

1 GARY BLACK,
2 HOLLI BLACK
3 101 Auld Court
4 Green Valley Falls, California 94534
5 Telephone (707) 373-2960

6 Plaintiffs are acting:
7 "In Propria Persona"
8
9

FILED

JUL - 2 2010

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 **UNITED STATES DISTRICT COURT**
11 for the
12 **NORTHERN DISTRICT OF CALIFORNIA**
13

14 GARY BLACK, individually d/b/a Cal Bay
15 Construction and,
16 HOLLI BEAM-BLACK, individually d/b/a Castle
17 Roofing

Case No. : 3:10-cv-02381-CW

18 Plaintiffs,

19 vs.

20 GOOGLE, INCORPORATED et al;
21 and
22 Does 1 through 100 inclusive,
23 Defendants.
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**DECLARATION
OF GARY BLACK,**
with exhibits A through L

~~FILED UNDER SEAL~~

Gary and Holli Black
101 Auld Court
Green Valley Falls, California 94534

"My dilemma came full circle and back to the fact that on line programs altering a professional or business reputation beyond the control of the owner are illegal and unsuited for public use."

1.

On or about October 20th, 2009 an anonymous party posted a very damaging comment/complaint against Plaintiff's business using the Defendant's 'Courtesy Advertising' program on line. [Exhibit 'A'] As described in the complaint [Exhibit 'J'], the anonymous posting had a serious and detrimental impact upon our family and our family owned businesses. We were robbed of our time and psychologically impaired as we discovered taking care of the matter was no easy task. We lost business, leads, contracts, and suffered damage to our reputation all through the foregoing time period.

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4 Plaintiff initially responded to Google via their on line 'Report Abuse' feature associated with
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6 the 'Courtesy advertisements at issue in November/December of 2009. The notices were
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8 something to the effect that the anonymous complaint was synonymous to a death sentence
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10 for the Plaintiff's roofing company, but the Plaintiff failed to make copy of the first couple
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12 notices to Google thinking they'd surely be reasonable and remove the comment. Then wise
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14 to the Defendant's ignorance of the matter, the plaintiff began making copy of most
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16 everything. Plaintiff then pleaded with Google for mercy and wrote to Google in
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18 November/December attached as [Exhibit 'B'] via their 'Courtesy Advertising' report abuse or
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20 inappropriate content email programming. There were never responses from Google not even
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22 acknowledgements which was not the case with Yahoo; Yahoo always responded to Plaintiff
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24 with a return email message and follow-up actions.

3.

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28 Plaintiffs attempted on three separate occasions to suspend/delete the 'Courtesy
Advertisements'. Google does this by mailing pin numbers to a business or by telephone
automation calling the business if the business owner so requests it on the "Courtesy
Advertisement' web page. Each attempt by Plaintiffs' to suspend/delete the 'Courtesy
Advertisements' failed. On or about November 6, 2009 using Googles on line suspension
process and the Plaintiff's email account name hollibeam@yahoo.com Plaintiff's were
unsuccessful at suspending the defamatory advertisements from the maps.google.com web
site and Google Places. More importantly Google did not respond to any of Plaintiff's inquiries,
ever, until after they were served in the instant matter. Plaintiff made many attempts at using
the pin numbers via phone and mail; some of the pin numbers attached as [Exhibit 'C'], were
61667 ~ 55038 ~ 10461. Plaintiff has more numbers buried in emails or files somewhere.

4.

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3 The pin number process took weeks to comply with Googles requirement of waiting on the
4 mail then we were going into the holidays. During January and the first part of February 2010
5 Plaintiff made attempts at responding to the on line defamation. Plaintiff edited the 'Courtesy
6 Advertising' by changing the phone number corresponding to the ad. Plaintiff placed the toll
7 free number 800-321-2752 for the California State License Board (CSLB) and posted a
8 comment under the 'Courtesy Advertisement' further directing viewers to the companies
9 insurance company and the CSLB. This was done to hopefully steer the complainant into
10 making a monetary claim for damages. Plaintiff's had never had any serious roofing problems
11 with customers and therefore were not able to accurately assess the on line defamation.
12
13 Three to four weeks later the Plaintiff then removed the CSLB comment (On Googles
14 advertisements one is able to remove there own comment.) Plaintiff noticed that someone else,
15 presumably Google had removed the CSLB phone number from the advertised listing and
16 replaced it with the Plaintiff's phone numbers.
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During the first part of February, 2010 Plaintiff responded to the on line defamation again.
Plaintiff reported the anonymous defamation and 'Courtesy Advertisement' abuse to
Google twice using their on line 'Report Abuse' program; the communications are attached as
[Exhibit 'D'].

6.

Following more attempts in March 2010 to use the Defendant's pin number telephone process
the Plaintiff realized that all on line attempts using Google's 'Courtesy Advertising' program
had failed. Their programs were obviously not being supervised and intended only for driving
traffic to their web site and for purposes of selling advertising. The Plaintiff then sent a letter
to Defendant's headquarters in Mountain View, California as well as email using Google's

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2 'Report Abuse' link associated with the defamatory 'Courtesy Advertisement'. The letter dated
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4 April 22, 2010 is attached as [Exhibit 'E'].

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6 7.

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8 Immediately following Google's receipt of Plaintiff's US Mail letter of April 22 [Exhibit 'E'] the
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10 Plaintiff's 'Courtesy Advertisement' received another complaint; this time for telemarketing.
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12 Previously in January/February, after removing the CSLB comment I had place under the
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14 defamatory 'Courtesy Advertisement', I placed my personal cell phone number within the
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16 'Courtesy Advertisement' so that complainants might call me directly. I fielded two or three
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18 telemarketing complaints shortly thereafter via my cell phone while my wife was dealing with a
19
20 filed complaint with the BBB (Better Business Bureau) in regards to a telemarketing complaint
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22 and our businesses BBB on line rating had been changed from a long standing B+ to an 'F'.
23
24 We had never belonged to the BBB or paid fees to them; B+ was always the highest rating we
25
26 could obtain as the BBB claimed not to have enough information on our businesses. So again
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28 using the Google 'Report Abuse' feature the Plaintiff on May 3rd, 2010 sent Google the
following message attached as [Exhibit 'F']. In June the plaintiff's joined the BBB and now have
zero complaints filed and an A+ highest ranking without advertising beside others.

8.

On May 17th and again on May 19th just a few days prior to filing the instant Federal action
with the Courts I noticed the plaintiffs and their businesses were still being damaged by
Google's 'Courtesy Advertising' program. Attached as [Exhibit 'G']: May 17th, 2010 - **Google
Maps** showing defamation has been shortened by the anonymous on line predator and the
Castle Roofing 'Courtesy Advertisement' **at Google Maps** shows the defamation along with
advertisements by numerous competitors. Attached as well is a May 19th, 2010 photocopy of
Google Maps 'Courtesy Advertisement' for Castle Roofing which belongs to the Plaintiff's wife
and just a few days before filing of the complaint in the Northern District. The defamation

1 along with advertisements by others were also easily accessed by the public via Google

2
3
4 **Places.**

5 9.

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7 On June 10th only about four hours after filing proof of service with the Courts in the instant
8 matter I was telephoned by one Tamara Jih claiming to be in-house from the Google defense
9 team. She first stated, "Do you want to voluntarily dismiss your complaint?", in a somewhat
10 threatening tone then asked if I was aware of the Decency Act. I told her I was and that I
11 supported it. She then informed me that they'd seek all legal fees and cost against me and
12 investigate my on line activities, including items involving my own content which I had
13 previously requested they remove from the Google search. The items I removed from
14 Google were my own recently authored short stories, as well as, a letter to Senators. Attached
15 is [Exhibit 'H'] whereby I emailed Tamara Jih confirming our phone conversation.
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25 10.

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27 The following day after the phone conversation and confirmation email on June 11th, 2010 it
28 dawned on me what was really happening; maybe it was the attorney's threat or perhaps just
the stress of possibly losing our home, what income we have left, or the wife blaming me for
taking on Google. Here's what actually happened and this is why we are in Court:

Both myself and my wife (Plaintiffs) knew the online defamations for roofing and telemarketing,
received phone complaints about telemarketing, and the BBB telemarketing complaint were
blatantly false and occurred within only a short period of time meaning within a few months. We
know because we corresponded with our past customers who may have had a roofing issue
immediately following the on line defamation. Additionally, we've telemarketed since about
1989 in California nearly everyday. At no time have we ever received a serious telemarketing
complaint much less four serious and false telemarketing complaints in just a couple months
time which occurred on my personal cell phone, on Googles 'Courtesy advertisement' of our

1 company, as well as at the BBB.

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4 Therefore the plaintiffs now realize the attack is without doubt because of my on line writings
5 which are attached hereto as [Exhibit 'I']. So the complaint filed now takes on another
6 meaning to me in that my rights to communicate in writing freely under my own name on line
7 are greater than some 'anonymous coward' trying to destroy my livelihood by use of the
8 Defendant's malicious advertising program.
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12 My dilemma then came full circle and back to the fact that on line programs altering a
13 professional or business reputation beyond the control of the owner are illegal and unsuited for
14 public use.
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20 My apologies to the Court for the time involved but attached are two Internet short stories
21 intended to be for children and funny along with my letter to the Senators. The political letter
22 was simply my fear that I knew something about the current economic crisis and wanted to
23 make sure they knew as well or at least know that I wasn't the only one that knew. Accordingly,
24 I sent it to all 100 or so Senators via their web sites; my stories and letter were also before
25 nearly 20,000 Twitter followers under <http://www.twitter.com/storystalker> and
26 <http://www.twitter.com/raymondavich>.
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So there it is, I confess to writing the Senators, writing a few children's'
short stories, and publishing them on line. Here's a caption from 'Cat Scratches':

So the StoryStalker asked, "How's your writing coming along." I reply, "I've filled my think tank like you taught me and the fish are getting really big tales." He replies, "That's great, maybe now you could take some time off for an adventure". "What kind of adventure?" I asked. . . . He says, "Well maybe go surfing on the Internet". "But I'm scared!" I declared, and explained further, "It scares me, that there's so much unknown out there." The StoryStalker quickly responds, "You have to be brave, . . just think of it as an adventure; go there and bring all the unknown you can find back home for my next story." He continued, "Everybody wins, you get your adventure, I get my next story, and the unknown becomes known."

11.

On June 10th, 2010 I received an enlightening email [Exhibit 'J'] whereby a '*whistle blower*' in the tech department at Yahoo explained how the content of the programming for on line

1 'Courtesy Advertising' is really beyond Yahoo's control.

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4 Well, I immediately disagree as the web site does belong to Yahoo and they allow the third
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6 party access of others and designed the on line program. So after seeing online that
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8 thousands of other businesses and professionals are fighting for control of their reputations, I
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10 realized that the owners of businesses and professionals nor the Defendants had full control
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12 over 'Courtesy Advertising' programs and that the only real remedy is a take down of on line
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14 programs altering a professional or business reputation beyond the control of the owner as
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16 they are illegal and unsuited for public use.

17 12.

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19 Still suspicious of the Defendants marriage of public listings, ads by others in competition, and
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21 consumer generated content I decided in June 2010 to check the 411 directory i.e. the White
22
23 and Yellow Pages legal disclosures as it seemed to me they would not want their product
24
25 used with any product or service that is not theirs. Sure enough I was right. The totality of the
26
27 411 directory commonly used is derived directly from ones published phone listing in the
28
White Pages. The full legal disclosure of copyright and trade dress published by White Pages
is attached hereto as [Exhibit 'K'].

13.

Having been a door-to-door salesperson for nearly 41 years I emailed the current Google
attorney about my concerns prior to his filing a motion to dismiss my complaint before the
Court. Incorporated into my declaration is an email, proper or not; identified herein as
[Exhibit 'L']. I stand by it as a salesman's analysis of:

"How To Sell Advertising In A Disaster Economy"

I Declare under the penalty of perjury within the United States of America that the foregoing is
true and correct to the best of my knowledge.

Respectfully,


GARY BLACK, individually plaintiff

Dated: July 1, 2010