

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA  
PHILADELPHIA**

**CARL EVANS, DONALD SPENCER,  
VALERIE SPENCER, CINDY CARTER,  
individuals, on Behalf of themselves and for  
the Benefit of all with the Common or  
General Interests, Any Persons Injured, and  
All Others Similarly Situated,**

CIVIL DIVISION

No. 10-cv-1679

**Plaintiffs,**

v.

**LINDEN RESEARCH, INC., a corporation,  
and PHILIP ROSEDALE, an individual,**

**Defendants.**

**JURY TRIAL DEMANDED**

**PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS MOTION FOR  
LEAVE TO FILE REPLY TO PLAINTIFF'S SUPPLEMENTAL BRIEF IN  
OPPOSITION TO DEFENDANTS LINDEN RESEARCH, INC. AND PHILIP  
ROSEDALE'S MOTION TO DISMISS UNDER RULE 12(b)(6) OR IN THE  
ALTERNATIVE TO TRANSFER PURSUANT TO 28 U.S.C. § 1404(a)**

AND NOW COMES, the Plaintiffs, by and through their attorneys, Jason A. Archinaco, Esquire, Robert A. Bracken, Esquire and the law firm of Pribanic Pribanic + Archinaco LLC, and files the following Plaintiff's Brief in Opposition to Defendants Motion for Leave to File Reply to Plaintiff's Supplemental Brief in Opposition to Defendants Linden Research, Inc. and Philip Rosedale's Motion to Dismiss Under Rule 12(b)(6) or in the Alternative to Transfer Pursuant to 28 U.S.C. § 1404(a).

1. After having obtained millions of dollars from consumers under false pretenses, Linden has resorted to its old tactic of making false accusations against counsel. As this Court should recall, Linden used the same tactics with their last two

California firms - before hiring their third firm. In no fewer than three filings to date in this case, Linden has made improper attacks on Plaintiffs' counsel. No doubt this tactic will continue, as Linden has no defense to the underlying claims.

2. Although largely irrelevant to the matters at hand, as set forth in Footnote 2 of Plaintiffs' brief, it is specifically noted that Plaintiff Evans logged into two accounts that were created under the first TOS after Linden unilaterally and improperly attempted to amend the TOS. As such, Linden has revealed no "false" statement at all, but an obvious typographical error in the introductory section of the Brief. Had Linden's counsel simply asked Plaintiffs' counsel, an errata could have been filed. Instead, Linden's counsel sees some benefit to its continued attacks on Plaintiffs' counsel.
  
3. As such, there is no need for a sur-reply brief - and Linden's Motion should be denied.

Respectfully submitted,

Date: October 15, 2010

PRIBANIC, PRIBANIC + ARCHINACO LLC

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