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25 FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, ETC1		h Ave., Suite 940 e, WA 98101 206-621-5804	1325 Fourth Seattle, Phone: 20	OR DAMAGES,		25

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4. Jurisdiction is proper pursuant to 28 U.S.C. §1331 (federal question) and 28 U.S.C. 1 §1332 (diversity). 2 5. This Court has supplemental jurisdiction of state law claims pursuant to U.S.C. § 3 1367. 6. Venue is proper pursuant to 28 U.S.C. §1391. 4 7. From at least August 2003 through May 2005, Plaintiff GORDON provided and 5 enabled computer access for multiple users to a computer server that provides access 6 to the Internet. 7 8. From and after May 2005, Plaintiff OMNI provided and enabled computer access for multiple users to a computer server that provides access to the Internet. 8 9. The domain names served by Plaintiffs or one of Plaintiffs include: 9 anthonycentral.com, chiefmusician.net, ehahome.com, itdidnotendright.com, 10 jammtomm.com, jaycelia.com, celiajay.com, jaykaysplace.com, rcw19190020.com, 11 and gordonworks.com (collectively the "Domains" and individually and generically a 12 "Domain"). 10. At all times material hereto, for the Domains and each of them, the information that 13 all e-mail addresses at each Domain (the "Recipient Addresses") belong to 14 Washington residents was and is available upon request from the registrant of each 15 Domain, each registrant being a Washington resident and each Domain being 16 registered with a Washington address. During the time period of approximately August 2003 through present, Plaintiffs 11. 17 received at the Domains electronic-mail messages sent by or on behalf of Defendant 18 (collectively the "E-mails" or individually and generically as an "Email"). 19 12. The E-mails, and each of them, were received by Plaintiffs', and/or others receiving 20 email through Plaintiffs' internet access services serving the Domains. 13. Each of the E-mails misrepresents or obscures information in identifying the point of 21 origin or the transmission path thereof, and thereby violate the Washington CEMA 22 (19.190 et seq.), and further each of these E-mails contains header information that is 23 24 i.Justice Law, P.C. FIRST AMENDED COMPLAINT FOR DAMAGES, 25 1325 Fourth Ave., Suite 940 PENALTIES, ETC. -2

825 Fourth Ave., Suite 94 Seattle, WA 98101 Phone: 206-621-5804 Fax: 206-624-0717 materially false or materially misleading, and thereby violate Federal Can-Spam Act of 2003 (). The foregoing violations include without limitation: "subject" lines; "from" lines; and other header information such as: IP address and host name information that does not match, or is missing or false, in the "from" and "by" tokens in the Received header field.

- 14. On information and belief, Plaintiffs allege that some of the E-mails used false, or misleading information in registering the domains from which the subject E-mails were sent, and that numerous domains were used to send the E-mails for no other purpose but to avoid spam filters, evade detection, and otherwise obscure the true point of origin of the E-mails.
- 15. Defendants initiated the transmission of the E-mails, and each of them. In the alternative, Defendants each conspired or otherwise acted in collusion with another or others or assisted another or others to transmit the E-mails, and each of them.
- At all times material hereto, Defendants knew or had reason to know that the Recipient Addresses, and each of them, were and are held by a Washington resident.
- Plaintiffs never "opted-in", or otherwise consented to receive commercial email from Defendants.
- 18. Subsequent to receiving some of the E-mails Plaintiffs gave notice to Defendants to cease sending commercial email to them, which notice was received by Defendants and/or those entities sending the E-mail on Defendants' behalf.
- 19. Subsequent to Plaintiffs' notice, Defendants and/or those entities sending the E-mail on Defendants' behalf continued to send commercial email to Plaintiffs.

FIRST CAUSE OF ACTION – CAN-SPAM ACT 15 U.S.C. §7701 et seq.

20. On the basis of the facts set forth hereinabove, Defendants initiated the transmission of the E-mails, and each of them, to a protected computer in violation of 15 U.S.C.
§7704(a)(1), (2) and (4) causing damage to Plaintiffs GORDON and OMNI as the

FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, ETC. -3

i.Justice Law, P.C. 1325 Fourth Ave., Suite 940 Seattle, WA 98101 Phone: 206-621-5804 Fax: 206-624-0717 providers of the Internet access service receiving each such E-mail in the amount of \$100 for each such E-mail, as provided in 15 U.S.C. §7706 (g) (3).

Defendants did willfully and knowingly so act in violation of the provisions of 15 U.S.C. §7701 et seq.

SECOND CAUSE OF ACTION – CEMA RCW 19.190.010 - .070

22. On the basis of the facts set forth hereinabove, Defendants initiated, conspired with another to initiate, or assisted the transmission of the E-mails, and each of them, in violation of RCW 19.190.020, causing damage to Plaintiffs GORDON and OMNI as the interactive computer service receiving each such E-mail in the amount of \$1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

THIRD CAUSE OF ACTION – CONSUMER PROTECTION ACT Ch. 19.86 RCW

23. On the basis of the facts set forth hereinabove, Defendants initiated the E-mails, and each of them, in violation of RCW 19.190.030 and Chapter 19.86 RCW, causing damage to Plaintiffs GORDON and OMNI as the interactive computer service receiving each such E-mail in the amount of \$1,000 for each such E-mail, as provided in RCW 19.190.040 (2).

REQUEST FOR RELIEF

Plaintiff respectfully requests the following relief:

1. Entry of a Judgment against the Defendant in the amount of \$1,100 per E-mail, plus such other and further damages as may be proved at trial, plus treble damages to the extent

FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, ETC. -4 i.Justice Law, P.C. 1325 Fourth Ave., Suite 940 Seattle, WA 98101 Phone: 206-621-5804 Fax: 206-624-0717

permitted by Chapter 19.86 RCW and to the extent permitted by 15 U.S.C. §7706 (g) (3) (C), plus prejudgment and post-judgment interest at the highest rate permitted by law, plus cost of suit and reasonable attorney fees pursuant to Chapter 19.86 RCW and 15 U.S.C. §7706 (g) (4);

- 2. Entry of a permanent injunction against the Defendant prohibiting the Defendant from sending or causing to be sent electronic mail messages of any kind or nature to e-mail addresses at the Domains, hereinabove.
- 3. Such other and further relief as the Court deems just and equitable in the premises. RESPECTFULLY SUBMITTED this 22nd day of March, 2007.

10	i.Justice Law, P.C.	DOUGLAS E. MCKINLEY, JR
11		Attorney at Law
12	/S/ Robert J. Siegel	/S/ Douglas E. McKinley, Jr.
13	Robert J. Siegel, WSBA #17312 Attorney for Plaintiffs	Douglas E. McKinley, Jr., WSBA#20806 Attorney for Plaintiffs
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25	FIRST AMENDED COMPLAINT FOR DAMAGES, PENALTIES, ETC5	i.Justice Law, P.C. 1325 Fourth Ave., Suite 940 Seattle, WA 98101 Phone: 206-621-5804 Fax: 206-624-0717

Certificate of Service

1 I hereby certify that on March 22, 2007, I electronically filed the foregoing with the 2 Clerk of the Court using the CM/ECF system, which will send notification of such filing to 3 the following: Derek A. Newman; Roger M. Townsend 4 I.JUSTICE LAW, P.C. 5 6 BY: /s/ ROBERT J. SIEGEL ROBERT J. SIEGEL 7 WASHINGTON BAR NO. 17312 1325 Fourth Avenue, suite 940 8 SEATTLE, WA 98101 Telephone: 206.624.9392 9 Fax: 206.624.0717 BOB(a)IJUSTICELAW.COM 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 FIRST AMENDED COMPLAINT FOR DAMAGES, i.Justice Law, P.C. 25 1325 Fourth Ave., Suite 940 PENALTIES, ETC. -6 Seattle, WA 98101 Phone: 206-621-5804 Fax: 206-624-0717