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10 *Counsel for Plaintiffs*

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 MATTHEW ELVEY, an individual, and
GADGETWIZ, INC., an Arizona corporation,
15 on their own behalf and on behalf of all
others similarly situated,

16 Plaintiffs

17 v.

18 TD AMERITRADE, INC., a New York
19 corporation, and DOES 1 to 100,

20 Defendants.

No. C 07 2852 MJJ

Judge Martin J. Jenkins

**DECLARATION OF JOEL
GRIFFITHS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION AND
CLASS CERTIFICATION**

Pursuant to 28 U.S.C. § 1746, I, Joel Griffiths, hereby declare and state as follows:

1. I am over the age of eighteen and am fully competent to make this declaration. I make this declaration based upon personal knowledge. I was an accountholder at Ameritrade when TD Waterhouse and Ameritrade merged into TD AMERITRADE, Inc. on April 24, 2006. I have been an accountholder at TD AMERITRADE, Inc. since that merger. I am a user of Gadgetwiz.com, Inc.'s email and domain name services, and I receive email at certain email addresses which use the "gadgetwiz.com" domain name.
2. I have provided TD AMERITRADE, Inc. certain email addresses which I never disclosed to any other person (except my counsel). I am not aware of any way that any third party could have obtained these email addresses except from TD AMERITRADE, Inc.
3. I have received spam at these email addresses. Exhibit B to the Motion for Preliminary Injunction and Class Certification is a true and correct copy of a sample of the spam I received at these email addresses, except that my counsel has altered the spam source code to redact the email addresses I provided to TD AMERITRADE, Inc. This was done to preserve the confidentiality and uniqueness of these email addresses.
4. I am a professional UNIX systems administrator. I am the lead email administrator at GoDaddy.com, where I maintain the email system for several million email accounts.
5. I declare under penalty of perjury, that the foregoing is true and correct.

Pursuant to Section X of the Northern District of California's General Order No. 45 on electronic case filing and 28 U.S.C. § 1746, in lieu of Joel Griffiths' signature on this declaration, Alan Himmelfarb attests that Joel Griffiths is the signatory of this declaration, and that Joel Griffiths concurred to this declaration on July 10, 2007.

DATE: July 10, 2007

/s/Alan Himmelfarb
ALAN HIMMELFARB