

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

KLEIN & HEUCHAN, INC.,

Plaintiff,

v.

COSTAR REALTY INFORMATION, INC.,
and COSTAR GROUP, INC.,

*Defendants and Counterclaim
Plaintiffs,*

v.

SCOTT BELL and KLEIN & HEUCHAN,
INC.,

Counterclaim-Defendants.

Civil Action No. 8:08-cv-01227-JSM-EAJ

DEFENDANTS' AMENDED RULE 26(A)(1) STATEMENT

Defendants CoStar Realty Information, Inc. and CoStar Group, Inc. (collectively, "CoStar") hereby submits its amended initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) based on information currently available to it. This document should not be construed as a waiver of CoStar's right to supplement this information or present any argument in the future. Nor do CoStar's disclosures waive CoStar's contention that the proper venue for litigating this action is the United States District Court for the District of Maryland.

A. Individuals Likely to Have Discoverable Information

Based on the information reasonably available to CoStar, the individuals likely to have discoverable information that CoStar may use to defeat Plaintiff's claims or support its defenses (except for information the CoStar may use solely for impeachment) are:

Steven J. Williams – contact through CoStar’s counsel. Knowledge concerning communications between CoStar and Klein & Heuchan and Klein & Heuchan’s use of CoStar’s products and services. Costar does not consent or authorize any communications by Plaintiff with CoStar’s employees, officers, directors, whether formerly or currently associated with or employed by CoStar, and does not consent to or authorize any communication otherwise prohibited by all applicable rules of professional conduct.

Robert Lardizabal – contact through CoStar’s counsel. A custodian of corporate knowledge concerning the operation of CoStar’s computer systems and products.

Mark Klein – 1744 North Belcher Road, Clearwater, FL 33765. Knowledge concerning Klein & Heuchan’s use of CoStar’s products and services.

Steve Klein - 1744 North Belcher Road, Clearwater, FL 33765. Knowledge concerning Klein & Heuchan’s use of CoStar’s products and services.

Chris Howell - 1744 North Belcher Road, Clearwater, FL 33765. Knowledge concerning Klein & Heuchan’s use of CoStar’s products and services.

Scott Bell – current address unknown. Knowledge concerning Klein & Heuchan’s use of CoStar’s products and services.

B. Identification of Documents Supporting Claims or Defenses

Based on the information reasonably available to CoStar, the following categories of documents and electronically stored information may be used by CoStar to supports its claims or defenses, unless solely for impeachment:

- (1) Electronically recorded information concerning Klein & Heuchan’s access to CoStar’s products and services;

(2) Electronically recorded business records of communications between Klein &

Heuchan and CoStar;

(3) Copies of CoStar license agreements;

(4) Copies of CoStar Terms of Use; and

(5) CoStar's copyright registrations;

All such documents are located at CoStar's corporate headquarters, 2 Bethesda Metro Center, 10th Floor, Bethesda, Maryland, 20814. These documents and electronically stored information may be produced to Plaintiff in the proper course of discovery and pursuant to an appropriate protective order, except that CoStar reserves its right to object to the production of any document or electronic record on any basis permitted by the Federal Rules of Civil Procedure, the Federal Rule of Evidence, or common law.

C. Computation of Damages

Although CoStar is not able to compute the damages it may seek in this action at this time, its damages would include:

(1) Lost license fees;

(2) Klein & Heuchan's profits from the use of CoStar's products and/or services

(3) Statutory damages of up to \$150,000 per registered work infringed by Klein & Heuchan if that infringement is determined to be willful, or up to \$30,000 per registered work if the infringement is not determined to be willful; and

(4) Attorney's fees and costs incurred by CoStar in litigating this action.

C. Insurance Agreements

Because Plaintiff seeks only declaratory relief, CoStar has no applicable insurance policies.

Dated: November 4, 2009

Respectfully submitted,

s/William J. Sauers

William J. Sauers (*pro hac vice*)

Sanya Sarich Kerksiek (*pro hac vice*)

Crowell & Moring LLP

1001 Pennsylvania Ave.

Washington, DC 20004

Telephone: (202) 624-2500

Facsimile: (202) 628-8844

wsauers@crowell.com

skerksiek@crowell.com

- and -

William C. Guerrant, Jr.

Florida Bar No. 516058

wguerrant@hwhlaw.com

Trial Counsel

William F. Sansone

Florida Bar No. 781231

wsansone@hwhlaw.com

HILL, WARD & HENDERSON, P.A.

Suite 3700 – Bank of America Building

101 East Kennedy Boulevard

Post Office Box 2231

Tampa, Florida 33601

Telephone: (813) 221-3900

Facsimile: (813) 221-2900

*Counsel for Defendants-Counterclaim
Plaintiffs CoStar Realty Information, Inc.
and CoStar Group, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 4, 2009, the foregoing was sent by electronic

mail and first class mail to:

J. Paul Raymond
Jeff Gibson
Brian J. Augnst
MacFarlane Ferguson & McMullen
P. O. Box 1669
Clearwater, FL 33757
(727) 441-8966
Fax: (727) 442-8470
jpr@clw.macfar.com
jg@macfar.com
bj@macfar.com

*Counsel for Plaintiff-Counterclaim
Defendant K&H*

Randall J. Love
Randall J. Love & Associates, P.A.
5647 Gulf Drive
New Port Richey, FL 34652-4019
(727) 847-0800
Fax: (727) 842-361
rj_1958@yahoo.com

*Counsel for Counterclaim-defendant Scott
Bell*

s/William J. Sauers
William J. Sauers (*pro hac vice*)
Crowell & Moring LLP
1001 Pennsylvania Ave.
Washington, DC 20004
Telephone: (202) 624-2500
Facsimile: (202) 628-8844
wsauers@crowell.com

*Counsel for Defendants-Counterclaim
Plaintiffs CoStar Realty Information, Inc.
and CoStar Group, Inc.*