

EXHIBIT I

From: Wichowski, Tony
Sent: Thursday, August 26, 2010 11:09 AM
To: 'jpizzirusso@hausfeldllp.com'
Cc: Sacks, Luanne; Ott, Carter; Fischer, Kathleen
Subject: Document Preservation Notice, Sony PS3 "Other OS" Litigation

Dear James:

Attached please find an electronic copy of a letter with attachments dated August 26, 2010, sent on behalf of Carter Ott. The original will be sent certified mail today.

Please do not hesitate to contact me if you have any difficulty with the transmission.

Sincerely,

Tony Wichowski



Tony Wichowski
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tony.wichowski@dlapiper.com
www.dlapiper.com



DLA Piper LLP (us)
555 Mission Street, Suite 2400
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Luanne Sacks
luanne.sacks@dlapiper.com
T 415.836.2555
F 415.659.7355

August 26, 2010

VIA E-MAIL AND CERTIFIED MAIL

James Pizzirusso
jpizzirusso@hausfeldllp.com
Hausfeld LLP
1700 K Street, NW
Suite 650
Washington, D.C. 20006

**Re: Document Preservation Notice
In re Sony PS3 "Other OS" Litigation
U.S. District Court, District of Northern California – Case No. CV-10-1884**

Dear James:

We are in receipt of your recent correspondence outlining your view of Sony Computer Entertainment America LLC's ("SCEA") document preservation obligations in connection with *In re Sony PS3 "Other OS" Litigation* (hereafter the "Matter"). Without conceding in any way the accuracy of the various assertions you make in your correspondence, SCEA has taken the necessary and appropriate steps to comply with applicable preservation obligations and appreciates your effort to outline in advance the general areas of discovery that Plaintiffs will seek in this consolidated litigation. In the same spirit of cooperation, SCEA sets forth below its view of Plaintiffs' preservation obligations regarding potentially relevant "Material" (as defined below).

Generically, please note that even if the relevant information comprises only a small part of a document or item, Plaintiffs must retain the entire document or item. If you are uncertain about whether a document or item is relevant to the Matter, please retain it. Please do not delete, destroy, or alter in any way any "Material." SCEA assumes that no later than the filing of each of their respective complaints in the actions consolidated in this Matter and continuing through the duration of this Matter, Plaintiffs suspended any manual or automated practices previously in effect that might lead to the alteration, deletion or destruction of any Material. If you have any questions regarding this Notice, please contact me or Carter Ott.

The term "Plaintiffs" as used herein encompasses the five individuals named in the Consolidate Complaint, filed and served on July 30; all individuals named in the complaints filed in the various actions that have been consolidated in the Matter; and any individual who has not formally appeared as a plaintiff in the Matter but whom you contend has retained any firm that is counsel of record in the Matter as his or her attorney and thus agreed to participate in the Matter.

Types of Material

For the purpose of fulfilling this obligation, the term "Material" should be construed broadly, including tangible and electronic documents such as text documents, datasheets, CAD drawings, databases, software source code, verilog code or other source code, spreadsheets, purchase records, papers, manuals, handbooks, correspondence, memoranda, facsimiles, press releases, books, checks, audio/video recordings, pamphlets, magazines, charts, diaries, calendars, minutes of meetings, agendas, computer disks, emails, text messages, instant messaging ("IM"), information stored on home or work or other accessible personal computers ("PCs"), ZIP or JAZ drives, key drives, and DVD-ROMs and CD-



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ROMs, in any form, including draft. In preserving Material, please keep it in the file folder, envelope, or other container in which the documents are maintained.

In particular, Plaintiffs should have preserved and should continue to preserve all Material in the following categories:

- Plaintiffs' PlayStation 3s ("PS3") in the state they existed as of the date of the issuance of the allegedly unauthorized firmware update 3.21, *i.e.*, March 27, 2010. Of course, to comply with this specific discovery preservation obligation, under no circumstances should the Plaintiffs' PS3s remain in their possession and/or continue to be used, tested or otherwise potentially altered or destroyed by anyone for any purpose;
- Any and all storage devices containing any data previously stored on Plaintiffs' PS3s;
- Any and all Material related to the "Other OS function" as alleged in paragraph 37 of Plaintiffs' Consolidated Complaint, including but not limited to installation and operation of such "Other OS" on any PS3;
- Any and all Material related to the disablement of the "Other OS function" as alleged in paragraphs 52 through 55 of Plaintiffs' Consolidated Complaint;
- Any and all Material created or stored on the PS3s through use of the "Other OS" installation function;
- Any and all software and other applications purchased for use on the PS3s through the "Other OS" function;
- Any and all Material reflecting any function that the "Other OS" function performed or would enable a PS3 user to perform;
- Any and all work product created using the PS3 "Other OS" function, including but not limited to the use referenced in paragraph 10 of Plaintiffs' Consolidated Complaint;
- Any and all Material related to Plaintiffs' purchase and use of any PS3, including any and all devices, peripherals, components, or software purchased for use with any PS3;
- Any and all PCs or home computers owned by, used by, or otherwise accessible to any Plaintiff, including but not limited to any data stored on such devices, and any and all Material related to the purchase or use of any such device, during the relevant time period;
- Any and all Wii or Xbox game consoles purchased or used during the relevant period, and any and all Material related to the purchase and use of such console(s) and any and all peripherals and components purchased for use with such console(s);



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- Any and all media, including movies and games, purchased for use on the PS3, including but not limited to all Linux specific games;
- Any and all Material related to a Netflix subscription, including, but not limited to, for content downloaded through a PS3 and/or through PCs or consoles;
- Any and all Material related to a Qore subscription and/or PSN account;
- Any and all Material demonstrating or otherwise relating to Plaintiffs' damages claims outlined in the Consolidated Complaint;
- Any and all Material related to communication with George Hotz (aka "Geohot");
- Any and all advertisements, marketing materials, press releases, public statements or public disclosures that each and every Plaintiff saw, heard, received and/or relied upon, in connection with the purchase of a PS3, including but not limited to Material related to the "OS function," as alleged in paragraphs 10, 12, 14, 16 and 18 of Plaintiffs' Consolidated Complaint;
- Any and all communications between Plaintiffs and SCEA (or related entities) regarding the PS3, including but not limited to communications regarding Plaintiffs' claims in the Matter;
- Any and all comments Plaintiffs have made related to the PS3, the "Other OS" function, and/or firmware update 3.21; including all postings on chat rooms, forums and blogs;
- Any and all communications among or between putative class members regarding the "Other OS" function and/or firmware update 3.21, including all postings on chat rooms, forums and blogs;
- Any and all Material relevant to the false statements appearing on the website of Meiselman Denlea Packman Carton & Eberz P.C. as discussed in our letter of June 9 (a copy of which is attached for your convenience), regarding a supposed settlement of the Matter, including but not limited to the results of any and all preservation efforts and forensic review by or on behalf of the Meiselman firm related to determining the identity of the individual(s) who allegedly posted this false statement without authorization; and all communications between and among Meiselman and its website host or other website consultants or forensic experts related to this allegedly unauthorized posting; and all communications between and among Meiselman (or anyone acting on its behalf) and any person, including PS3 owners, regarding the allegedly unauthorized website posting.

These categories are in no way exclusive, and Plaintiffs must ensure preservation of all Material that are or could be relevant to their allegations.

Relevant Time Period

Plaintiffs should preserve all such Material created or revised during the period from January 1, 2006 through the present.



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If you have any questions, please contact me or Mr. Ott by telephone or email, at the numbers and addresses provided below.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in black ink, appearing to read 'Luanne Sacks', written over a light blue horizontal line.

Luanne Sacks

Partner

Admitted to practice in California

Luanne Sacks
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June 9, 2010

VIA E-MAIL AND FACSIMILE

Jeffrey Carton
Meiselman Denlea Packman Carton & Eberz P.C.
1311 Mamaroneck Avenue
White Plains, NY 10605

Re: **Ventura v. Sony Computer Entertainment America LLC**
U.S. District Court, Northern District of California – Case No. 3:10-CV-01811

Dear Jeff:

The purpose of this letter is to obtain your commitment to preserve and produce all evidence (including electronic data and images of your firm's and your web hosting company's computer servers) related to the June 6, 2010 posting on your firm's website falsely claiming that Sony had failed to defend this action and had been ordered to pay PS3 owners a substantial refund. To date, we have not received any assurance that you are preserving this evidence and you have indicated that you will not produce relevant evidence relating to the posting.

On the morning of Sunday, June 6, 2010, we learned that your law firm's website contained a posting titled "Sony refunding all PS3 owners for removing an advertised feature" which falsely stated:

Because Sony failed to defend it's (sic) intentions in court, the judge decided that Sony will have to pay every PS3 owner, who bought his PS3 before March 27, 2010, a refund of 50% of the price when purchased.

The firm thanks all of the PS3 owners who mailed, which made our voice even louder, PS3 owners that haven't mailed us should make contact with Sony Computer Entertainment America, Inc (sic) to claim their refund.... We hope that we've done the PS3 owners a service. We are glad as this is once (sic) of the biggest victory's (sic) in our firm's history.

Sony will also be at (sic) handing out refunds at "E3", a large video-gaming event, to all registered PS3 owners.. A new article will be posted very soon on how Sony will be handling this matter.

See Attachment A.

Unaware of which members of your firm have access to email during the weekend, review email during the weekend, or have the ability to revise your firm's website, but cognizant of the harm to our client this website posting would cause and the need to mitigate the damage as quickly as possible, my colleague, Carter Ott, emailed the twenty-one attorneys listed on your firm's website and requested that you delete



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this posting immediately. In his email, he also informed you that if we did not receive confirmation by 5 p.m. that you had removed this posting, we would bring an *ex parte* administrative motion for an order instructing you to do so and would move to disqualify you as counsel. See Attachment B.

Shortly thereafter, at 11:47 a.m., you called Carter and as I understand it, informed him that neither you nor anyone at your firm was responsible for the posting, and that the posting was created by a "hacker." You also said that you would look into determining who was responsible and asked that we do the same. Carter asked you to explain your suggestion that Sony Computer Entertainment America LLC ("SCEA") had hacked your firm website, and you said that it could be possible that SCEA or one of its employees created this posting to retaliate against your firm.

You also stated that your IT staff would delete the false and defamatory posting the next day, Monday, June 7, 2010. Carter confirmed that the false posting must be removed immediately, but as I understand it, you stated you would not because you believed that you were not required to do so — you added that your telephone call was merely "a courtesy" — and that it was not possible because you could not reach your IT staff on a Sunday. Carter renewed his request that you seek out your IT staff to delete this posting, and you stated you could not.

Several hours later, at 3:09 p.m., you emailed Carter indicating that the false posting had been deleted from your firm's website. See Attachment C. Thereafter, we confirmed that the posting no longer appeared on your website. In your email, you also requested that we "investigat[e] with Sony who may have been responsible for this unauthorized hack, as we will be conducting a similar investigation on our end." Again, Carter responded that it was not apparent why you believed that SCEA may have been responsible for the posting, and requested that you confirm that you had taken all steps to ensure this does not occur again. See Attachment D.

Carter also emailed you and your co-counsel, Rebecca Coll, the following morning and requested confirmation that you had

taken all steps to preserve information (including electronic data) related to the false posting on your firm's website. As you know, this information may be relevant to this action, and therefore should be preserved.

See Attachment E. To date, you have not confirmed that all such information is being preserved. Carter also requested by email that you explicate what information you, or anyone acting on behalf of you and your firm, are collecting related to the posting, and requested that you provide us with information, on a rolling basis, regarding the posting, including:



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- (i) the identity of the individual(s) who made the posting;
- (ii) when the posting was made;
- (iii) when your firm deleted the posting;
- (iv) how many hits your firm received while the posting was active; and
- (v) the names and contact information of any individuals who contacted you or your firm about the posting.

Later that day, at 2:18 p.m., Carter received a letter from your office via email. Attachment F. In your email, you repeated your assertion that no one at your firm was responsible for the posting:

Your continued reference to a "false posting on (my) firm's website" misleadingly suggests that my firm somehow played a role in this false posting, a fact which should be obvious to you is untrue. As I explained when we spoke yesterday, my firm had no part whatsoever in the posting. As you can readily deduce, the website was hacked and an unauthorized post was made.

Your conclusion that no one from your firm was responsible for this posting was and continues to be, to my knowledge, unsupported by any proof. To date, you have refused to provide any information that shows that no one from your firm is responsible for this posting. You also have not disclosed the scope of your search to confirm the accuracy of your representation. Instead, you assert that SCEA should take your word for truth:

[Y]ou are in no position to inquire as to the information we are collecting regarding the posting. As an initial matter, any inquiries our firm may have received regarding the posting would certainly fall within the ambit of the attorney-client privilege and/or of our work product, if not also constitute an impermissible invasion of the consumers' privacy.... [W]e have no intention of sharing any additional information with you at this time. Indeed, a criminal indictment for criminal impersonation may well be in the offing and you and your Firm have no place in that dialogue.

We find it difficult to reconcile why the posting, which contains false, damaging and prejudicial statements about SCEA, could on the one hand be of such significance that it may result in a criminal indictment, yet not also pose potential injury and the right to secure legal redress affording SCEA a right to access relevant information about it. This posting, including evidence relating to the identity of the poster, is highly relevant to the nationwide class action your law firm filed on behalf of Mr. Ventura. In the *Ventura* Complaint, your client alleges that SCEA released Firmware Update 3.21 based on "concerns that the Other OS feature might be used by 'hackers' to copy and/or steal gaming and other content." *Ventura* Complaint, ¶ 25. The purported hacking on your website, particularly if one or more of the same



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individual(s) are responsible, demonstrates the need for measures necessary to protect against such activity.

In addition, if anyone from your law firm was responsible for this posting, it bears directly on your adequacy as class counsel in the above-captioned action, and exposes that individual to counterclaims for fraud, slander, defamation, violation of the California Unfair Competition Law, the False Advertising Act, negligence, and third party claims. Even if no one from your law firm is responsible, information regarding how this allegedly unauthorized and false advertisement came to be on your website bears on the firm's, and possibly its co-counsel's, adequacy to serve as counsel for a putative class and/or lead counsel in multiple consolidated class actions, as would any continued refusal or failure to preserve and produce data related to this posting to SCEA.

We are aware of numerous Internet postings and discussions that confirm that the false publication on your website caused confusion among SCEA's customers and thereby injured SCEA. It also seems clear from these discussion board postings that members of your firm have been communicating with SCEA's customers as a result of the fraudulent posting. Without your open and full cooperation, SCEA will be constrained, if not wholly precluded, from determining the identity of the responsible individual(s).

Finally, we fail to see how any of the information that your firm has obtained through communications it received in response to the posting, or could obtain through a comprehensive search using a forensic expert, could be protected by the attorney-client privilege, the work product doctrine, or consumers' privacy rights. The information we seek does not disclose attorney-client communications regarding legal advice, it does not demonstrate your opinions or strategy for trial, and we seek only production of communications received by or sent to witnesses with relevant information about the posting and its effects. Indeed, your firm expressly disclaims on its website (1) that communications sent to it through or because of content on its website should be expected to be confidential; (2) that any such communication should be presumed to be secure; and (3) that any such communication creates an attorney-client relationship:

The transmission of the Meiselman, Denlea website, in part or in whole, and/or communication with the firm by electronic mail or through the Meiselman, Denlea website does not constitute or create an attorney-client relationship or impose any obligation on Meiselman, Denlea or any of its attorneys. Any information sent to Meiselman, Denlea by electronic mail or through the Meiselman, Denlea website is not secure, and is done so on a non-confidential basis. You should not send us any electronic mail that contains confidential or sensitive information



Jeffrey Carton
June 9, 2010

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Our interest in investigating this issue is also based on your comments that SCEA may be somehow involved in the posting:

Finally, with respect to your feigned misunderstanding as to why we might believe Sony could be responsible for this posting, I can remark only that Sony's interest in attempting to discredit the very law firm which first filed an action against it regarding the disabling of the OS feature (litigation which has now taken on an international interest), would not be beyond the realm of possibility.

The notion that SCEA would hack into your firm's website to represent, on your firm's website, that the Court had ruled against it in this litigation is beyond reason.¹

Because this posting is prejudicial to SCEA, and because SCEA has a duty to mitigate the damages it has and will suffer, we request that you produce the following documents and information:

- (i) All evidence bearing on the identity of the individual(s) who made the posting;
- (ii) When (date and time) the posting was made;
- (iii) When (date and time) your firm deleted the posting;
- (iv) How many hits your firm received while the posting was active;
- (v) Confirmation that your firm has preserved all evidence (electronic or otherwise) related to or resulting from the posting, including that you have taken a complete forensic image of your firm's server as well as the server used by the web-hosting service your firm uses as well as production of whatever document, hold letter you have issued related to it. Your preservation of a forensic image of these servers as they appeared on Sunday after the posting is critical. As you should know, an adequate forensic inspection will require examination of the servers as they existed at that time. The more the servers are used and information is overwritten, the more difficult it is to conduct an adequate and complete proper

¹ Your statement that Carter emailed the twenty other members of your firm to "embarrass" you, is also patently untrue. The false posting on your firm's website posed an emergency that required quick action. Carter emailed all firm attorneys because there was no means by which he could discern which of them might be reviewing email messages at that immediate point in time on a Sunday, let alone which attorney or attorneys might have the ability to retract the slanderous statements from your firm's website promptly. Threatening that you will "copy every attorney at DLA Piper on our future exchanges" is not helpful to our attempts to resolve this matter in a professional manner.



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June 9, 2010

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investigation and identify the individual(s) responsible. The first thing that you and your firm should have done on Sunday, upon learning of the posting, was to create and preserve a forensic image of these servers. Please confirm that you have done so. If you have not, you should do so immediately;

(vi) A description of data that you are aware or believe has been destroyed, by anyone, related to the posting;

(vii) The names and contact information of any individuals who contacted you or your firm about the posting and the substance of any communication received from them, given that you have no good faith basis to assert any privilege related to such communications by virtue of the very disclaimers on your website;

(viii) Confirmation whether you or anyone in your firm or acting on behalf of your firm has any relationship with or has engaged in any communications with George Holz (aka "Geohot"), who has been conceded implicitly in your pleadings to have engaged in criminal hacking of the PS3, which you also concede was the precise reason that SCEA issued Firmware Update 3.21;

(ix) A description of any effort your firm has made to inform SCEA's customers, putative class members, and the members of the general public, that the posting regarding the status of this litigation is false, including all electronic or paper documents related to those efforts.

We also request that you retain a forensic IT firm (at your cost) to investigate this issue, and that you confirm that we will be permitted to see the result of its forensic investigation.

You represented in your prior communication that your firm was undertaking "considerable expense" as a result of a forensic investigation. To date, the only indication that SCEA has received of an investigation conducted on your behalf was an email from someone named Rick Catano purporting to be "the Server Administrator at the hosting service for your website," who has indicated his failure to secure the system prior to the "purging" of "all logged data." Mr. Catano appears to be reaching at straws, pointing to a posting on the PSN network "urg[ing] individuals to contact Sony regarding this refund, after it was debunked." This does not appear to be consistent with the scope of a true forensic search.

Mr. Catano has asked SCEA, on your firm's behalf, to disclose to him the IP address of the customer Mr. Catano identified as "D-187_Ridaz." Such a request for SCEA's cooperation and production of information by SCEA stands in contrast to your refusals to provide us with relevant documents and information. Nonetheless, SCEA is making inquiries regarding the posting Mr. Catano referenced and we will advise you of SCEA's position on this request shortly.



Jeffrey Carlton
June 9, 2010

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As you can imagine, SCEA faces continuing harm from the false statements issued which it must expect will continue if the person or persons responsible for the publication on your website are not identified immediately. Thus, I must ask that you provide us with answers to my inquiries today by 6 p.m. Pacific. If you continue to be intransigent, we will have no choice but to seek all available relief from the Court immediately, including an *ex parte* application for a temporary restraining order and production of the requested information and inspection. I hope sincerely that your firm will not force SCEA to engage in such costly and time-consuming litigation efforts and that we can proceed to address these matters efficiently and professionally.

Very truly yours,

DLA Piper LLP (US)

A handwritten signature in cursive script, appearing to read 'Luanné Sacks'.

Luanné Sacks

Admitted to practice in California

cc: Rebecca Coll (Meiselman);
Carter Ott (firm)

ATTACHMENT A

MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ P.C.
Attorneys at Law

- HOME
- WHO WE ARE
- FIRM PHILOSOPHY
- ATTORNEYS
- PRACTICE AREAS
- OUR CLIENTS
- FEES
- FAQ
- NEWS & ACHIEVEMENTS
- 2005 SUMMARY
- LINKS LIBRARY
- CONTACT US

Latest News & Achievements

June 6, 2010



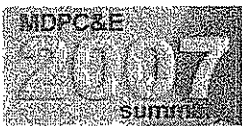
Sony refunding all PS3 owners for removing an advertised feature

June 6 2010

In the end of April the firm had filed a class action lawsuit against Sony Computer Entertainment America, Inc., for Sony's decision to force users of its Playstation 3 console to either install an update that would disable the console's "Other OS" feature or lose the ability to play games with other users in the network. Because Sony failed to defend it's intentions in court, the judge decided that Sony will have to pay every PS3 owner, who bought his PS3 before March 27, 2010, a refund of 50% of the price when purchased.

The firm thanks all the PS3 owners who mailed, which made our voice even louder. PS3 owners that haven't mailed us should make contact with Sony Computer Entertainment America, Inc to claim their refund. An European firm will also file a class action law suit against Sony Computer Entertainment Europe, Inc. We hope that we've done the PS3 owners a service. We are very glad as this is once of the biggest victory's in our firm's history.

Sony will also be at handing out refunds at "E3", a large video-gaming event, to all registered PS3 owners. A new article will be posted very soon on how Sony will be handling this matter.



More News:

Sony Playstation 3 Consumers File Nationwide Class Action

April 30 2010

The firm has filed a lawsuit against Sony Computer Entertainment America, Inc., for Sony's decision to force users of its Playstation 3 console to either install an update that would disable the console's "Other OS" feature or lose the ability to play games with other users in the network.

[More Information »](#)

Firm To Prosecute Birth Control Products Yaz, Yasmine and Ocella

November 20 2009

The Firm is currently preparing to prosecute more than two dozen personal injury mass tort matters involving the birth control products Yaz, Yasmine and the generic version named Ocella. Recent medical studies have revealed the increased risk of deep vein thrombosis and pulmonary embolism associated with stroke, heart attack and death, yet meaningful consumer warnings are absent from the manufacturers' multifaceted media campaign. If you or a loved one have experienced an adverse health event while using any of these contraceptives, please contact the Firm to discuss your case with an experienced attorney.

Ken Citarella to Lecture at Westchester County

Courthouse

October 9, 2009

Ken Citarella will lecture on the "Admissibility of Digital Evidence" to attorneys from Hudson Valley Legal Services and My Sister's Place on November 17, 2009 at the Westchester County Courthouse.

Westchester Magazine Features New York "Super Lawyers"

October 1, 2009



Six Partners Honored As Distinguished Practitioners.

Congratulations to our litigation partner Jeff Carton for being recognized as one of Westchester County's Top 25 "Super Lawyers." The Firm is also proud to have David Meiselman, Jim Denlea, Myra Packman, James Eberz, and Barry Cepelewicz recognized as New York "Super Lawyers," making the Firm one of the few law firms in the State with less than 50 lawyers to have six partners recognized as "Super Lawyers." The recognition is a fitting tribute to the passion and advocacy which the Firm's lawyers bring to every engagement.

David J. Meiselman

James R. Denlea

Myra I. Packman

Jeffrey I. Carton

James G. Eberz

Barry S. Cepelewicz, M.D.

Appellate Division Upholds Firm's Victory

September 30, 2009

The New York Appellate Division, Second Department, has affirmed the dismissal of a fraud case brought against our clients, a corporation and its individual owners. Our clients were sued by a former officer and family member who alleged that he was defrauded during a corporate transaction. We were able to set aside the emotions that ran through the case, and focus the trial court on the lack of any evidence supporting the allegations of fraud. The trial court agreed with us, and dismissed the case against our clients in its entirety. On appeal, after oral argument, the Second Department affirmed the Firm's victory, finding that the fraud allegations were without merit, thereby fully exonerating our clients. The matter was handled by Peter Freiberg.

Peter N. Freiberg

Firm Secures Dismissal of Marina in Premises Liability Action

September 30, 2009

The New Jersey Supreme Court has declined to hear an appeal in a case in which the Firm won summary judgment for its client, thereby sealing the Firm's victory in this case. The plaintiff sued the Firm's client, claiming that he sustained significant injuries when he fell on our client's dock. The firm succeeded in having the trial court dismiss the case on a summary judgment motion, which was affirmed by the New Jersey Appellate Division. The New Jersey Supreme Court's refusal to hear the matter successfully concludes the lawsuit in our client's favor.

MDPCE Appointed to Executive Committee Leading National Consumer Fraud Class Action Against Bayer Healthcare LLC

September 30, 2009

MDPCE has been appointed to the Executive Committee responsible

for prosecuting the nationwide consumer fraud class action litigation concerning the deceptive sales practices committed by Bayer Healthcare LLC in connection with the marketing of "Bayer Women's Low Dose + Calcium" and "Bayer Aspirin With Heart Advantage" (collectively, the "Combination Aspirins"); The Master Complaint filed in the action alleges that the Combination Aspirins were marketed and sold without the required regulatory approvals and thus never should have been sold to any consumer. The Master Complaint seeks redress on behalf of all persons that paid for either of the Combination Aspirins for personal, family or household uses. The Executive Committee will prosecute the claims against Bayer and oversee all aspects of the case. Christine Ford and Jeff Carton are handling the matter for the Firm.

[Jeffrey I. Carton](#)

MDPCE To Lead National Consumer Fraud Class Action Against Ticketmaster and TicketsNow.com

September 30 2009

MDPCE has been appointed co-lead counsel by the federal judge overseeing the nationwide, consumer fraud litigation against Ticketmaster and TicketsNow.com alleging that defendants' deceptive practices misled consumers into paying well above face value for tickets when tickets were available at face value. The lawsuit, styled "In re Ticketmaster Sales Practice Litigation," is pending before United States District Judge Audrey B. Collins in Los Angeles, California and combines eleven lawsuits that had been filed across the country.

[More Information](#) »

Ken Citarella Chosen to Author Chapter in Casebook

August 26 2009

Ken Citarella has been chosen to author a chapter in an internet fraud casebook to be edited by Joseph T. Wells, Chairman of the Association of Certified Fraud Examiners. Publication by Wiley Publishing is scheduled for the summer of 2010.

Ken Citarella To Lecture Before The New York State Judicial Institute

June 4 2009

Ken Citarella will lecture on "Emerging Issues in Cyber Crime" before the New York State Judicial Institute in July and August 2009. Sexting prosecutions, the Craigslist homicide and the latest development in the search and seizure of computer systems will be discussed.

3 Chosen to Elite Lawyers of America

May 15 2009

David Meiselman, Jim Denlea, and Jeff Carton have been selected as Members of the Elite Lawyers of America ("ELA"). The ELA consists of the nation's finest trial lawyers and recognizes outstanding contributions on behalf of civil litigants. Congrats to David, Jim and Jeff!

[David J. Meiselman](#)

[James R. Denlea](#)

[Jeffrey I. Carton](#)

David Meiselman, Barry Cepelewicz and Gary Sastow to Speak at FCMA Events

May 7 2009

Meiselman Denlea, General Counsel to the Fairfield County Medical Association (FCMA), offers educational seminars to physicians on how to protect their practices from liability and increase their practices' profitability.

David J. Meiselman, Barry B. Cepelewicz and Gary S. Sastow have

been invited to speak at the following FCMA events:

[Registration Form \(.pdf 61KB\)](#)

[David J. Meiselman](#)

[Barry B. Czelewicz, M.D.](#)

[More Information >](#)

**Jeff Carton Selected to Become a Fellow in Trial Lawyer
Honorary Society**

April 13, 2009

Jeff Carton has been selected by the Advisory Board of the Litigation Counsel of America ("LCA") to become a Fellow in this Trial Lawyer Honorary Society. The LCA is a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. Fellowship in the LCA is highly selective and by invitation only. Fellows are selected based upon effectiveness and accomplishment in litigation, both at the trial and appellate levels, and superior ethical reputation. We are delighted with Jeff's recognition by the LCA.

[Jeffrey I. Carton](#)

**Fairfield County Medical Association presents: Medical
Record Requirements & Protection**

April 3, 2009

Tuesday, April 7, 2009 - 1:00pm to 4:00pm - Norwalk Inn &
Conference Center - 99 East Avenue, Norwalk

[Download Brochure - registration form \(.pdf 30KB\)](#)

[Barry B. Czelewicz, M.D.](#)

**Protect Your Company Against False Claims Act
Lawsuits**

April 1, 2009

Despite the economic crisis that is plaguing corporate America, the United States government continues to earn significant revenues from prosecuting False Claims Act or Qui Tam litigation. According to a report prepared by the United States Government Accountability Office (GAO), from 1987 through 2005, the government secured over \$15 billion in judgments and settlements; and in 2007 and 2008 alone these prosecutions brought in over \$1.4 billion per year. It should come as no surprise, therefore, that the government intends to expand its prosecutorial activities in combating fraud, and businesses should actively seek to minimize their exposure to such costly and time-consuming litigation.

[Download the full article \(.pdf 192KB\)](#)

[David J. Meiselman](#)

[Barry B. Czelewicz, M.D.](#)

**David Meiselman, James Denlea, and Jeffrey Carton
Selected to 2009 "Super Lawyers", Corporate Counsel
Edition**

February 27, 2009



Congratulations to our partners David J. Meiselman, James R. Denlea, and Jeffrey I. Carton who have been selected to be included in the 2009 Corporate Counsel Edition of "Super Lawyers". This edition lists the top attorneys in business litigation and international law for the state of New York.

[David J. Meiselman](#)

[James R. Denlea](#)

[Jeffrey I. Carton](#)

RADIOLOGISTS: BEWARE OF THE REVISED ANTI-MARKUP RULE!

February 23 2009

On January 1, 2009, the Centers for Medicare and Medicaid Services' ("CMS") revised anti-markup rule went into effect. The revised rule prohibits the markup of the professional component (PC) and/or technical component (TC) of a diagnostic test when the billing physician does not share a practice with the physician providing the test. Over the past several years, in an effort to derive additional income, many radiology practices (as well as other practices which provide diagnostic services) have entered into business arrangements with other specialty practices whereby the billing practice would markup the PC and/or TC fee when billing payors. These relationships have been scrutinized in the past, but with the revised anti-markup rule now in effect, many relationships which were not expressly prohibited before could very well be illegal today.

[Download full article \(59KB\)](#)

[Barry B. Cemelwicz, M.D.](#)

[More Information »](#)

Successfully Defending Copyright Infringement Suits

February 9 2009

The Metropolitan Corporate Counsel

[Download the full article \(pdf 194KB\)](#)

[David J. Meiselman](#)

[Jeffrey I. Carton](#)

[More Information »](#)

The 21th Annual Meeting of the Fairfield County Medical Association

January 30 2009

Thursday, April 30, 2009 at the Trumbull Marriott Hotel (180 Hawley Lane, Trumbull)

[Download Brochure](#)

How To Litigate Successfully: Part 5 -- How To Select Litigation Counsel

November 13 2008

The Metropolitan Corporate Counsel

[Download the full article \(pdf 252KB\)](#)

[Part 1: When to Litigate](#)

[Part 2: How To Litigate](#)

[Part 3: How To Reduce Litigation Costs](#)

[Part 4: How To Monitor Ongoing Litigation](#)

[David J. Meiselman](#)

[Jeffrey I. Carton](#)

[More Information »](#)

Jill Owens Moderates Panel Discussion On Jury Selection

November 13 2008

On November 12, 2008, Jill served as moderator of a Westchester Women's Bar Association CLE program entitled "How To Pick A Jury".

[Jill C. Owens](#)

[More information >](#)

Ken Citarella Interview

November 11, 2008

Ken Citarella was recently interviewed by Michael Kringsman of ZDnet regarding best practices to ensure security awareness and compliance in the workplace. Ken frequently lectures on white collar and computer crime issues and related topics.

Appellate Division Sustains Gift Card Class Action Against Shell Oil

October 29, 2008

MDPCE recently prevailed in the New York State Appellate Division, Second Department in obtaining a reversal of a trial court's order dismissing a class action complaint against Shell Oil.

[Jeffrey I. Carton](#)

[More information >](#)

Jill Owens Elected District Leader

October 22, 2008

In September 2008, Jill Owens was elected District Leader and serves on the White Plains Democratic City Committee and Westchester Democratic County Committee representing White Plains' Battle Hill (District 32).

[Jill C. Owens](#)

Ken Citarella to Lecture for the New York State Judicial Institute

October 22, 2008

Ken Citarella presented two lectures for the New York State Judicial Institute in Rochester, New York, on October 29: "Emerging Issues in Cybercrime" and "Digital Evidence in Matrimonial Cases." Ken pioneered computer crime prosecution in New York State during his 27-year career with the Westchester County District Attorney's Office and lectures frequently on related topics. These are part of a series of lectures Ken has presented for the Judicial Institute before judges and their law secretaries from across New York State.

David Meiselman, James Denlea, Myra Packman, Jeffrey Carton and James Eberz Selected to 2008 "Super Lawyers"

September 25, 2008



Congratulations to our partners David J. Meiselman, James R. Denlea, Myra I. Packman, Jeffrey I. Carton and James G. Eberz who have been chosen by an independent review process as amongst New York's "Super Lawyers". Their selection was recently featured in Westchester magazine and the New York Super Lawyers, Metro Edition.

[Download full article \(272KB\)](#)

[David J. Meiselman](#)

[James R. Denlea](#)

[Myra I. Packman](#)

[Jeffrey I. Carton](#)

[James G. Eberz](#)

[More information >](#)

Firm Prevails On Behalf of Obstetricians

September 9 2008

The firm successfully exonerated three obstetricians from claims of medical malpractice brought by a patient who contended that she was not sufficiently informed concerning the potential risks and complications associated with a vaginal delivery, as compared to a caesarian section, and whose baby sustained an Erb's palsy during delivery.

[Richard J. Nealon](#)

[More Information »](#)

Firm Obtains Dismissal of Malpractice Claims Against Neurologist

August 26 2008

The firm successfully defended a charge of medical malpractice against a prominent Orange County neurologist who was accused of failing properly to treat a 43 year old woman who presented to the emergency room with critically low sodium levels.

[Donald J. Scialabba](#)

[More Information »](#)

Federal Court Certifies Lawsuit To Proceed On Behalf Of A Nationwide Class of Hollywood Tans Consumers

August 20 2008

On August 11, 2008, the United States District Court for the District of New Jersey granted the Firm's motion for class certification, paving the way for the firm to represent hundreds of thousands of Hollywood Tans consumers across the country in a consumer fraud lawsuit against the popular operator of indoor tanning salons.

[Jeffrey I. Carton](#)

[Peter N. Freiberg](#)

[More Information »](#)

Firm Wins Dismissal of Negligence Claims Against Comstock Marina

August 15 2008

On August 15, 2008, the firm obtained summary judgment successfully dismissing negligence claims of a maritime customer who alleged that he had been injured while stepping off a boat moored at Comstock Marina in Brick, New Jersey.

[Peter N. Freiberg](#)

[More Information »](#)

Ken Citarella to Lecture in Atlantic City

July 22 2008

Ken Citarella lectured on "Admitting Digital Evidence at Trial" at the International Training Conference of the High Technology Crimes Investigation Association in Atlantic City, New Jersey on October 20-22, 2008. Ken has been a member of the HTCIA since 1987 and founded its Northeast Chapter in 1990. A pioneer in computer crime prosecutions, Ken lectures frequently to professional, academic, corporate and public audiences on related topics.

[More Information »](#)

Lending Tree Sued for Exposing Customers to Fraud and Identity Theft

May 20 2008

NEW YORK (May 20, 2008): Millions of customers have been potentially exposed to fraud and identity theft by the nation's largest online lending institution, Lending Tree, LLC, according to a class action lawsuit filed in U.S. District Court.

[Jeffrey I. Carton](#)

[Jerome Noll](#)

[More Information »](#)

Spanish Broadcasting System Sued Over 97.9 La Mega's Fake Contest and Travel Scam

May 14 2008

New York (May 14, 2008): A class action lawsuit has been filed in U.S. District Court against the owner of one of New York City's top-rated radio stations, 97.9 La Mega (WSKQ-FM), accusing the station of running a phony radio contest last month that fronted a travel scam.

[Jeffrey I. Carton](#)

[Jerome Noll](#)

[More Information »](#)

MDPCE Wins Reversal of \$3.2M Judgment in U.S. Court of Appeals for the Second Circuit

April 14 2008

MDPCE was successful in obtaining reversal of a judgment entered against our physician client in the United States Court of Appeals for the Second Circuit.

[Myra J. Packman](#)

[Richard J. Nealon](#)

[More Information »](#)

Myra Packman Recognized by Westchester Business Journal

April 14 2008

[Myra J. Packman](#)

[More Information »](#)

Firm Prevails on Summary Judgment Motion: Allegations of Fraud Against Company Dismissed

March 31 2008

The Firm is pleased to have won summary judgment on behalf of a corporate client and its individual owners, concerning claims of fraud and other wrongdoing brought against them by the company's prior owner from whom the company was acquired.

[Peter N. Freiberg](#)

[Jeffrey I. Carton](#)

[More Information »](#)

David Meiselman Serves in Moot Court

March 6 2008

On March 6, 2008, partner David Meiselman was honored to serve as Judge in the 32nd annual Wagner Moot Court competition hosted by New York Law School, Mr. Meiselman's alma mater. This competition is the nation's largest student run Moot Court. As many as 50 law schools from across the country have participated in this prestigious competition.

[David J. Meiselman](#)

Barry E. Cepelawicz to Speak at Fairfield County Medical Association Seminar

March 20 2008

Barry Cepelawicz, M.D., J.D. lectured on "Medical Record Requirements and Protection" on Thursday, March 20, 2008 in Norwalk, Connecticut. This program, presented by the Fairfield

County Medical Association, is designed for both physicians and their office staff.

[Barry B. Cepelwicz, M.D.](#)

[More Information »](#)

Firm to Train Judges on Search & Seizure of Electronic Media

March 10 2008

On Monday, March 24, 2008, Ken Citarella, former Chief of the High Technology Crimes Bureau of the Westchester County District Attorney's Office, made a presentation on Computer Search Warrants for the NY Judicial Institute in Unjonedale, LI, NY, training judges on the 4th Amendment issues relating to the search and seizure of electronic media.

Federal Court Certifies Lawsuit to Proceed as Class Action Against Costco

February 22 2008

A federal class lawsuit against Costco challenging its policy of backdating renewal memberships has been certified to proceed as a class action and the firm has been appointed as Class Counsel.

[Jeffrey I. Carton](#)

[Michael A. Berg](#)

[More Information »](#)

Ken Citarella Presented On "A Prosecutor's Perspective on Electronic Crime"

February 12 2008

Ken Citarella, the former Deputy Chief of the Investigations Bureau of the Westchester County District Attorney's Office, lectured on "How to Present Digital Evidence in a Courtroom" on February 21, 2008 at the Office of the Chief Medical Examiner.

Document, Document, Document!

October 31 2007

Typically, health-care providers approach documentation with the goal of effectively communicating with themselves. The reality, however, is that depending upon many different circumstances, numerous other individuals may one day review a health-care provider's records for many different purposes and from many different perspectives.

[Download the full article \(.pdf 741Kb\)](#)

[Barry B. Cepelwicz, M.D.](#)

[More Information »](#)

David Meiselman, Myra Packman, Jeffrey Carton and James Eberz Selected to 2007 "Super Lawyers"

October 1 2007



Congratulations to our partners David J. Meiselman, Myra I. Packman, Jeffrey Carton and James G. Eberz who have been chosen by an independent review process as amongst New York's "Super Lawyers". Their selection was recently featured in Westchester magazine and the New York Times Magazine. In addition, David Meiselman and Jeffrey Carton were named to the Top 25 Lawyers in Westchester County.

[David J. Meiselman](#)

[Myra I. Packman](#)

Jeffrey L. Carton

James G. Eberz

**Westchester County Detachment Marine Corps League
Welcomes David Meiselman**

October 3 2007

David J. Meiselman, Sgt. E-5, who served our Country with distinction from 1968-1970 has joined the Westchester County Detachment Marine Corps League. We applaud David's prior service and congratulate him on his association with the Westchester County Detachment.

David J. Meiselman

David Meiselman Appointed to Airport Advisory Council

October 2 2007

The Board of Trustees of the Village of Rye Brook has appointed David Meiselman to an Airport Advisory Council which has been formed to address the growing community concern over the frequency and flight plans of aircraft utilizing the Westchester County Airport.

David J. Meiselman

**Multi-Million Dollar Advocates Forum, The Top Trial
Lawyers in America, Inducts 3 Partners**

August 27 2007



LIFE MEMBER

MULTI-MILLION DOLLAR ADVOCATES FORUM

The Top Trial Lawyers In America™

David Meiselman, James Denlea, and Jeff Carton have each been inducted into the prestigious Multi-Million Dollar Advocates Forum, The Top Trial Lawyers in America, an organization of less than 1% of all lawyers nationwide. Membership in the Forum acknowledges excellence in advocacy and is restricted to attorneys who have acted as principal counsel in at least one matter in which their client received a multi-million award. Congratulations to David, Jim and Jeff for their well-earned accomplishment.

David J. Meiselman

James R. Denlea

Jeffrey L. Carton

**David Meiselman, Myra Packman and James Eberz
Selected to 2007 "Best Lawyers"**

July 26 2007



July, 2007 - Congratulations to our partners David J. Meiselman, Myra L. Packman, and James G. Eberz who have been recognized by their peers as amongst the New York area's "Best Lawyers." Their selection was recently featured in New York Magazine.

David J. Meiselman

Myra L. Packman

James G. Eberz

Federal Court Sustains Consumer Fraud Claims Against Hollywood Tans

April 24 2007

A federal judge has sustained nationwide consumer fraud claims asserted against Hollywood Tans concerning their alleged deceptive marketing.

[Jeffrey I. Carton](#)

[John V. D'Amico](#)

[Jeramie Nell](#)

[More Information](#) »

New Jersey Superior Court Directs Insurer to Defend Apartment Building in Premises Liability Action

April 19 2007

April 2007

We are pleased to announce that the Firm has won summary judgment in an insurance coverage dispute. The Firm represents the owners of a residential apartment building in New Jersey, and the management company for that property. A tenant was assaulted by an unknown and un-apprehended assailant, and she then sued the property owner and the management company. When the property owner and management company turned the claim over to their insurance company for defense and indemnity, the insurance company unlawfully denied coverage to them, wrongfully claiming that it had no coverage responsibility because of an alleged exclusion in the policy. The Firm succeeded in having the Court declare that the exclusion did not apply and that the insurer was obligated to defend and indemnify our clients against the tenant's claims.

Jeff Carton and Peter Freiberg handled the matter.

[Jeffrey I. Carton](#)

[Peter N. Freiberg](#)

Firm Obtains Dismissal of Defamation Claims Against the Nielsen Company

April 20 2007

On March 28, 2007, the Firm obtained summary judgment dismissing the defamation claims of two former employees who had alleged that they had been defamed by the Editor-in-Chief of one of the magazines published by The Nielsen Company (formerly VNU, Inc.). The plaintiffs' May 2005 Complaint alleged that the Editor-in-Chief, with the approval of Nielsen, made defamatory statements about them and their fledgling trade show production company to clients and prospective clients of their company.

The Honorable Francis A. Nicolai (New York State Supreme Court, Westchester County) agreed with the Firm that the plaintiffs had failed to adduce any admissible evidence that the defamation had occurred. The decision thus foreclosed plaintiffs from proceeding to trial on a claim supported by only unreliable hearsay from individuals who were not present at the time of the alleged slander. Judge Nicolai's decision disposed of the plaintiffs' case in its entirety.

Jill Owens and Jeff Carton handled the matter for the Firm.

[Jeffrey I. Carton](#)

[Jill C. Owens](#)

Electronic Health Records

January 10 2007

Medical Malpractice - Law & Strategy: A Discovery Landmine for Physicians and Counsel. By Barry B. Cepelewicz and James R. Denlea

[Download Article \(.pdf, 62Kb\)](#)

[Barry B. Cepelawicz, M.D.](#)

[James R. Denlea](#)

RPI, contractor lose \$4.5M lawsuit

December 21 2006

Electrician sued after suffering serious injuries while on a high-voltage repair job at campus research center.

[View the article at www.timesunion.com](#)

[Jeffrey L. Carton](#)

[More Information »](#)

A new Battleground for Class Action War

October 10 2006

[Download Article \(.pdf, 510Kb\)](#)

[Jeffrey L. Carton](#)

WESFACCA's LITIGATION & INSURANCE COMMITTEE and MEISELMAN, DENLEA, PACKMAN, CARTON & EBERZ P.C. present "LITIGATION: HOW TO ASSESS IT & WIN IT (and Save Money Doing So)"

August 29 2006

[View event brochure \(.pdf\)](#)

[David J. Meiselman](#)

[Jeffrey L. Carton](#)

Physician, Defend Thyself!

July 10 2006

In the professional medical misconduct process, ignorance is not bliss for either doctors or their lawyers.

[View the Article \(.pdf, 104Kb\)](#)

[Barry B. Cepelawicz, M.D.](#)

LEGAL TOOLS TO PROTECT DATA

July 19 2006

GC New York: Security is an ongoing concern for everyone these days, and novel issues seem to be cropping up regularly. For in-house counsel, the questions of how to handle breaches of security in their companies' information and computer systems are far from simple.

[View the Article \(.pdf, 370Kb\)](#)

[Barry B. Cepelawicz, M.D.](#)

[More Information »](#)

Cancer-Stricken Casino Worker Sues Over Secondhand Smoke Exposure

July 17 2006

NEW JERSEY LAW JOURNAL, By Lisa Brennan - New Jersey's casinos, which won exemption from the state indoor smoking ban that took effect this spring, have new cause to rethink the wisdom of letting patrons puff away while they gamble.

[New Jersey Law Journal](#)

[Jeffrey L. Carton](#)

[More Information »](#)

Casino Worker in Smoke Suit

July 14 2006

NEW YORK POST: A former casino floor supervisor diagnosed with lung cancer has filed suit against one of Atlantic City's biggest casinos, charging its owners with failing to protect him from the second-hand smoke that got him sick.

[Jeffrey I. Carton](#)

[More Information »](#)

Casino worker sues over 2nd-hand smoke

July 12 2006

PRESSOFATLANTICCITY.COM: A long-term casino employee who never smoked has filed suit against his employer, claiming a smoke-filled gaming floor caused his lung cancer.

[Jeffrey I. Carton](#)

[More Information »](#)

Nonsmoker sues casino over cancer

July 12 2006

ASBURY PARK PRESS: A nonsmoking casino worker diagnosed with lung cancer is suing the operator of the Tropicana, claiming the casino failed to protect its employees against secondhand smoke.

[Jeffrey I. Carton](#)

[More Information »](#)

Tropicana employee files suit

July 12 2006

COURIERPOST ONLINE: A nonsmoking casino worker, diagnosed with lung cancer, is suing the operator of the Tropicana for failing to protect its employees against secondhand smoke.

[Jeffrey I. Carton](#)

[More Information »](#)

Casino worker files smoking suit

July 12 2006

Bridgewater Courier News: A casino worker, diagnosed with lung cancer, is suing the operator of the Tropicana for failing to protect its employees against second-hand smoke.

[Jeffrey I. Carton](#)

[More Information »](#)

Aztar Sued Over Secondhand Smoke

July 11 2006

CASINO CITY TIMES: A New Jersey man has sued the owner of Atlantic City's Tropicana Casino and Resort for failing to protect him and other individuals from the dangers of secondhand smoke.

[Jeffrey I. Carton](#)

[More Information »](#)

Some Exciting New Cases and Clients Meiselman, Denlea has been Retained to Represent in the First Few Months of 2006

June 21 2006

Representing a physician alleged to have missed a corneal abrasion leading to a corneal transplant in a young man;

[More Information »](#)

Google Sued for Promoting and Profiting from Child Pornography Nassau County Legislator's Suit Charges Google as World's Largest Facilitator and Distributor of Child Pornography

May 10 2006

White Plains, NY, May 4, 2006 - Meiselman, Denlea, Packman, Carton & Eberz, P.C., acting on behalf of Nassau County Legislator Jeffrey Toback, has filed a lawsuit against Google, Inc. (NM: GOOG) charging the internet search giant with putting Child Pornography profits ahead of the well-being of children and community members.

[David J. Meiselman](#)

[More Information >](#)

Meiselman, Denlea Successful in Having Court Dismiss Case in Dutchess County Trial

June 15 2006

In a recent trial in Dutchess County, two of our pediatrician clients were charged with failing to diagnose and treat a coarctation of the aorta and ventricular septal defect in a timely fashion, resulting in the death of a newborn infant. At the conclusion of the testimony, Meiselman, Denlea was successful in having the court dismiss the case.

[Richard J. Nealon](#)

[More Information >](#)

Meiselman, Denlea Files Suit Against Guidant Corporation Over Defective Cardiac Pacemaker Linked to Former Stamford City Manager's Death

March 24 2006

White Plains, NY, March 22, 2006 - Meiselman, Denlea, Packman, Carton & Eberz P.C., acting on behalf of the widow and estate of a Connecticut man who died due to a defective pacemaker, has filed suit against the manufacturer, Guidant Corporation (NYSE: GDT), and two of its subsidiaries. Donald R. Whitting passed away in September 2004 just two days after receiving a Guidant Model 1298 Insignia Pacemaker. Mr. Whitting had been the Risk Manager for the city of Stamford, CT.

[James R. Denlea](#)

[More Information >](#)

David Meiselman, Myra I. Packman and James G. Eberz "Best Lawyers" in 2007

April 7 2006

Once again, MDPCE partners David J. Meiselman, Myra I. Packman and James G. Eberz have been selected by their peers to be included in the 2007 listing of New York's "Best Lawyers" as well as the 2007 edition of "The Best Lawyers in America". Best Lawyers in America is regarded as the preeminent referral guide to the legal profession. Lawyers are selected by a rigorous peer review based on thousands of confidential evaluations. Lawyers cannot pay a fee to be included and no advertising is accepted. MDPCE is very proud of David, Myra and Jim for having once again achieved this professional honor and recognition.

[David J. Meiselman](#)

[Myra I. Packman](#)

[James G. Eberz](#)

Two "Borgata Babes" Sue Borgata Casino For Over \$70 Million For Sex Discrimination Concerning Their Appearance. Suit Claims Workplace Performance is Secondary to the Size of Their Breasts and Waistlines

January 29 2006

White Plains, NY, January 29, 2006 - Two former female cocktail

servers have sued the Borgata Hotel Casino & Spa in Atlantic City, seeking at least \$70 million in damages stemming from a workplace "polluted by rampant sexual stereotypes, a sexual and gender-hostile environment and sex discrimination." The two women were employed as "Borgata Babes," as the casino calls its "costumed beverage servers" or cocktail waitresses.

[Gloucester County Times](#)

[Jeffrey I. Carton](#)

[More Information *](#)

**Jeffrey Carton spoke at Ortho Evra conference March 6
February 9 2006**

Jeffrey Carton was invited to speak at the Mealey's Birth-Control Patch Litigation Conference in Marina del Rey, California held on March 6, 2006. The conference focused on the risks to women who use the patch versus birth control pills. Jeffrey's topic was "Consumer Fraud Analysis".

[Download Brochure \(.pdf, 190Kb\)](#)

[Jeffrey I. Carton](#)

[More Information *](#)

Jeff Carton will begin hosting "Law Talk"

January 6 2006

On January 9, 2006, litigation partner Jeff Carton will begin hosting "Law Talk," a weekly radio show on WVOX, 1460 AM. Jeff's first guest is the Honorable Francis A. Nicolai, Administrative Judge for the 9th Judicial District.

**Barry Cepelewicz was named in 2005 as a Contributing
Editor at Medical Economics Magazine.**

January 6 2006

David Meiselman, "Best Lawyers" in 2005

January 6 2006

David was once again recognized as best in his profession in the Westchester and New York Magazines (2005) and United States Best Attorneys (2005). David, as well as Myra Packman and Jim Eberz were acknowledged as leading lawyers based upon selection by their peers.

[David I. Meiselman](#)

Myra Packman, "Best Lawyers" in 2005

January 13 2006

Myra was once again recognized as best in her profession in the Westchester and New York Magazines (2005) and United States Best Attorneys (2005). Myra, as well as David Meiselman and Jim Eberz were acknowledged as leading lawyers based upon selection by their peers.

[Myra I. Packman](#)

James Eberz, "Best Lawyers" in 2005

January 6 2006

James Eberz was once again recognized as best in his profession in the Westchester and New York Magazines (2005) and United States Best Attorneys (2005). James, as well as Myra Packman and David Meiselman were acknowledged as leading lawyers based upon selection by their peers.

[James G. Eberz](#)

Keynote presentation: Strategies for Negotiating with Managed Healthcare Organizations

October 26 2005

Barry Cepelewicz and Jeff Carton gave the keynote presentation to the 213th Semi-Annual meeting of the Fairfield County Medical Association. Their presentation was entitled "Strategies for Negotiating with Managed Healthcare Organizations."

Firm Handles Acquisition of \$27 Million Office Complex

October 16 2005

Class A White Plains Office Space Acquired By Core Plus Properties

[More Information »](#)

ORIOLES' WIDOW SEEKS \$600 MILLION

July 18 2003

The widow of Baltimore Orioles' pitcher Steve Bechler has retained MDPC&E to represent her interests in connection with a \$600 million lawsuit filed against the makers of Xenadrine RFA-1, the ephedra-based dietary supplement linked to the pitcher's death this past winter in spring training.

[Story on CBS News](#)

[David J. Meiselman](#)

[More Information »](#)

NATIONAL CONSUMER CLASS ACTION LAWSUIT FILED AGAINST POPULAR DIET SUPPLEMENT CORTISLIM

July 15 2004

Orange County, CA suit charges manufacturer with false, deceptive and unsubstantiated advertising claims

[News coverage at DietFraud.com](#)

[Jeffrey J. Carton](#)

[More Information »](#)

MDPC&E FILES SUIT ON BEHALF OF ESTATE OF SALSA LEGEND TITO PUENTE

April 11 2005

Firm files suit against restaurateurs who renege on licensing income owed to Estate

[Jeffrey J. Carton](#)

[More Information »](#)

EMPIRE BLUE CROSS/BLUE SHIELD YIELDS TO NEW YORK STATE SURGEONS' DEMANDS

February 15 2005

Empire abolishes "single-incision" reimbursement policy in response to class-action lawsuit

[More Information »](#)

FIRM TRIUMPHS IN COMMERCIAL REAL ESTATE ARBITRATION

June 20 2004

Nearly \$1.5 million awarded to our client.

[Jeffrey J. Carton](#)

[More Information »](#)

DEFENDANT'S VERDICT FOR ULSTER COUNTY

PHYSICIAN

June 20 2004

MDPC&E recently received a unanimous jury verdict on behalf of an Ulster County physician charged with failing to diagnose a squamous cell carcinoma of the nasal passages.

Richard J. Nealon

[More Information](#) *

Representing members of the Fairfield County Medical Society, Dr. Cepelewicz is spearheading a class action lawsuit against UnitedHealthcare and Oxford Health Plans

January 27 2006

Barry B. Cepelewicz, M.D.

MDPC&E has been appointed as General Counsel to the Fairfield County Medical Society:

June 20 2004

NO OVERTIME FOR LIVERY DRIVERS; MEISELMAN DENLEA WINS PRECEDENT-SETTING DECISION

April 11 2005

U.S. Southern District Court Rules on Behalf of D.L.C. Limousine on Issue of First Impression that Car Services are akin to Taxicabs

[More Information](#) »

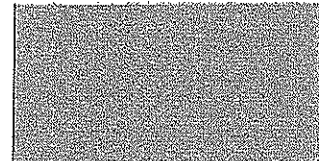


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Meiselman, Denlea, Packman, Carton & Eberz P.C.
Attorneys at Law
1311 Mamaroneck Avenue
White Plains, NY 10605
Tel: (914) 517-5000



ATTACHMENT B

Ott, Carter

From: Ott, Carter
Sent: Sunday, June 06, 2010 11:27 AM
To: rcoil@mdpcelaw.com; gblankinship@mdpcelaw.com; jcarton@mdpcelaw.com; drneiselman@mdpcelaw.com; jnoll@mdpcelaw.com
Cc: rbaker@mdpcelaw.com; rball@mdpcelaw.com; rbates@mdpcelaw.com; mberg@mdpcelaw.com; lbrocchini@mdpcelaw.com; bcepelewicz@mdpcelaw.com; jdamico@mdpcelaw.com; jdawson@mdpcelaw.com; jdenlea@mdpcelaw.com; jeberz@mdpcelaw.com; pfreiberg@mdpcelaw.com; rnealon@mdpcelaw.com; jowens@mdpcelaw.com; mpackman@mdpcelaw.com; jruddy@mdpcelaw.com; dscialabba@mdpcelaw.com
Subject: Representations on Meiselman website regarding Ventura v. SCEA

Counsel,

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Sony refunding all PS3 owners for removing an advertised feature June 6 2010

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Carter W. Ott
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F 415-659-7338
M 415-336-9408

carter.ott@dlapiper.com
www.dlapiper.com

ATTACHMENT C

Ott, Carter

From: Jeffrey Carton [JCarton@mdpcelaw.com]
Sent: Sunday, June 06, 2010 3:09 PM
To: Ott, Carter; Rebecca Coll; Greg Blankinship; David Meiselman; Jérôme Noll
Cc: Richard Baker; Ronald Ball; Rebecca Bates; Michael Berg; Lawrence Brocchini; Barry Cepelewicz; John D'Amico; John Dawson; James Denlea; James Eberz; Peter Freiberg; Richard Nealon; Jill Owens; Myra Packman; Joan Ruddy; Donald Scialabba
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Sent using BlackBerry

From: Ott, Carter <Carter.Ott@dlapiper.com>
To: Rebecca Coll; Greg Blankinship; Jeffrey Carton; David Meiselman; Jerome Noll
Cc: Richard Baker; Ronald Ball; Rebecca Bates; Michael Berg; Lawrence Brocchini; Barry Cepelewicz; John D'Amico; John Dawson; James Denlea; James Eberz; Peter Freiberg; Richard Nealon; Jill Owens; Myra Packman; Joan Ruddy; Donald Scialabba
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ATTACHMENT D

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ATTACHMENT E

Ott, Carter

From: Ott, Carter
Sent: Monday, June 07, 2010 11:11 AM
To: 'Jeffrey Carton'; 'Rebecca Coll'
Cc: Sacks, Luanne
Subject: Ventura v. SCEA - Representations on Meiselman Website

Jeff,

This email confirms that you have taken all steps to preserve information (including electronic data) related to the false posting on your firm's website. As you know, this information may be relevant to this action, and therefore should be preserved.

Please also confirm what information you are currently collecting with regard to the posting. At the very least, we are entitled to information regarding (i) the identity of the individual(s) who made the posting; (ii) when the posting was made; (iii) when your firm deleted the posting; (iv) how many hits your firm received while the posting was active; and (v) the names and contact information of any individuals who contacted you or your firm about the posting.

I am available today to discuss any questions you may have, but we are entitled to this information immediately, on a rolling basis, to allow us to investigate this matter.

Thank you,
Carter



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Associate

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ATTACHMENT F

MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ P.C.
Attorneys at Law

1311 MAMARONECK AVENUE
WHITE PLAINS, NY 10605
TEL: (914) 517-5000
FAX: (914) 517-5055
jcarton@mdpccclaw.com

JEFFREY I. CARTON
MEMBER OF THE FIRM

June 7, 2010

VIA EMAIL

Carter W. Ott, Esq.
DLA Piper LLP
555 Mission Street
Suite 2400
San Francisco, California 94105-2933

Dear Carter:

This letter responds to your emails of Sunday evening (6/6/10) at 6:17 p.m. and to that of today at 2:22 p.m. Your continued reference to a "false posting on [my] firm's website" misleadingly suggests that my firm somehow played a role in this false posting, a fact which should be obvious to you is untrue. As I explained when we spoke yesterday, my firm had no part whatsoever in the posting. As you can readily deduce, the website was hacked and an unauthorized post was made. In that regard, I take serious exception to your decision yesterday to copy every lawyer at my firm on your email. You could only have done so for the purposes of trying to embarrass us, as the vast majority of the lawyers to whom you copied your email have never been associated with the pending litigation and do not appear anywhere on the pleading. Rest assured that if this is how you intend to comport yourself going forward, we will have little choice but to copy every attorney at DLA Piper on our future exchanges.

With respect to your requests of today's date, you are in no position to inquire as to the information we are collecting regarding the posting. As an initial matter, any inquiries our firm may have received regarding the posting would certainly fall within the ambit of the attorney-client privilege and/or of our work product, if not also constitute an impermissible invasion of consumers' privacy. While we have every interest in identifying the perpetrator of this act (and are employing third parties at considerable expense to do so), we have no intention of sharing any additional information with you at this time. Indeed, a criminal indictment for criminal impersonation may well be in the offing and you and your Firm have no place in that dialogue.

Finally, with respect to your feigned misunderstanding as to why we might believe Sony could be responsible for this posting, I can remark only that Sony's interest in attempting to discredit the very law firm which first filed an action against it regarding the disabling of the OS feature (litigation which has now taken on an

MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ P.C.

Carter W. Ott, Esq.
DLA Piper LLP
June 7, 2010

international interest), would not be beyond the realm of possibility. While I certainly hope that is not the case, it would be imprudent to rule out any such possibilities at this time.

I trust that you will now constrain yourself to litigating the issues in the action.

Very truly yours,

MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ P.C.


Jeffrey A. Carton

JIC/ht
00230879.WPD