

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

Larry Joe Davis, Jr., an individual,
Plaintiff

v.

Case No: 10-12785C11
Div:

Avvo, Inc., a Washington corporation,
d/b/a Avvo.com, Defendant

RECEIVED
ST. PETERSBURG BRANCH
AUG 26 2010
KEN BURKE
CLERK CIRCUIT COURT

COMPLAINT

Plaintiff files this Complaint against Defendant and states:

1. This is an action for compensatory, exemplary and punitive damages in excess of \$15,000 excluding costs and attorney's fees.
2. This Court has jurisdiction over the parties and venue is proper in Pinellas County, Florida.
3. Plaintiff is an individual and is licensed as an attorney in good standing by the Florida Bar since 1992. Plaintiff was Board Certified in Health Law by the Florida Bar in 1999 and he was recertified in Health Law by the Florida Bar in 2004 and in 2009. According to the Florida Bar's public web site, floridabar.org, Board Certification "is the highest level of evaluation by The Florida Bar of competency and experience within an area of law, and professionalism and ethics in practice. More than 4,300 Florida lawyers are recognized as specialists in one or more of 24 certification areas." The Florida Bar publishes online a document entitled "Board Certification for Lawyers: What Does It Mean?" A true and correct copy of that document is attached as Exhibit A. The document states in part: "Not all qualified lawyers are certified, but those who are board certified have taken the extra steps to have their competence and experience

recognized." The Florida Bar publication also states: "Established in 1982 by the Florida Supreme Court, board certification helps consumers identify specialists in various areas of law."

4. Defendant is a Washington corporation doing business in Florida and particularly St. Petersburg, Florida, listing purportedly objective profiles of St. Petersburg, Florida lawyers on its website (that is, if the person performing the search has an IP address located in St. Petersburg, the Avvo.com search engine automatically searches only St. Petersburg lawyers). Avvo, Inc. conducts its business under the trade name Avvo.com.

5. Defendant purports to list over 90% of lawyers in the United States. Avvo.com listed Plaintiff, and on information and belief, all members of the Florida Bar, on its web site without their knowledge, input or approval, based on allegedly available public information, primarily, information made available by the Florida Bar. Avvo.com provided a subjective one-to-ten "rating" of Plaintiff and all the other lawyers listed on its website.

6. This action in no way is based on the subjective opinions of Avvo, Inc. with respect to its rating system, but is instead based on, among other factual premises, Avvo.com's factual misrepresentation and material omissions of so-called "public" information regarding Plaintiff as well as at least 8 other Board Certified Health Lawyers in the Tampa Bay area. As an example, Avvo.com identified Plaintiff and eight out of ten Tampa Bay Area Board Certified Health lawyers as practicing "100% employment/labor" law. As discussed below, Avvo.com never notified Plaintiff of the false publication prior to its publication. Presumably, the eight Board Certified Health lawyers other than Plaintiff are, as of the filing of this complaint, unaware of the published falsehoods regarding their practice areas. Avvo.com fails to note on its web site that Plaintiff or any of the eight mis-listed Tampa Bay Area Board Certified Health lawyers are listed on floridabar.org as practicing "health law" or that Plaintiff and at least eight other Board Certified Health lawyers not only practice health law, but have achieved Board Certification in

that specialty. Avvo.com's "employment/labor" practice area assignment to Plaintiff is especially misleading for Board Certified Health lawyers, in that there is a separate Board Certification in Florida for Labor and Employment law--demonstrating that it is objectively an entirely different specialty from health law.

7. The public information Avvo.com relies upon according to a representative of Avvo.com is the state bar's information, in this case, the Florida Bar. The Florida Bar website, floridabar.org, lists Plaintiff's basic information on one screen, and a "screen shot" of Plaintiff's public information is attached as Exhibit B. Avvo.com misrepresented and erroneously listed the public information available on the Florida Bar's website regarding the Plaintiff, and omitted material information regarding Plaintiff's qualifications, also available on the Florida Bar website. See Exhibit B. The misrepresentations include an erroneous business address (despite that Avvo.com asserts it provides the business address "of record" with the Florida Bar).

8. Avvo.com upon being notified by Plaintiff of its misrepresentation of Plaintiff's public information, material misrepresentation of Plaintiff's practice area, as well as material omission of the fact that Plaintiff is Board Certified in Health Law by the Florida Bar, was met with a response calling for Plaintiff to join the Avvo.com listing service and to correct the information in order to improve his rating. Plaintiff, however, was not really concerned with improving his rating as much as he was with correcting blatant mistakes and omissions on his Avvo.com profile.

9. On or around August 19, 2010, Plaintiff was first made aware of his Avvo.com listing. A potential client had cold-called Plaintiff looking for an employment lawyer who could handle a "hostile work environment" case. Plaintiff, mysteriously to Plaintiff at the time, had received numerous calls over the past year from prospective clients with hostile work environment cases. The calls consisted of injured plaintiffs who had contingency-type Title VII

cases which Plaintiff does not take as a health lawyer and which typically are pursued by firms such as Morgan & Morgan. None of the callers including the caller on August 19, 2010 were physicians or health-care providers, i.e. Plaintiff's client base.

10. After the August 19 call was nearing an end and after Plaintiff gave basic advice to the caller for free and determined that he was not the right lawyer for the case in any event, Plaintiff inquired of the caller as to how she found his name. She responded that she had found the name on Avvo.com and that Plaintiff was listed (in a pie-chart at the very top of the screen) as "100% employment law." This representation was blatantly false and misleading and was not based on the public information available regarding Plaintiff attached as Exhibit B or available anywhere.

11. Furthermore, the August 19 caller informed Plaintiff that she called Plaintiff because he was the lowest rated employment lawyer and she had tried many of the other lawyers but they had not answered her call immediately. She had thought that Plaintiff, being a poorly ranked lawyer, might answer her call (i.e. she assumed that Plaintiff would be desperate for employment law clients). Luckily for Plaintiff, Plaintiff did take the call and found out about Avvo.com's material misrepresentations and omissions for the first time. Plaintiff also discovered that Avvo.com had somehow posted on its website an unauthorized likeness of Plaintiff, from davishealthlaw.com, and such posting was obviously for Avvo.com's commercial gain (on the same page as the picture/listing and rating of Plaintiff were paid/sponsored advertisements for other apparently competing lawyers).

12. Plaintiff informed the August 19 caller that not only was he NOT a low-ranking lawyer, but he was Board Certified in Health Law by the Florida Bar, a certification that has been achieved by approximately 120 lawyers out of approximately 75,000 licensed Florida attorneys (about 1/8 of 1% of licensed Florida attorneys). Plaintiff explained that his normal

client base is either a health facility or licensed healthcare provider, that he has a boutique practice that is highly specialized and that he is capable of doing work of the highest complexity in the healthcare law field. The caller responded: "I knew it. I knew it," and acknowledged that the information posted in front of her on the Avvo.com website was "not right." Plaintiff is versed in employer-side human resources compliance, as noted on his own web site, and is capable of consulting on "hostile work environment" claims and compliance.

13. Plaintiff spent a number of minutes convincing this one person that he was not at all what Avvo.com had represented. Plaintiff informed the caller that only about 50% of lawyers who qualify to be Board Certified in Health Law pass the grueling two day exam and recounted his qualifications and experience.

14. Immediately following this phone conversation, Plaintiff visited the Avvo.com site and proceeded in somewhat of a panic to enter the site, designate a password, log on to his profile page and attempt to correct the misinformation, which included an incorrect business address and blatantly incorrect practice area.

15. Immediately after doing so, that is, participating in the Avvo.com site, Plaintiff's rating jumped from a 4.3 out of 10 to a 5 out of 10.

16. After approximately two more days of back-and-forth with Avvo.com, as described below, Plaintiff has since attempted to delist himself from Avvo.com entirely. After Plaintiff took off the information he had at first added and left blanks, Plaintiff's rating on Avvo.com automatically became a "3.7 Caution" (in red letters) out of 10. Plaintiff's Avvo.com rating of first, 4.3, then 5.0 after logging on, then 3.7 after delisting, over a four day period is simply inexplicable, except as follows: Avvo.com has a routine business practice of publishing false and misleading information regarding attorneys, and by doing so attempts to coerce their participation in exchange for improving (making accurate) their Avvo.com listing and rating.

Simply signing in to Avvo.com improves the rating. Soliciting peers and customers to sign in with references improves the rating further. If and when a lawyer fails to participate affirmatively (and to get others to participate), Avvo.com punishes the lawyer with a much lower rating.

17. Consumers of the Avvo.com web site are never informed of Avvo.com's punitive, coercive and manipulative business practices as described in the above paragraph. Furthermore, consumers are not informed that an attorney's rating will automatically increase if he "cooperates" (joins) Avvo.com; and that the attorney's rating will automatically decrease if he does not succumb to the coercion.

18. At this time, Plaintiff is listed by his own choice with no practice area on Avvo.com. Besides Plaintiff's other grievances with Avvo.com, Plaintiff does not believe that Avvo.com's choices of practice area (main menu and pull-down menu) are accurate or useful for Plaintiff. As a result, Plaintiff is listed as a lawyer with a rating of 3.7 out of 10 with a red lettered "Caution" next to his name. Plaintiff's rating apparently was automatically reduced, as of August 24, 2010, after he attempted to delist from Avvo.com on August 23, 2010. Plaintiff's insert that he is Board Certified in Health Law remains, because he is not permitted to remove it now, but as of August 24 his "Industry Recognition" was lowered to a 1 star from a high of 1.5 stars--out of 5--on August 21, 2010. Such fluctuations obviously occurred based solely on Plaintiff's level of participation in Avvo.com's system and are not based at all on what is in the public record, particularly, the Florida Bar's records. Plaintiff's "industry recognition" did not change the week of August 19, 2010--his level of participation with Avvo.com did. Avvo.com fails to represent this reality on its web site.

19. Avvo.com's statements on its web site that it bases its ratings on the public record, while failing to mention the manipulative "lawyer-participation" factor, is an actionable trade practice.

20. Avvo.com does not inform consumers that its lawyer ratings rise or fall depending on the level to which lawyers cooperate, join, add or correct information on its web site.

21. Avvo.com does not inform consumers when lawyers actively object to being listed on the site.

22. Avvo.com does not inform consumers that objecting/non-participating lawyers are punished in its ratings system.

23. Finally, Avvo.com does not mention to consumers that its listings are published without notice to the listee and that they are published without an opportunity for the listee to correct the publication. Certainly, Avvo.com fails to report to consumers that mistakes, even in the basic public information published, are rampant on Avvo.com.

24. Avvo.com's manipulation of lawyers via the join-us-and-fix-it-or-else strategy is beyond unfair and approaches actionable blackmail and is an actionable trade practice.

25. In Plaintiff's case, in addition to misrepresenting Plaintiff's practice area, Avvo.com misrepresented his address of record with the Florida Bar.

26. In addition, Plaintiff recognized an unauthorized likeness (picture) of himself that only existed on his website, davishealthlaw.com, and which image did not appear in the public information available from the Florida Bar.

27. When Plaintiff went onto the Avvo.com site to correct the mistakes, Avvo.com took the position that Plaintiff had "claimed" his profile and now cannot delist it (or make the entire profile "blank" again). Avvo.com's use of coercion and misinformation to force users to log on and then "trap" them into being members is an actionable trade practice.

28. As noted below, Plaintiff believes that his erroneous listing on Avvo.com persisted for approximately one year and six months; Plaintiff now suspects that the multiple mysterious hostile work environment cold calls were the result of Avvo.com's erroneous and incomplete listing regarding Plaintiff. Again, Plaintiff notes that as of this date, eight out of ten Board Certified Health lawyers in the Tampa Bay area are erroneously listed the same as Plaintiff was, that is, as "100% employment/labor" lawyers. Their Board Certified practice areas are not noted; and the individuals apparently have not been notified of Avvo.com's publication of the false and misleading information that is being universally published by Avvo.com regarding Board Certified Health lawyers in Florida. Avvo.com continues this practice without remorse or any form of ameliorative due process or fairness.

29. Upon Plaintiff's first "log in" to the Avvo.com site, Plaintiff noticed that his Avvo.com listing page was essentially blank other than the misinformation and low rating of 4.3. Plaintiff appeared not to have any clients or peer reviews, so he called four clients to place reviews on the site and try to avoid what had just happened with the cold-caller from happening again and again. Unbeknownst to Plaintiff at the time, Avvo.com's ratings ignore client reviews. Furthermore, for no apparent reason other than that Plaintiff logged in, his rating went from a 4.3 to a 5 out of ten. After revising his practice areas as best he could, but not to his satisfaction, as noted above, Plaintiff on viewing his Avvo.com page noticed that now, three prominent "10" ranked competitor health lawyers were prominently displayed in paid advertisements next to and above Plaintiff's listing.

30. Essentially by participating with Avvo.com and correcting Avvo.com's erroneous practice area description and business address for Plaintiff, Plaintiff ended up promoting his much higher rated and sponsoring (Avvo.com-paying) competition. In other words, Avvo.com

appeared to be using Plaintiff's participation to generate traffic to competing lawyers, for the financial benefit of Avvo.com and to the detriment of Plaintiff.

31. The first paid advertisement appearing next to Plaintiff's profile was a prominently displayed "Board Certified" health lawyer (Sandy Greenblatt, Esq., who is indeed highly qualified, but a South Florida lawyer who does not have an office in St. Petersburg, Florida). In Plaintiff's case, the competitor was identified as Board Certified in Health law but Avvo.com had not taken any action to list Plaintiff's Board Certification, even though Board Certified is displayed prominently in the public record.

32. Needless to say, Plaintiff was not thrilled with Avvo.com's business strategy, tactics or credibility, and requested to be delisted. Avvo.com refused, claiming Plaintiff could not delist after "claiming" his profile.

33. Plaintiff must note an additional insult imposed by Avvo.com, relating to what is seen on Avvo.com when a person searches for Plaintiff by name. After Plaintiff listed himself as a 50% health lawyer (which was not really accurate but was the best he could come up with given the choices), Plaintiff did a name search (in St. Petersburg) to check the results. After a name search, the same paid advertisements of out-of-town competing health lawyers were shown in Plaintiff's page.

34. Obviously, when a person searches for Plaintiff by name and clicks on a link to Plaintiff's own website, davishealthlaw.com, that person does not see competitor advertisements on that site. Nor does a person browsing for Plaintiff by name on the Florida Bar website see competitors next to Plaintiff's public information.

35. In portraying advertisements of Plaintiff's competitors even where the search is conducted for Plaintiff by name, Avvo.com is pursuing an actionable trade practice. If Plaintiff wanted to avoid this outcome, he could, and did, remove his practice area from his listing, thus

eliminating the "trigger" to his competitors' ads. As noted above, Avvo.com severely punished Plaintiff for attempting to delist his practice area information. So essentially, Avvo.com is telling users, by so many actions, "Participate and help us sell advertising space for your competitors right next to your name, or else we will lower your rating"--again, an actionable trade practice.

36. To demonstrate this unfairness of Avvo.com's paying member/advertising scheme, Plaintiff notes that Google AdWords' policies prohibit AdWords users from doing the very same thing that Avvo.com does—that is, to hijack a competitor's name as a key search word to trigger the appearance of the competitor's ad next to the competitor's search results. In this case, Avvo.com does just that for its sponsored advertising attorneys, and presumably makes lots of money doing it. In doing so, Avvo.com is harming the person whose name was being searched. The bottom line on this trade practice is that Avvo.com would be prohibited from using Google AdWords in such a way that "Larry Joe Davis" (Plaintiff's name) was a keyword that would trigger an ad for "Sandy Greenblatt, Esq." next to the search results.

37. Plaintiff realizes that web-searching and advertising placement is a new field, but if Google does not allow it in its advertising system it is a fair indication that if it did, it would be sued or lose business, or both, and that Google considers it an unacceptable trade practice. Plaintiff is suing Avvo.com in part because Defendant does not allow Plaintiff, without penalty, to avoid promotion of competition by the use of his name, automatically, when someone is attempting to search only for Plaintiff.

38. Plaintiff submits that Avvo.com's publication of a purportedly complete profile of an attorney is in itself unfair if the attorney is required to join Avvo.com to edit the profile, complete the profile, correct the profile, much less to even be made aware of its existence. Similar attorney listing sites are much more careful than this, and Plaintiff submits as Exhibit C a

screen shot of another attorney listing site that Plaintiff has not authorized, called lawlink.com (URL <http://www.lawlink.com/attorney/939674> as of August, 2010).

39. On the page listing for Plaintiff on lawlink.com, it is made obvious that Larry Joe Davis does not participate in the site.

40. Avvo.com gives Plaintiff no such disclaimer or right, nor does Avvo.com provide a place in which Plaintiff might write-in such a disclaimer. Remember, one has to join Avvo.com to put anything on its site.

41. Avvo.com presents lawyers, and particularly Florida Board Certified lawyers, all of them, with a number of Hobson's choices, and Florida statutory and common law and public policy do not allow that.

42. Avvo.com's trade practices as described are patently unfair as defined in Florida law and as evidenced by industry practices.

43. Plaintiff discovered on logging in to his profile page that Avvo.com does not list at all, for any attorney, Florida Bar Board Certified status. At least eight Tampa Bay Area Florida Board Certified Health Law attorneys were and are misrepresented on Avvo.com. Avvo.com admitted in communication to Plaintiff that although its computer program automatically reviews the public information attached as Exhibit B (a so-called mindless "spider" program--admittedly "automated"), Avvo.com does not list Board Certification and does not take Board Certification into account on its site when it automatically posts information.

44. For Plaintiff to have Board Certified status considered or recognized by Avvo.com, Plaintiff, again, must join Avvo.com and accept Avvo.com's terms and practices. Plaintiff does not believe, however, that Avvo.com considers Board Certification even after it is added to the AWARDS section (as instructed by Avvo.com). In other words, Plaintiff believes that Avvo.com lied to Plaintiff about its use/consideration of Board Certification when listed in the

AWARDS section. Plaintiff believes that Avvo.com's system never automatically considers Board Certification, even if it is added by the lawyer as an AWARD. Ironically, Avvo.com does display Board Certification prominently for paying customers right next to certified lawyers such as Plaintiff, whose certification went unmentioned by Avvo.com. Avvo.com's failure to publish Board Certified status automatically and to accurately reflect that practice area, all the while claiming to consumers that its profiles are based on the "public record," is disparagement and an unfair trade practice.

45. Avvo.com's failure to take into account Board Certification on its site on its face is a material omission that amounts to a misrepresentation. This omission is even more glaring considering that Avvo.com uses a sub-rating system (directly under the main rating) that analyzes "industry recognition." Plaintiff on August 19, 2010, received an automatically generated 1.5 stars out of 5 in the category of "industry recognition." That determination was made without regard to Board Certification. Avvo.com again invited Plaintiff to join its site, list Board Certification under an improper category, and then to add speeches, papers and other items to Plaintiff's listing to correct the problem. Plaintiff's industry recognition did not go up after he inserted Board Certification in his AWARDS area (on Avvo.com's advice). Avvo.com's system for rating lawyers obviously did not automatically consider Board Certification even after Plaintiff added it. When Plaintiff delisted his practice area entirely, Avvo.com lowered his "industry recognition" to 1 star out of 5. Needless to say, during the few days this was going on, Plaintiff's actual industry recognition did not change--only his level of participation with Avvo.com changed. Avvo.com's trade practices in this regard are actionable.

46. Avvo.com's failure to consider Board Certification in its determination of "industry recognition" is patently misleading and a misrepresentation in the first place. The fact that Avvo.com informs its users (my potential clients) that its information is based on the public

record, coupled with the fact that Board Certification is prominently listed in the public record, makes Avvo.com's listing practice actionable on its face. Avvo.com's strategy to coerce participation to correct the absence of Board Certification on its site, is also actionable; further, because listing Board Certification as an AWARD has no automatic effect, Avvo.com appears to have lied to Plaintiff about its use of information added by Plaintiff regarding his Board Certified status. In other words, Plaintiff's listing of Board Certification as a n AWARD has no automated effect on Avvo.com's rating score and "industry recognition" score. Avvo.com's strategy is, again, a form of blackmail utilized to force attorneys to correct its misrepresentations and omissions. Even after an attorney complies and attempts to correct the mistakes, as Plaintiff did temporarily, however, it becomes apparent that Avvo.com's system is simply flawed and was designed without regard to Board Certification.

47. Avvo.com apparently takes the position that it is incumbent on lawyers, particularly Board Certified lawyers, to spend their time performing Avvo.com's advertised function--that is, to accurately list and rate lawyers according to the public record. Plaintiff anticipates that to fully "play" Avvo.com's game it would take him five to ten hours of marketing, sending client and peer review requests, and compiling of data to raise his score and eliminate the "3.7 Caution" rating and 1 out of 5 star "industry recognition" that Plaintiff now has on Avvo.com. If Plaintiff were to play this "game," his score would rise significantly and automatically, but not due to any objective factor, necessarily. Simply put, Avvo.com's ratings depend on lawyer participation to fill in the obvious blanks left by Avvo.com, not so much on objective factors such as Board Certification. Material omissions can amount to falsehoods, and in this case Plaintiff submits that Avvo.com has perpetrated such falsehoods regarding Plaintiff and other Board Certified lawyers in Florida.

48. Plaintiff submits that it is incumbent on Avvo.com to correct its mistakes and omissions, not consumers. At a minimum, Avvo.com's practices should be described in a visible disclaimer on its web site and on each non-participating lawyer's profile. Without such a disclaimer immediately visible to the public, Avvo.com's whole operation constitutes an actionable trade practice.

49. Avvo.com never notified Plaintiff that it was listing him. On information and belief, the same is true for the purportedly 90% of U.S. attorneys that Avvo.com says publicly that it has listed. Avvo.com never gave Plaintiff the opportunity to edit the information prior to the automated listing; and continues to attempt to force Plaintiff to participate in Avvo.com, as stated above.

50. Avvo.com received a number of complaints from Plaintiff after August 19, 2010, and in response Avvo.com stated that, if Plaintiff participates in the site, corrects their mistakes and adds Health Law Board Certification, that Avvo.com would then take Board Certification into consideration in his rating. If Plaintiff did not do so, Avvo.com would leave the material misstatements and omissions of public information in place, including omission of Board Certified status. As stated above, even when Plaintiff did log on to Avvo.com and add Board Certification as an AWARD, his ratings were not changed. In fact, it appears that simply logging on (participating with the site) had more of a positive effect than adding Board Certified to the AWARDS section.

51. At first, Plaintiff felt desperate with respect to the erroneous information posted by Avvo.com, and made a good faith effort to correct the deficiencies, as requested by Avvo.com. Plaintiff discovered that Avvo.com, however, has no place on its site for Board Certified status at all. Perhaps Avvo.com was not aware that Board Certification existed, as it does not exist in all

states. Avvo.com certainly is not aware that Board Certification is the "premier" objective rating system in Florida, and is endorsed and promoted by the Florida Bar since 1982.

52. Plaintiff was informed by an Avvo.com representative that he should place his Board Certification himself on his listing, and that he should place it, for lack of a correct place, under the AWARDS section of the listing. Board Certification in Florida is not in any way an award, and again, Plaintiff was unimpressed with Avvo.com and its attempts to ameliorate its automated programming oversights and deficiencies.

53. Plaintiff, having represented physicians for 18 years, was simply astounded by Avvo.com's nonchalant responses to what was documented and proven business disparagement of Plaintiff by failing to list Board Certified status automatically. If a physician rating site failed to list physician Board Certification, and listed a Board Certified Cardiac Surgeon as a low-ranked pediatrician, one would suspect that the site would be sued out of business. Plaintiff submits that Avvo.com has conducted itself to the point of recklessness, without regard to the prospects of actionable business disparagement and prohibited trade practice in Florida. Avvo.com did apologize for the misinformation, i.e. stating that Plaintiff was 100% employment law, but again failed to correct the misinformation on its own. To this day, Avvo.com has apparently refused to correct the material omission of Board Certified practice area/status from its web pages, again, which supposedly includes listings for 90% of lawyers in the United States (despite that Avvo.com has only been in business since 2007). As stated, the mis-listed Tampa Bay Area Board Certified Health lawyers are probably unaware of the continuing business disparagement of their names, as Plaintiff was until August 19, 2010.

54. In other words, Avvo.com is a national automated computer-based ranking service that purports to rely on public information, but wholly ignores the OBJECTIVE ranking system developed by the Florida Bar, the Board Certification system. Avvo.com apparently also ignores

the public information published on the Florida Bar site with respect to business addresses and attorney practice areas, as the Florida Bar clearly lists Plaintiff's address and practice area ("health law"). Nowhere does the Florida Bar or any other public information list Plaintiff as a 100% employment lawyer. Ironically, Avvo.com provides a link to Plaintiff's law firm web site, which is called davishealthlaw.com. Apparently because no actual human was reviewing what Avvo.com was doing, Defendant failed to look at the web site it linked in order to discover what Plaintiff actually does for a living.

55. Plaintiff suspects that Avvo.com's computer program was not designed properly, and in a rush to list and rate "90% of lawyers in the United States" allowed the program to run rampant making reckless mistakes, as was the case here and with the other health lawyers in the Tampa Bay area (and likely throughout Florida). Avvo.com's activities in Plaintiff's case went on without check for over 18 months, until the accidental discovery on August 19, 2010.

56. According to the Avvo.com website, Plaintiff's incorrect and misleading Avvo.com information as of August 19, 2010 had not been updated since March of 2009, which in itself is a recipe for business disparagement and constitutes an unfair and reckless trade practice. After cursory research on that issue, however, Plaintiff was not surprised, as Avvo.com had already been accused of many things including listing deceased lawyers or failing to recognize the locations of extremely prominent (i.e. famous) lawyers who advertise extensively outside of Avvo.com. Had Plaintiff died in the Summer of 2009, for instance, Plaintiff would still be listed on Avvo.com at the wrong address with the wrong specialty and without Board Certification.

57. Plaintiff discovered that Avvo.com has been accused of continuing to publish, without knowledge or permission, incorrect information regarding attorneys. Even after lawyers discover this, Avvo.com refuses as a matter of policy to delist attorneys who request so, and attempts as an ordinary business practice to force lawyers to participate in order to improve their

rating; but in fact one has to participate in order to correct Avvo.com's mistakes. Such a practice is akin to blackmail and occurred in this matter.

58. Avvo.com has stated in writing to Plaintiff that by entering its site to correct its misinformation, that Plaintiff on August 19, 2010 "claimed" his profile and therefore it cannot be delisted and that essentially Plaintiff agreed Avvo.com's one-sided terms of use. Avvo.com suggested that Plaintiff "take it up" with the Florida Bar if Plaintiff did not like what Avvo.com posted about him. Plaintiff is fine with Exhibit B, but Exhibit B is not what Avvo.com posted. Besides the fact that Avvo.com lied to Plaintiff about its delisting policy (Avvo.com will not delist any attorney regardless of his or her signing into its site) Avvo.com is essentially arguing that it is allowed to blackmail Plaintiff and other attorneys into participating in its listing and rating system. It is as if Plaintiff had entered a burning theater to save a patron, and the theater owner expected Plaintiff to pay admission and agree to the fine print on the back on the movie tickets. Such a practice is patently unfair and deceptive in addition to recklessly disparaging to hundreds, perhaps thousands, of Florida Board Certified lawyers.

59. Finally, Avvo.com for an undetermined amount of time, but perhaps as long as 18 months, misappropriated a likeness of Plaintiff from plaintiff's personal practice web site, davishealthlaw.com, in violation of Section 540.08, Florida Statutes. Plaintiff did not authorize the use. Plaintiff has since, and within a few days of August 19, 2010, removed the likeness. On information and belief, Avvo.com entered davishealthlaw.com and made a copy of the picture and posted the likeness on Avvo.com next to Plaintiff's unauthorized listing. Such a placement of Plaintiff's proprietary and copyrighted image, besides being illegal under Florida law, gave the false impression to any viewers of that page that Avvo.com's listing was somehow endorsed by Plaintiff. Avvo.com's practice of automatically publishing unauthorized images of attorneys is an actionable trade practice as well as a violation of Florida law and probably other laws.

60. Plaintiff complained to Avvo.com on its customer service contact email and asked to be delisted. Avvo.com approximately within 48 hours insisted that it would not delist Plaintiff and would not allow Plaintiff to place any form of protest or statement that the information is incomplete, unauthorized, etc. Because Avvo.com does not list Board Certification and has no appropriate place for such a listing (a glaring oversight), Plaintiff utterly refuses to participate or to spend any time promoting Avvo.com by soliciting peer reviews, "gaming" his listing, etc. Avvo.com will not allow Plaintiff to delist or de-authorize his listing or to publicly object on his listing. Avvo.com has penalized Plaintiff via lowered ratings because he delisted his practice areas (i.e. left them blank). Avvo.com will not allow Plaintiff to delist the client reviews that he obtained in the panic that ensued after Plaintiff's discovery of his erroneous and misleading listing.

Count I Libel

61. Plaintiff reincorporates paragraphs 1-60 as if fully set forth herein.

62. Defendant published false statements regarding Plaintiff. Such statements were published recklessly and mindlessly.

63. Plaintiff has been damaged by Defendant's false statements.

WHEREFORE Plaintiff requests that the Court enter judgment for Plaintiff, including costs, and issue any other relief deemed appropriate, including awarding damages and entering an injunction against Defendant prohibiting the publication of inaccurate or disparaging information regarding Plaintiff.

Count II Libel by Omission

64. Plaintiff reincorporates paragraphs 1-63 as if fully set forth herein.

65. By automatically generating a pie chart of the "practice area" of Plaintiff on its web site, Defendant made it incumbent upon itself to make reference to the Board Certified "practice

area" of Plaintiff, which it did not. In fact, Defendant categorized Plaintiff in a practice area that is defined by a different area of Florida Board Certification than Plaintiff's, that is, Labor and Employment Certification.

66. By automatically rating Plaintiff based on "industry recognition" (an inexplicable 1 out of 5 stars) Defendant made it incumbent upon itself to recognize, if not publish, Plaintiff's Board Certified industry recognition, which it did not.

67. Defendant published an automatically computer-generated practice profile of Plaintiff and industry recognition rating of Plaintiff that by omission was outright false and misleading to the public.

68. Defendant's determination and publication of that "practice area" pie chart on Plaintiff's Avvo.com profile and Defendant's determination of Plaintiff's industry recognition "stars" were performed in a reckless, mindless, arbitrary and capricious manner that has damaged Plaintiff's reputation as a Board Certified Health lawyer in Florida.

WHEREFORE Plaintiff requests that the Court enter judgment for Plaintiff, including costs, and issue any other relief deemed appropriate, including awarding damages and entering an injunction against Defendant prohibiting the publication of inaccurate or disparaging information regarding Plaintiff.

Count III Violation of Section 540.08, Florida Statutes

69. Plaintiff reincorporates paragraphs 1-68 as if fully set forth herein.

70. Defendant published, printed, displayed and publicly used for purposes of trade and commercial and advertising purposes the photograph and likeness of Plaintiff without the express written or oral consent to such use given by Plaintiff or any other person in writing authorized by Plaintiff to license the commercial use of Plaintiff's likeness.

71. Plaintiff asserts a cause of action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.

WHEREFORE Plaintiff requests that the Court enter judgment for Plaintiff, including costs, and issue any other relief deemed appropriate, including entering an injunction against Defendant pursuant to Florida law, and awarding Plaintiff actual, punitive and exemplary damages pursuant to s.540.08, F.S.

Count IV Violation of Section 501.204, Florida Statutes

72. Plaintiff reincorporates paragraphs 1-71 as if fully set forth herein.

73. Defendant has conducted its business in such a way as to constitute one or more unlawful practices pursuant to Section 501.204, Florida Statutes (Unlawful acts and practices), including unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of a trade or commerce.

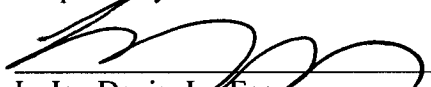
74. Defendant's actions have damaged Plaintiff, as well as many other lawyers in Florida; Defendant's actions have misled consumers in Florida; Plaintiff therefore asserts a cause of action for the remedies described in Section 501.211, Florida Statutes.

WHEREFORE Plaintiff requests that the Court enter judgment for Plaintiff, including costs and attorney's fees, and issue any other relief deemed appropriate, including issuance of a declaratory judgment that Defendant's practices violate the law; issuance of an injunction against Defendant

ordering it to cease violating the law; and awarding Plaintiff actual damages.

PLAINTIFF REQUESTS TRIAL BY JURY ON ALL COUNTS SO TRIABLE

Respectfully Submitted Pro Se:


8/26/10

L. Joe Davis, Jr., Esq.

FBN: 0959730

155 5th Avenue N

St. Petersburg, FL 33701

p: 813-728-3400

f: 813-200-1115

em: contracttrackerinc@yahoo.com



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- A minimum of five years in law practice
- A satisfactory showing of substantial involvement in the field of law for which certification is sought
- A passing grade on the examination required of all applicants
- Satisfactory peer review assessment of competence in the specialty field as well as character, ethics and professionalism in the practice of law
- Satisfaction of the certification area's continuing legal education requirements

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Jesse H. Diner*

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Exhibit A

Inside the Bar

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Larry Joe Davis

**Member in Good Standing Eligible to practice in
Florida**

ID Number: - 959730
 Address: Davis & Harris, P.A.
 155 5th Ave N
 Saint Petersburg, Florida
 337013013
 United States
 Phone: 813.7283400
 Fax: 813.2001115
 E-Mail: contracttrackerinc@yahoo.com
 vCard: 

?

County: Pinellas
 Circuit: 6
 Admitted: 09/29/1992
 Board **Year Area**
 Certification: 1999Health Law
 Sections: Health Law
10-Year **Yes**
Discipline History

Law School: George Washington University Law School
 Graduation 1992
 Year:
 Degree: Doctor of Jurisprudence/Juris Doctor
 Firm Size: 2 to 5
 Practice Areas: Health

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Exhibit B

[Revised: 08-15-2010]

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Exhibit B

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About Larry Joe Davis

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Exhibit C