct resulted in damages including harm to her  
18 health and property in an amount to be specifically proven at trial.  
19

#### 20 **Count 4**

#### 21 **Fraud and Negligent Misrepresentation**

22 43. Defendant realleges and incorporates herein by reference each of the allegations  
23 set forth above.

24 44. The record companies knowingly made materially false representations and  
25 omissions of material facts to Ms. Andersen in an attempt to extort money from her. The record  
26

1 companies also knowingly withheld material information to Ms. Andersen in an attempt to  
2 extort money from her.

3 45. On February 2, 2005, the record companies wrote a letter demanding that Ms.  
4 Andersen contact their collection agent Settlement Support Center. In an attempt to intimidate  
5 and scare Ms. Andersen into paying thousands of dollars, the letter made the affirmative false  
6 statement that “The evidence necessary for the record companies to prevail in this action has  
7 already been secured.” The record companies knew that this statement was false because they  
8 knew that their investigation could not identify who had committed any of the alleged acts of  
9 infringement; knew that that there was no evidence that the files allegedly detected were sound  
10 recordings; and knew that that the investigation protocol they employed had lead to multiple  
11 mistaken identifications in the past.  
12  
13

14 46. Between February 2, 2005 and March 6, 2005, the record companies, through  
15 Settlement Support Center, falsely claimed that they had proof that Ms. Andersen’s IPA had  
16 been “viewed” downloading and distributing over 1,000 audio files for which it sought to  
17 collect hundreds of thousands of dollars. This statement was materially false. Ms. Andersen  
18 never downloaded or distributed any audio files nor did the record companies or any of their  
19 agents ever observe any such activity associated with her personal home computer.  
20

21 47. Plaintiffs’ representatives knowingly and intentionally misrepresented that the  
22 record companies had actual evidence that Ms. Andersen had infringed the thousands of file names  
23 listed in Exhibit B. Plaintiffs used this list of file names as a means to coerce and threaten Ms.  
24 Andersen with the prospect of being sued for hundreds of thousands of dollars. Plaintiffs  
25 knowingly and intentionally withheld the material fact that it did not know who engaged in any  
26 infringing activities and did not know whether any of the thousands of file names contained any

1 copyrighted sound recordings whatsoever. The reason plaintiffs omitted this information was to  
2 try to intimidate Ms. Andersen into paying them thousands of dollars.

3 48. The record companies had a duty to conduct a reasonable investigation into the  
4 information that it was representing as true. The record companies breached that duty. The record  
5 companies intended that Ms. Andersen believe their false statements and rely on their  
6 omissions so that she would be frightened and coerced into paying them thousands of dollars.  
7 The record companies' misrepresentations and omissions created an unreasonable risk that Ms.  
8 Andersen would rely upon their misrepresentations and omissions to her detriment.  
9

10 49. Ms. Andersen had no access to the information that the record companies falsely  
11 claimed to have received from MediaSentry. Ms. Andersen had no way of knowing that the  
12 record companies were withholding and omitting information from her, on which they intended  
13 she rely. As a result, Ms. Andersen was justified in relying on plaintiffs' representations and  
14 acting on their omissions, which she in fact did.  
15

16 50. The record companies' conduct resulted in damages and harm to Ms.  
17 Andersen's health and property in an amount to be specifically proven at trial. As a direct  
18 result of plaintiffs' materially false representations and omissions of material facts, Ms. Andersen  
19 invested substantial resources into investigating the integrity of her computer and investigating  
20 the claims of infringement at the request of the record companies. Plaintiffs' conduct caused  
21 her medical condition to flare up, requiring that she return to her doctor and caused her to be  
22 unable to return to work. The record companies' conduct resulted in direct and consequential  
23 damages, loss, and harm to Ms. Andersen in an amount to be proven at trial.  
24  
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26

1 **Count 5**

2 **Outrage**

3 51. Defendant realleges and incorporates herein by reference each of the allegations  
4 set forth above.

5 52. The record companies' outrageous conduct, including threats, intimidation, and  
6 coercion, was intended to and actually caused Ms. Andersen extreme emotional distress.  
7

8 53. The record companies' conduct was without any reasonable basis and reckless  
9 in that it did not investigate its claims.

10 54. The record companies pursued debt collection activities for the inappropriate  
11 and ulterior purpose of illegally threatening Ms. Andersen and many thousands of others. This  
12 tortious abuse was motivated by and was a central part of a public relations campaign targeting  
13 electronic file sharing.  
14

15 55. Despite having never observed any downloading or distribution associated with  
16 Ms. Andersen's personal home computer and despite refusing Ms. Andersen's offer to allow an  
17 inspection of her own computer, the record companies wrongfully continued their improper  
18 debt collection activities against her.

19 56. An employee of Settlement Support Center admitted to Ms. Andersen that he  
20 believed that she had not downloaded any music. He explained, however, that Settlement  
21 Support Center and the record companies would not quit their debt collection activities because  
22 to do so would encourage other people to defend themselves against the record companies'  
23 claims. He stated that plaintiffs did not care whether it was Ms. Andersen or not—Ms.  
24 Andersen would have to pay thousands of dollars to the record companies immediately, or else  
25 she would be subjected to an expensive and intrusive federal lawsuit.  
26



1 unreasonable risk that Ms. Andersen would rely upon their misrepresentations and omissions to  
2 her detriment.

3 63. Ms. Andersen had no access to the information that the record companies falsely  
4 claimed to have received from MediaSentry. Ms. Andersen had no way of knowing that the  
5 record companies were withholding and omitting information from her, on which they intended  
6 she rely. As a result, Ms. Andersen was justified in relying on plaintiffs' representations and  
7 acting on their omissions, which she in fact did.

9 64. The record companies' conduct resulted in damages and harm to her health and  
10 property in an amount to be specifically proven at trial. As a direct result of plaintiffs'  
11 materially false representations and omissions of material facts, Ms. Andersen invested  
12 substantial resources into investigating the integrity of her computer and investigating the  
13 claims of infringement for the benefit of the record companies. Plaintiffs' conduct caused her  
14 medical condition to flare up, requiring that she return to her doctor and caused her to be  
15 unable to return to work. The record companies' conduct resulted in direct and consequential  
16 damages, loss, and harm to Ms. Andersen.

18 65. Settlement Support Center, acting as the record companies' agent, has made  
19 similar false and deceptive statements to many other residents of Washington and Oregon, and  
20 across the country. The public interest has been and continues to be directly impacted by  
21 plaintiffs' deceptive practices.

23 66. The record companies' conduct resulted in damages and harm to Ms. Andersen  
24 and her property in an amount to be specifically proven at trial.

25 **Count 7**  
26

1 **Oregon Racketeer Influenced and Corrupt Organization Act**

2 67. Defendant realleges and incorporates herein by reference each of the allegations  
3 set forth above.

4 68. The Oregon Racketeer Influenced and Corrupt Organization Act prohibits  
5 companies from engaging in organized racketeering or criminal activities. ORS 166.715 *et seq.*  
6  
7 ORICO provides that it is unlawful for any person employed by, or associated with, any  
8 enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern  
9 of racketeering activity or the collection of an unlawful debt. ORS 166.720(3).

10 69. Atlantic Recording Corporation, a Delaware corporation; Priority Records, LLC,  
11 a California limited liability company; Capitol Records, Inc., a Delaware corporation; UMG  
12 Recordings, Inc., a Delaware corporation; and BMG Music, a New York general partnership,  
13 MediaSentry, Inc. and Settlement Support Center, LLC, all worked together for the purpose of  
14 waging a public relations and public threat and intimidation campaign targeting, in part,  
15 innocent people in an attempt to collect thousands of dollars.

16  
17 70. As part of this enterprise, these record companies retained MediaSentry to  
18 invade private home computers and collect personal information. Based on private information  
19 allegedly extracted from these personal home computers, the record companies have reportedly  
20 filed lawsuits against more than 13,500 anonymous “John Does.” The anonymous “John Doe”  
21 lawsuits are filed for the sole purpose of information farming and specifically to harvest  
22 personal internet protocol addresses from internet service providers.

23  
24 71. After an individual’s personal information is harvested, it is given to the record  
25 companies’ representatives and the anonymous “John Doe” information farming suits are then  
26 typically dismissed and the record companies provide the personal information to Settlement

1 Support Center, which engages in coercive and deceptive collection activities and other illegal  
2 conduct to extract money from the people allegedly identified from the secret lawsuits. Using  
3 this stolen information, plaintiffs directed Settlement Support Center to threaten Ms. Andersen  
4 into paying plaintiffs thousands of dollars, which is a violation of ORS 163.275 and a violation  
5 of ORS 166.720(3).  
6

7 72. Even where a Settlement Support Center employee believed that Ms. Andersen  
8 did not engage in any infringing activities, plaintiffs directed Settlement Support Center to  
9 continue to pressure and coerce Andersen into paying thousands of dollars. An employee of  
10 Settlement Support Center explained that the record companies would not quit their debt  
11 collection activities because to do so would encourage other people to defend themselves  
12 against the record companies' claims. He stated that plaintiffs did not care whether it was Ms.  
13 Andersen or not—Ms. Andersen would have to pay thousands of dollars to the record  
14 companies immediately, or else she would be subjected to an expensive and intrusive federal  
15 lawsuit.  
16

17 73. While plaintiffs participate in the enterprise, they also have an existence  
18 separate and distinct from the enterprise.  
19

20 74. Plaintiffs' acts form a pattern of racketeering by committing at least two acts of  
21 racketeering activity. This pattern constituted a common course of conduct used by plaintiffs  
22 to target thousands of citizens throughout the United States. These activities shared the  
23 common objectives of seeking payment of thousands of dollars from each person targeted,  
24 regardless of their innocence. These acts had the same or similar purposes, results,  
25 participants, victims and methods of commission. The predicate acts of racketeering include,  
26 but are not limited to attempted violations of Oregon's coercion statute ORS 163.275 in

1 furtherance of a plan to commit coercion is a violation of ORICO 166.720(3).

2 75. These unlawful activities were not isolated. The record companies have  
3 repeated this coercive conduct with many other victims throughout the United States.  
4 Settlement Support Center, has reportedly engaged in the same pattern of threatening and  
5 coercive conduct. In 2004, the record companies targeted another innocent person in this  
6 scheme. When presented with evidence that the defendant did not engage in any of the  
7 downloading activities, plaintiffs insisted that her lack of involvement was irrelevant and that  
8 plaintiffs reportedly threatened that they would sue her for hundreds of thousands of dollars  
9 whether or not she had ever engaged in the alleged file sharing, "It didn't matter. Someone is  
10 responsible and someone is going to have to pay." Motown Records, et al. v. Nelson, No. 04-  
11 73646 (E.D. MI).

12  
13  
14 76. The record companies and their agents stood to financially benefit from these  
15 deceptive and unlawful acts. Proceeds from these activities are used to fund the operation of  
16 the record companies' continued public threat campaigns.

17 77. The record companies' racketeering conduct directly and proximately resulted in  
18 damages, including harm to Ms. Andersen's health and property in an amount to be specifically  
19 proven at trial.  
20

## 21 II. PRAYER FOR RELIEF

22 WHEREFORE, the plaintiff prays for:

- 23 a. Dismissal of the plaintiffs' claims with prejudice;  
24 b. An order that plaintiffs shall take no relief from their complaint herein;  
25 c. All direct and consequential damages;  
26 d. Declaratory and Injunctive relief;

- 1 e. Statutory and punitive damages awardable under ORS 646.605 *et seq* and ORS  
2 166.715 *et seq*;
- 3 f. Attorneys' fees and costs awardable under ORS 646.605 *et seq.*, ORS 166.715 *et*  
4 *seq.*, 17 U.S.C. § 505;
- 5 g. For post-judgment interest on the entire judgment until paid in full; and  
6
- 7 h. For such other and further relief as the Court may deem just and equitable.  
8

9 **DEMAND FOR JURY TRIAL**

10  
11 Respectfully submitted this 27<sup>th</sup> day of January, 2006.

12 Lybeck Murphy, LLP

13  
14 By: /s/ Lory R. Lybeck  
15 Lory R. Lybeck (OSB #83276)  
16 Attorneys for plaintiffs  
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1 **IN THE UNITED STATES DISTRICT COURT**  
2 **FOR THE DISTRICT OF OREGON**

3 AFFIDAVIT OF SERVICE

4 State of Washington )  
5 ) ss.  
6 County of King )

7 I hereby certify and declare that on the 27<sup>th</sup> day of January, 2006, I electronically filed the  
8 foregoing Amended Counterclaims to Defendant's Answer, Affirmative Defenses and  
9 Counterclaims Filed on September 30, 2005 with the Clerk of the Court using the CM/ECF system,  
10 which will send notification of such filing to the following:

11 **Atty/Plaintiffs:**

12 Kenneth R. Davis, II  
13 William T. Patton  
14 Lane Powell PC  
15 601 SW Second Avenue, Suite 2100  
16 Portland, OR 97204  
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All parties are registered as CM/ECF participants for electronic notification.

DATED at Mercer Island, Washington, this 27<sup>th</sup> day of January, 2006.

\_\_\_\_\_/s/ Lory R. Lybeck\_\_\_\_\_  
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