SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordination Proceeding Special Title--Rule 1550(b) TCPA CASES	Case No. JCCP #4350 Assigned to Dept. 323-- the Honorable Caroyln Kuhl
DAVID L. AMKRAUT and JOEL AMKRAUT, individually and on behalf of a Class of others similarly situated Plaintiffs, vs. PACIFIC COAST OFFICE PRODUCTS, dba COPIER SUPER STORE, a California Corporation, and Does 1 through 1000, inclusive Defendants.	Case No. LASC BC 240 573 Complaint filed 11-20-00 CLASS ACTION **Judgment--** **For plaintiffs and Class** **CRC Rule 1861** Trial Date: October 6, 2006 Time: 1:30 p.m. Place: Dept 323

To All Parties and to Their Attorneys of Record:

On October 6, 2006, following remand by the Court of Appeal from an order granting Defendant Fax.com's and Pacific Coast Office Products, Inc.'s demurrer to the 1st Amended Complaint, the matter came regularly for trial in Department 323 of the Superior Court, before the Honorable Carolyn Kuhl, sitting without a jury.

Plaintiffs David Amkraut and Joel Amkraut, appearing individually and for a class of other similarly situated, appeared by Jamie R. Schloss. There were no other appearances. The following facts and findings are noted:

Plaintiffs filed their complaint on November 20, 2000. Plaintiffs subsequently named and sued defendant Fax.com as Doe 1. Defendant Fax.com appeared in the action when it filed a demurrer to the 1st Amended complaint. The demurrer was granted. However, plaintiffs appealed. The appeal was successful. The Court of Appeal reversed the order sustaining demurrer and remanded for further proceedings.

Upon remand, Defendant Fax.com did not answer nor did it respond to discovery requests from plaintiffs. Defendant Fax.com requested the case be consolidated with other pending Class Actions.

Over plaintiffs' objections, this action was ordered consolidated with other pending actions into *In Re TCPA Cases*, JCCP #4350. Eventually, the matter was assigned to Judge McCoy. In 2004, based on Fax.com's non-compliance with discovery obligations and the stipulation of its counsel Mr. James Casello, the Court entered default against defendant Fax.com.

Meanwhile, the case continued against the other defendants. On November 10, 2005, the Court certified this action as a class action, confirmed plaintiffs David and Joel Amkraut as class representatives, confirmed Jamie R. Schloss as class counsel, and defined the Class as:

> "All persons, businesses, or entities in California who received, through telephone facsimile machines, unsolicited facsimile advertisements advertising Defendant Pacific Coast Office Products's ("PCOP") goods or services, all of which Defendant Fax.com or Defendant Cynet, Inc. sent on PCOP's behalf. The Class shall be composed of two sub-classes: 1) those who received unsolicited PCOP facsimile advertisements sent by Fax.com; and 2) those who received unsolicited PCOP facsimile advertisements sent by Cynet, Inc."

In 2005, the Court confirmed dismissal of defendant Cynet, Inc. sued as Doe 2, as said defendant had filed for bankruptcy.

//

On September 12, 2006, plaintiffs and the Class completed an approved settlement with Defendant Pacific Coast Office Products for $250,000.00 and a stipulated injunction.

On September 12, 2006, plaintiffs' counsel noted that it was unclear whether Mr. Casello had authority in fact to stipulate to default for defendant Fax.com. Counsel requested the default against Fax.com be set aside so the matter could proceed to trial against defendant Fax.com. This request was granted.

Defendant Fax.com was served with notice of trial on September 12, 2006 and on September 14, 2006. Defendant Fax.com did not appear for trial. Trial commenced at approximately 1:45 p.m. The court deemed Fax.com to have answered the complaint by filing a general denial, and proceeded to trial against defendant Fax.com.

Having considered the evidence and legal arguments of both parties and taking testimony from witnesses Pacific Coast Office Products (by Declaration), David Amkraut and Joel Amkraut, and taking judicial notice of various facts and documents, and having admitted various exhibits and other evidence, the Court rules as follows:

It is hereby ordered, adjudged and decreed:

Good cause having been shown, the Court grants plaintiffs Joel Amkraut, David Amkraut, and the Class judgment against Defendant Fax.com as follows:

The Class (CRC Rule 1861)

1. The Court finds the members of the Class to be:

> "All persons, businesses, or entities in California who received, through telephone facsimile machines, unsolicited facsimile advertisements advertising Defendant Pacific Coast Office Products's ("PCOP") goods or services which Defendant Fax.com sent on PCOP's behalf. The Class shall be composed of only the sub-class which received unsolicited PCOP facsimile advertisements sent by Fax.com, rather than the whole class previously approved."

Judgment against Defendant Fax.com

2. The Court finds that defendant Fax.com willfully and knowingly violated the Telephone Consumers Protection Act of 1991 codified at 47 USC § 227 ("TCPA") by sending 169,215 advertisements by facsimile transmission which advertised defendant Pacific Coast Office Products's goods and services. The Court finds that, because

Fax.com acted willfully and knowingly, that there is good cause to treble the $500.00 statutory damages to $1,500.00 per violation pursuant to 47 USC § 227(b)(3).

3. Plaintiff Joel Amkraut to have judgment against Defendant Fax.com in the amount of $1,500.00;

4. Plaintiff David Amkraut to have judgment against Defendant Fax.com in the amount of $7,500.00;

5. Joel Amkraut and David Amkraut, as representatives of the Class (as defined above) to have judgment against Defendant Fax.com in the amount of Two hundred fifty three million, eight hundred thirteen thousand, and five hundred dollars ($253,813,500.00).

Further Order re: Notice and Distribution of Funds

6. Any monies collected on the Class or other judgments shall be deposited in class counsel's attorney client trust account. Class counsel shall notify the Court of any collection within thirty days, and the Court shall then make such further orders regarding Notice and order direct distribution of said sums and determine any attorney fee award.

7. Class Counsel shall publish notice of this judgment on the Class Website unless further ordered.

General Orders on Judgment

The foregoing judgments are to bear interest at the rate of 10% per annum from June 30, 2000 to the date of entry of judgment. Plaintiffs are additionally awarded $_____in costs of suit. The Court reserves jurisdiction to order attorney fees for Class Counsel upon motion for good cause shown or if any monies are collected on the judgment as set forth above.

It is so ordered.

Dated: NOV 0 9 2006

Carolyn B. Kuhl
JUDGE OF THE SUPERIOR COURT

DATED: October 12, 2006
Respectfully Submitted,

Jamie R. Schloss, Attorney for Plaintiffs and the Class

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is 1875 Century Park East, Suite 1240, Los Angeles, California 90067.

On October 13, 2006, I served the foregoing document described as **Judgment-- For plaintiffs and Class CRC Rule 1861** on interested parties in this action, by placing true copies thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

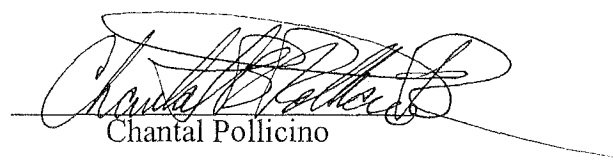
On October 13, 2006, we served the document with LexisNexis

(X) BY LEXIS-NEXIS FILE&SERVE ELECTRONIC FILING–Pursuant to the Court's order in this matter, I caused the aforementioned document to be transmitted to all parties through LEXIS-NEXIS FILE AND SERVE. A confirmation sheet evidencing transmittal is attached.

(X) BY MAIL - I deposited said envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

() BY EXPRESS MAIL- I caused said envelope to be deposited in the Express Mail drop box at Los Angeles, California, on the same day in the ordinary course of business.

I certify under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on October 13, 2006 at Los Angeles, California.



Chantal Pollicino

SERVICE LIST Amkraut v. PCOP, et al. LASC Case No. BC 204 573	
James Casello Casello and Lincoln 1551 N. Tustin Avenue Suite 850 Santa Ana, CA 92705-8636 Fax 714 541-8707 David Amkraut 2272 Colorado Boulevard, #1228 Los Angeles, CA 90041 For plaintiff--courtesy copy fax 818 637-7809	Barry Himmelstein Chris Leung LIEF, CABRASER, HEIMANN & BERNSTEIN, LLP 275 Battery St., 30th Flr. San Francisco, CA 94111-3339

LexisNexis File & Serve Transaction Receipt

Transaction ID:	12623868
Submitted by:	Jamie Schloss, Schloss, Jamie R Esq
Authorized by:	Jamie Robert Schloss, Schloss, Jamie R Esq
Authorize and file on:	Oct 13 2006 9:16AM PDT

Court:	CA Superior Court County of Los Angeles
Division/Courtroom:	N/A
Case Class:	Civil
Case Type:	Complex Lit - TCPA
Case Number:	JCCP 4350
Case Name:	TCPA Cases

Transaction Option:	Paper File and Serve Courier Delivery to Court () Statutory Fee to Deliver to Court: $0.00 Transaction Fee: $0.00 Serve Only - Public
Billing Reference:	Amkraut v. PCOP

Documents List
1 Document(s)
Attached Document, 6 Pages **Document ID: 7213380** View Original View PDF

Document Type:
Other

Access:
Secure Public

Linked:

Document title:
Judgment - For plaintiffs and Class Rule 1861

Expand All

⊟ **Recipients (37)**

⊞ Service List (37)

⊟ Additional Recipients (0)

Close