

CC: ACK

ORIGINAL

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CRAIG SMALLWOOD
Plaintiff Pro Se

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 13 2009



UNITED STATES DISTRICT COURT at 9 o'clock and 10 min A. M.
SUE BEITIA, CLERK

FOR THE DISTRICT OF HAWAII

CRAIG SMALLWOOD,) CIVIL NO. 09-00497 ACK-BMK
JOHN DOES 1-999,)
JANE DOES 1-999,) PLAINTIFF CRAIG SMALLWOOD'S
DOES ASSOCIATIONS 1-99,) AMENDED COMPLAINT AGAINST
DOE COMPANIES 1-99,) NCSOFT FOR UNFAIR,
DOE CORPORATIONS 1-99,) DISCRIMINATORY, AND
DOE LIMITED LIABILITY) FRAUDULENT BUSINESS
COMPANIES 1-99,) PRACTICES. ALSO TO INCLUDE
DOE LLP 1-99.) DEFAMATION OF CHARACTER
Plaintiffs,) CAUSING HARM.
)
vs.) CERTIFICATE OF SERVICE
)
NCSOFT)
)
Defendant)
)
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)

PLAINTIFF CRAIG SMALLWOOD'S AMENDED COMPLAINT AGAINST
NCSOFT FOR UNFAIR, DISCRIMINATORY, AND FRAUDULENT BUSINESS
PRACTICES. ALSO TO INCLUDE DEFAMATION OF CHARACTER
CAUSING HARM.

Now comes Plaintiff Craig Smallwood to humbly ask this honorable court that it find NCSOFT guilty of unfair and discriminatory trade practices. Furthermore, NCSOFT and its North American affiliate are also guilty of fraud, and fraudulent practices. As NCSOFT is a foreign company based in Korea it is ripe for jurisdiction in the Federal Court system.

Furthermore, let it be known that Plaintiff Craig Smallwood is currently and has been a resident of the State of Hawaii for thirty years. Plaintiff is a citizen and has citizenship of the United States and is domiciled within the jurisdiction for the district court of the State of Hawaii. As Plaintiff has stated previously, NCSOFT is a Korean based company; however, it does have North American affiliates. Plaintiff is asserting a diversity of jurisdiction as NCSOFT's North American affiliates are not within the State of Hawaii. To be exact, NCSOFT North American headquarters is located in the State of Texas. Not only would a diversity of jurisdiction exist because NCSOFT is a Korean national company, but also, because its U.S. operations resides outside the State of Hawaii which is where the infractions and the harm to Plaintiff has been committed.

BASIC FACTS OF THE CASE

NCSOFT has created several role-playing internet interactive games. One of which is LineageII. LineageII can be bought on-line or as a PC dvd-rom online software which you may purchase at various stores. There is also a monthly fee that all players must pay. Once downloaded you then create a character which then you proceed to level by collecting experience and skill points. This is a time consuming process. I personally have invested over 20,000 hours in leveling my character.

As this is a multi-player world-wide game, NCSOFT has instituted certain rules which all players must abide by. Here is where the problems begin. NCSOFT is discretionary and discriminatory in its applications of the rules. Often they will allow certain players to break rules and while they enforce these rules on others. One method and the most common is a total banning/blockage of an account. Meaning that player can no longer access the game. One of the problem is that NCSOFT has a business practice of banning accounts but will still take the monthly fee and will not reimburse it. While this practice on an individual basis may seem small, collectively it amounts to millions of dollars. This is fraud, pure and simple. It is not accidental, it is a pattern that has been established and of which NCSOFT is well aware. NCSOFT knowingly takes in payment fees for a service that they have no intent to provide.

NCSOFT is also discriminating in banning of accounts. Some accounts are banned while other accounts are not for the same infractions. This is not a case where NCSOFT was unaware of the infractions. I am clearly stating that NCSOFT had full knowledge of players breaking the rules and allowed them to do so. This was done because it created more income for NCSOFT.

Not only was NCSOFT arbitrary and discriminating in whom they selected to be banned, but they have a policy of non communication and unresponsiveness in the questioning of banned accounts. More clearly, NCSOFT on a whole has devised a system where you are unable to contact any employee with any complaints. All calls are forwarded to technical support or billing whose standard answer is, this is not the correct department, "that department has no phone; I can send them a ticket." All

communications with NCSOFT, other than technical support must come via e-mail, fax or mail. This is purposely done to discourage complaints, because it is time consuming. Most people soon become tired of non-response and quit e-mailing. Their system of inaccessibility in most cases is quite effective. It is actually quite brilliant how they have devised a system where personal contact is available by phone to purchase services but complaints and problems will be referred (I should say deferred to another department whose contact is unavailable by phone).

As I have previously stated this unresponsiveness is most effective in most cases. Unfortunately, in my particular case not only did they ban my accounts but in the process as justification for the banning they accused me of Federal crimes. Some of these crimes would include federal trademark, patent and copy write infringements. Also insinuated would possibly be U.S. Customs crimes of funneling money to a foreign Communist country, and possibly money laundering. All of which carries severe criminal penalties and lengthy prison terms. Therefore, I could not allow NCSOFT to create a condition whereby I must suffer under the possibility of imprisonment and false accusations. NCSOFT has used the FBI and instituted trademark infringement proceeding in the past, therefore, I cannot allow their false allegations that I was "found to have engaged in elaborate schemes to support and contribute to RMT networks", and "engaged in conspiracy to use elaborate means to create RMT". (RTM = Real Money Transfers). Not only has NCSOFT removed one of the few family activities that my family and myself enjoy together because I am a 100% service connected disabled veteran. They have caused me grievous harm in the process.

FACTS AND ALLEGATIONS

1. NCSOFT has a well established pattern of knowingly terminating accounts while continuing to take payments for said accounts.
2. NCSOFT has a well established pattern and knowingly refused to refund monies and payments received on terminated accounts for which they fully and knowingly intend to not provide services.
3. NCSOFT has a well established pattern and knowingly allowed user agreement and rules of conduct rules to be broken by some accounts with no enforcements.
4. NCSOFT has arbitrarily and discriminately selected accounts to be banned for user agreement and rules of conduct infractions.
5. NCSOFT has selectively not enforced user agreement and rules of conduct infractions because they have determined that it would create a bigger profit.
6. NCSOFT has an established record of no responsiveness to customer complaints which has led to a very poor and "F" rating by the Better Business Bureau.
7. NCSOFT has accused the Plaintiff, Craig Smallwood of real life money transfers using their registered, patented and trademark product.
8. NCSOFT has prosecuted others with complaints through the FBI for trademark, and patent infringements

PRAYER FOR RELIEF

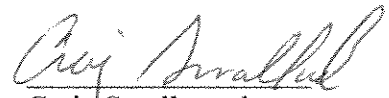
Wherefore, plaintiff Smallwood prays that:

1. NCSOFT is found guilty of fraud, and knowingly committing fraudulent acts.

Plaintiff requests punitive damages in the amount to exceed \$10,000,000.

2. NCSOFT has committed defamation of character and Plaintiff requests punitive damages not to exceed \$1,000,000.
3. NCSOFT has unknowingly because of Plaintiff's past history and existing medical conditions; NCSOFT has inflicted grievous emotional distress and harm. Plaintiff requests punitive damages not to exceed \$1,000,000.
4. Reinstatement of banned accounts since NCSOFT launched its Aion game and went on this banning purge.
5. Reimbursement of all payments for services not rendered on all banned accounts for the last 5 years.
6. Any other measures the Court deem appropriate.

Dated: Honolulu, Hawaii, November 13, 2009.



Craig Smallwood
Plaintiff Pro Se
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

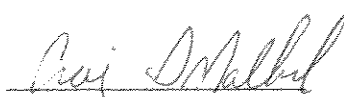
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NCSOFT)
Defendant)
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof was served to NCSOFT by mail at their offices or through their attorneys on November 13, 2009. Mailed to the following addresses:

- | | |
|--|--|
| 1) NCSOFT North American Affiliate
6801 North Capital of Texas Hwy
Bldg 1, Suite 102
Austin, TX 78731 | 2) NCSOFT Corporate Headquarters
158-16 NCsoft R&D Center B/D,
Samsung-dong, Gangnam-gu,
Seoul, South Korea 135-090 |
|--|--|

DATED: Honolulu, Hawaii, November 13, 2009.


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